

# The Military Origins of Penal Liability for Causing a Road Accident in Polish Penal Law, according to the Penal Code of the Polish Army of 1944<sup>1</sup>

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DOI: <https://doi.org/10.24040/sap.2023.10.1.21-31>

## Abstract:

SZCZYGIEŁ, Tomasz: *The Military Origins of Penal Liability for Causing a Road Accident in Polish Penal Law, according to the Penal Code of the Polish Army of 1944*. The aim of the article is to present the impact of military criminal law on the development of the rules of criminal liability for causing a road accident in Poland in the second half of the 20th century. The fundamental question that guides the considerations undertaken here is whether and, if so, how the military criminal law influenced the development of the principles of criminal liability for traffic offences. The analysis of legal provisions and jurisprudence showed that the post-war provisions of Polish military law were a source of inspiration for developing common criminal law, which applies to road crimes. The offence of causing an accident from art. 144 The Penal Code of the Polish Army of 1944 was implemented for the ordinary judiciary only in the Penal Code of 1969. Until then, there was legal chaos in the ordinary judiciary.

## Keywords:

penal law, Penal Code of the Polish Army, People's Poland

## Introduction

The Second World War had an impact on the reality of the entire world. After its end, nothing was as it used to be before its outbreak. In many countries a political and institutional transformation took place, especially, in those located on the eastern side of so called Churchill's curtain. The war and the related arms race contributed also to an increased technological development, including to the development of land, air and water communication on an unprecedented scale. Such challenges had to be faced by the existing legal systems.

This article is going to present the problems of forming the rules of penal liability for causing a road accident in Polish penal law through the prism of the provisions of

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1 "The work was created as a result of the implementation of the research project entitled "Supreme Military Court in Warsaw 1919-1962", No. 2021/05/X/HS5/01048, financed by the "National Science Centre" Poland.

the Penal Code of the Polish Army of 1944 and judicial practice of the Supreme Military Court and the Supreme Court. These problems are all the more noteworthy that the penal law of the People's Poland is usually regarded as an instrument of repression and struggle for a new political reality, and not as an important element of developing penal law, as such, in the context of new challenges of life and advance of the civilization.

There are two purposes of this study. The first is to present the provisions of penal law and judicial practice under that legislation, which formed a novelty in the approach of penal law to the negative phenomena arising from the revolution in land traffic. The second purpose is to demonstrate the impact of military penal law on the formation of the terms of liability for so called traffic offences in Polish general penal law in the II half of the XX century.

### 1. Legislative framework 1944-1969

The inter-war period in the Republic of Poland was a period of endeavours to replace post-partition legal systems with homegrown legislation. In the area of penal law – as opposed to civil law – those endeavours were concluded with success. Substantive and procedural penal codes, both general and military, were prepared and put into force.<sup>2</sup>

The military regulations of the thirties were replaced in the years 1944-45 with the new “People's” codes.<sup>3</sup> On the other hand, the general penal legislative acts still remained in force. Although they were supplemented and amended by non-code pieces of legislation, they did not entirely answer the needs of post-war Poland. Representatives of the new communist authorities claimed that their provisions were incommensurate with the new social, economic and political reality.<sup>4</sup>

The problem was not only their incompatibility with the philosophical presumptions of Marxism and Leninism. The general Penal Code of 1932 was unable to cope with the new challenges of post-war Poland. One of its basic drawbacks was the lack of a specialised construction of the prohibited act of unintentionally causing a traffic (road) accident.<sup>5</sup> This was the case as the Code was prepared in the conditions inherited from the Victorian industrial revolution of the second half of the XIX century,

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2 Regulation of the President of the Republic of Poland of 11 July 1932 – *Penal Code* (Dz.U. z 1932 r. nr 60, poz. 571); Regulation of the President of the Republic of Poland of 19 March 1928 – *Code of Penal Procedure* (Dz.U. z 1928 r. nr 33, poz. 313); Regulation of the President of the Republic of Poland of 21 October 1932 – *Military Penal Code* (Dz.U. z 1932 r. nr 91, poz. 765); Decree of the President of the Republic of Poland of 29 September 1936 – *Code of Military Penal Procedure* (Dz.U. z 1936 r., nr 76, poz. 537).

3 Decree of 23 September 1944 – *Penal Code of the Polish Army* (Dz.U. z 1944 r. nr 6, poz. 27); Decree of 23 June 1945 – *Code of Military Penal Procedure* (Dz. U. z 1945 r. nr 36, poz. 216).

4 LERNELL, L. Z problematyki kodyfikacji prawa karnego (Rozważania metodologiczne). Część II. In *Państwo i Prawo*, z. 5-6, 1951, p. 841–853.

5 The term “accident” was present already in §49 and §66 of the Regulation of the Ministers of Communication, the Interior and Military Affairs of 27 October 1937 adopted in consultation with the Minister of Social Welfare on traffic of motor vehicles on public roads (Dz.U. 1937 nr 85 poz. 616).

when, in the first place, threats were associated with railway traffic, and not with the still scant car traffic.

However, after the end of the Second World War, the development of car traffic was gaining an unprecedented pace with each year. Before the war, in the Polish territories, there were 41.9 thousand registered motor cars (passenger cars and trucks) and 12 thousand motorcycles.<sup>6</sup> Towards the end of 1963, in Poland, there were 1670 thousand motor vehicles, including 1173 thousand motorcycles, 183.5 thousand passenger cars, 176 thousand trucks and 16.5 thousand buses.<sup>7</sup> According to the data for the years 1954-1956, everyday 5 persons died in Polish roads, and 26 were heavily injured.<sup>8</sup> In the following years, it was even worse. In the 1960-1965 quinquennium, 12016 persons died in road traffic (which, on average, makes 2400 per year), including 2092 children up to 14. On top of that, approximately 109000 persons were wounded.<sup>9</sup> 1054 passenger cars were entirely wrecked. The same referred to 802 trucks, 117 buses and hundreds of other vehicles. Perpetrators of 25% accidents were pedestrians, 30% motorcycle drivers and cyclists, 25 % drivers of trucks and tractors, and about 17 % drivers of passenger cars.<sup>10</sup> The most frequent cause of traffic events was non-compliance with elementary traffic rules (about 35%) and state of intoxication (about 17%).<sup>11</sup> The number of traffic accidents was growing with every year. Statistics show that in the first semester of 1965, there were 9353 accidents, whereas at the beginning of 1966 already as many as 11089.<sup>12</sup>

The lack of a specialised norm that would correspond to the circumstances of traffic events made Polish courts, in the second half of the XX century, “bend” Art. 215§1 of the Penal Code of 1932 (PC), on “causing a danger of catastrophe.”<sup>13</sup> It was assumed that the driver of a vehicle “consented” to causing a danger of a catastrophe, especially if the driver was under the influence of alcohol, to a degree which limited the driver’s ability to drive the vehicle. The following logic – as T. Cyprian relates – was deployed: “(...) a driver, as specialist, is in a position to predict certain typical situations, 2. since the driver has such possibility, the driver can predict the consequences of his behaviour, 3. if the driver nonetheless takes action that might bring such consequences, the driver consents to their materialisation.”<sup>14</sup>

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6 WILK, H. Motoryzacja w Polsce (1945-1989). In *Studia i Materiały*, nr 17, 2019, p. 332.

7 CYPRIAN, T. Wypadki drogowe w 1963 roku w świetle orzecznictwa Sądu Najwyższego. In *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, nr 4, 1965, p. 74; see also: WILK, H. Motoryzacja w Polsce (1945-1989)... , p. 336.

8 ŁYSKO, M. Wykroczenia drogowe w praktyce orzecznictwa karno-administracyjnego okresu gomułkowskiego. In *Miscellanea Historico-Iuridica*, t. 11, 2012, p. 316.

9 Wstęp. In *Zeszyty problemowo-analityczne*, nr 8, 1968, p. 1.

10 Ibid.

11 Ibid.

12 RZEPECKI, T. Sprowadzenie niebezpieczeństwa katastrofy w komunikacji drogowej (art. 215§1 k.k.). In *Zeszyty problemowo-analityczne*, nr 8, 1968, p. 7.

13 “Whoever causes a danger of fire, collapse of a building or catastrophe in land, water or air communication, shall be subject to a penalty of imprisonment (§1). A perpetrator acting unintentionally shall be subject to a penalty of arrest up to one year or fine (§2).”

14 CYPRIAN, T. Odpowiedzialność karna urzędników za przestępstwa gospodarcze w świetle orzecznictwa. In *Państwo i Prawo*, z. 11, 1952, p. 634–635.

Such an approach was a completely artificial construction of applying *dolus eventualis* to actually unintentional situations.<sup>15</sup> Moreover, it was questionable to even use the category of “catastrophe” in every single case, both in relation to a threat to property or human life. The proposition was difficult to understand, but necessary from the point of view of Art. 215§1, that even if the driver of a vehicle violated intentionally the rules of road traffic, the driver consented to negative consequences of an accident to third parties. The assumption – which justified intentionality of causing a danger of catastrophe – was even more problematic that the driver consented to the materialisation of tragic consequences for himself. Rejecting such argumentation, Polish courts would often qualify road traffic events as unintentional causing of a danger of catastrophe (Art. 215§2). However, in such situations – although the essence of that act was more adequate to the specificity of a road traffic event – mild sanctions were difficult to accept by political actors, who called for severe penal reaction and counteraction of the dangerous situation on Polish roads.<sup>16</sup> In such situation, quite interchangeably with Art. 215 of the Penal Code, and therefore also arbitrarily, the courts applied Art. 242 PC, on exposing an individual to imminent danger.<sup>17</sup> In case of a fatal consequence, also Art. 230 PC<sup>18</sup> was applied, on involuntary manslaughter.<sup>19</sup> There were also qualifications under Art. 235§2 PC,<sup>20</sup> or

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- 15 “Driving a car on a public road by a drunken driver who does not control the driven vehicle constitutes, in itself, causing a danger of catastrophe in communication and falls under the provision of Art. 215§1 of the Penal Code” – Judgment of the Supreme Court of 18 March 1953, and “A defendant who, being a driver of a car, became heavily intoxicated with alcohol, even though he did not intend to cause a catastrophe, realised the fact that, by drinking vodka, he exposed himself to a situation in which his ability to control the vehicle was significantly impaired. If the defendant, later, in a state of alcohol intoxication drove a car, this means that the defendant consented to causing a danger of catastrophe” – quoted after PAWELA, S. Odurzenie alkoholowe a wypadki samochodowe. In *Biuletyn Ministerstwa Sprawiedliwości*, nr 8, 1956, p. 8-9.
- 16 Zamiar ewentualny przy przestępstwach drogowych. Fragment referatu wygłoszonego na konferencji sędziów w Sądzie Wojewódzkim w Rzeszowie w dniu 27 marca 1965 r. In *Biuletyn Ministerstwa Sprawiedliwości*, nr 3, 1965, p. 3; PAWELA, S. Rozbieżności na tle kwalifikacji prawnej czynów o spowodowanie wypadków drogowych. In *Biuletyn Ministerstwa Sprawiedliwości*, nr 7-8, 1958, p. 48; ŁUKASZKIEWICZ, Z. Nieumyślne spowodowanie niebezpieczeństwa katastrofy (art. 215§2). In *Zeszyty Problemowo-Analityczne*, nr 8, 1968. p. 87–90; CYPRIAN, T. Wypadki drogowe w 1963 roku..., p. 80.
- 17 PAWELA, S. .Rozbieżności na tle kwalifikacji prawnej..., p. 43–45.
- 18 „§ 1. Whoever unintentionally causes death of a human, shall be subject to a penalty of imprisonment up to 5 years” – <https://iura.uj.edu.pl/Content/63/PDF/Kodeks%20karny%201932.pdf> (accessed on 09.04.2022).
- 19 CYPRIAN, T. Wypadki drogowe w 1963 roku..., p. 75–76.
- 20 „§ 1. Whoever: a) deprives an individual of sight, hearing, speech, fertility, or b) causes another permanent disability, severe incurable disease, disease posing danger to life, or permanent mental illness or permanent occupational incapacity, shall be subject to a penalty of imprisonment up to 10 years. § 2. If the perpetrator acts unintentionally, the perpetrator shall be subject to a penalty of imprisonment up to 3 years” – <https://iura.uj.edu.pl/Content/63/PDF/Kodeks%20karny%201932.pdf> (accessed: 09.04.2022).

Art. 236§2 PC,<sup>21</sup> that is unintentional consequential offences in the form of causing very grievous or grievous bodily harm.<sup>22</sup>

However, the political authorities and the Supreme Court put pressure on intensifying criminal repression against perpetrators of dangerous road traffic events, and this could be best achieved by the construction of intentional causing of a danger of catastrophe under Art. 215§1 PC.<sup>23</sup> There was a peculiar chaos when it came to the legal qualification of traffic events (accidents) in the practice of criminal courts.

## 2. Road traffic accident under the provisions of military penal law and in the judicial practice of the Supreme Military Court (1944-1962)

Whereas in the general judiciary there was a chaos about the penal law qualification of road traffic events, the situation in military courts looked completely different. In the Penal Code of the Polish Army (PCPA), adopted already during the war, on 23 September 1944, in Chapter XXII entitled: Offences against special official duties, a provision of Art. 157 (Art. 144 in the Code's consolidated text) was included, reading as follows: **“A soldier driving motor vehicles who violates internal regulations on their driving and provisions governing road traffic, insofar as the violation caused or could cause damage or destruction to the machine entrusted to the soldier, an unfortunate accident involving humans or other serious consequences, shall be subject to a penalty of imprisonment up to 5 years. If the offence is committed during the war, the perpetrator shall be subject to imprisonment for a period no shorter than 5 years or death penalty (§2).”**<sup>24</sup>

The subject of that crime could only be a soldier or, possibly, civilian driver employed in the military.<sup>25</sup> The vehicle taking part in the event had to belong to the

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21 „§ 1. Whoever causes: a) bodily harm or disorder of health which does not pose a danger to life or poses only a momentary danger to life but violates operation of an organ in the body for at least 20 days, or b) permanent defacement or permanent bodily disfigurement, shall be subject to a penalty of imprisonment up to 5 years” – Ibid.

22 CEBULSKI, S. Nieumyślne bardzo ciężkie lub ciężkie uszkodzenie ciała w wyniku wypadku drogowego (art. 235§2 i art. 236§2 k.k.). In *Zeszyty Problemowo-Analityczne*, nr 8, 1968, p. 85-87; KAFARSKI, A. Sprawy karne o wypadki samochodowe czyli o trudnościach przy ich rozpoznawaniu. In *Nowe Prawo*, nr 3, 1959, p. 418-419; KAFARSKI, A. Sprawy karne o wypadki samochodowe czyli o trudnościach przy ich rozpoznawaniu (I). In *Nowe Prawo*, nr 4, 1959, p. 533-534.

23 Announcement of the First President of the Supreme Court of 31 August 1963 on *Guidelines of the Judiciary and Judicial Practice in Traffic Offence Matters* (M.P. z 1963 r., nr 70, poz. 348); Wytoczne wymiaru sprawiedliwości i praktyki sądowej w sprawach przestępstw drogowych (uchwalone przez Sąd Najwyższy na posiedzeniu połączonych Izb Karnej i Wojskowej w dniu 22.VI. 1963 r.- ogłoszone obwieszczeniem Pierwszego Prezesa S.N. z dnia 31. VIII. 1963 r.). In *Biuletyn Ministerstwa Sprawiedliwości*, nr 5, 1963, p. 1-13.

24 Dz. U. z 1944 r., nr 6, poz. 27. In the consolidated text of 29 March 1957, this was Art. 144 (Dz. U. z 1957 r., nr 22, poz. 107).

25 Announcement of the First President of the Supreme Court of 31 August 1963 on *Guidelines of the Judiciary and Judicial Practice*..., p. 607; Decision of the Supreme Military Court of 30 September 1959, file reference 1529/59. In *Wojskowy Przegląd Prawniczy*, nr 1, 1960, p. 103-104.

army.<sup>26</sup> The *mens rea* was based on the construction of combined guilt, that is intentional violation of the rules applicable in land traffic<sup>27</sup> and an unintentional consequence of destroying property or an accident involving humans.<sup>28</sup>

Even though this solution seemed modern as compared to the approach adopted in the general judiciary in road accident matters, the development of military penal law reached even further. At the beginning, intentionality was required in respect of the awareness of violating official regulations/traffic legislation and unintentionality in respect of the consequence in the form of accident, which was confirmed by the Supreme Military Court in the decision of 20 December 1955.<sup>29</sup> However, it was realised that this still does not fully address the specificity of road traffic events, which naturally very often take place also in consequence of unintentional violation of the principles and legislation applicable in road traffic. And this gap was filled by the military legislator at the beginning of the sixties. Under Art. 1 item 9 of the Act of 31 January 1961 amending certain provisions of the Penal Code of the Polish Army, Art. 144 of the PCPA was supplemented by §3, reading as follows: **“Where, in a situation specified in § 1 or in § 2, the violation of internal regulations on driving motor vehicles and road traffic legislation was unintentional, the perpetrator shall be subject to a penalty of imprisonment of up to 2 years or a penalty of arrest.”**<sup>30</sup>

In this way, the combined guilt of the discussed offence’s *mens rea* was supplemented by an unintentional-unintentional situation. This gave rise to a privileged type of causing a road accident as a result or non-intentional (recklessness/negligence) violation by a soldier or a civilian employed in the military of internal regulations and provisions of traffic legislation resulting in a traffic accident. This construction fully rendered the specificity of road traffic events.

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26 Decision of the Supreme Military Court of 30 September 1959, Rw 1529/59 (LEX No. 1724183).

27 Act of 27 November 1961 *on safety and order of traffic on public roads* (Dz. U. Nr 53, poz. 295).

28 “The provision of Art. 144 § 1 of the Penal Code of the Polish Army is based on a construction of combined guilt and applies only when a soldier-driver intentionally violates the applicable road traffic regulations and unintentionally (out of recklessness or negligence) causes an accident involving humans or destroys or damages the driven vehicle. On the other hand, when the violation of road traffic regulations by the driver is only unintentional, that is when the violation is a consequence of recklessness or lack of the driver’s care and reckless overestimation by the driver of the driver’s own abilities to drive a motor vehicle in the specific road traffic conditions, then, in principle, we have to do with an unintentional offence defined in Art. 144 § 3 of the Penal Code of the Polish Army” – Decision of the Supreme Court of 28 March 1963, Rw 237/63 LEX No. 136445.

29 “The offence defined in Art. 157 of the Penal Code of the Polish Army involves a construction of so called combined guilt (*dolus culpa*). The perpetrator’s intentional guilt is required only in respect of the perpetrator’s violation of road traffic legislation, and as far as the consequences are concerned of such violation of rules – unintentional guilt is sufficient” - (Decision of the Supreme Military Court of 20 December 1955 (file reference W 1251/55, Lex No 1724291).

30 Dz. U. z 1961 r, nr 6, poz. 40.

### 3. Use of the legacy of the military judiciary in works on the substantive Penal Code of 1969

At the same time, in the general system of justice, the only development taking place in the area of penal law reaction to of road traffic events after the Second World War consisted in recognising the problem of the impact of alcohol on traffic safety. This took place in connection with the adoption of the Act of 10 December 1959 on combatting alcoholism.<sup>31</sup> Under that Act, new misdemeanours were introduced, consisting in:

- driving a vehicle in a state of intoxication (Art. 28§1 – motor vehicle; § 2 – other vehicle on a public road), and
- unintentional causing of a catastrophe in land, water or air traffic in consequence of driving a motor vehicle in a state of intoxication (Art. 30).

Although this time the approach to *mens rea* was a development in relation to the previous overuse of eventual intention (*dolus eventualis*), the use of the term “catastrophe” to accidents in land traffic was obviously defective. Moreover, the requirement of a state of intoxication even further narrowed down the scope of situations when such qualification could apply. As a result, the dissonance between military penal law and general penal law was still clear. Moreover, the legislative framework became somehow messy since the criminal provisions of that Act, bearing in mind the wide definition of the subject of offences under Art. 28 and Art. 30, could theoretically apply also to soldiers. The Supreme Court, in the guidelines of 31 August 1963, clarified that a possible concurrence of the offences under that piece of legislation with the provisions of the PCPA should – in principle – be resolved by Art. 32 PCPA, which meant that the court should apply a more severe provision.<sup>32</sup> On the other hand, the Supreme Military Court, by the decision of 4 October 1960, concluded that Art. 144 PDPA has priority, in relation to soldiers, over Art. 30 of Act on combatting alcoholism.<sup>33</sup> As a consequence, doubts were not dispersed.

In such complicated and heterogenous legislative framework of post-war Poland, one of the main tasks of the Substantive Penal Law Panel of the Codification Commission at the Minister of Justice appointed in 1964 was to prepare provisions adequate to the reality on the roads for the purposes of a new Penal Code.

The result of the works was Art. 145 of the Penal Code of 19 April 1969, reading as follows: **“Whoever, violating, even through negligence, the principles of safety in land, water or air traffic, causes unintentional bodily injury or health disorder of another person or serious damage to property, shall be subject to a penalty of imprisonment up to 3 years” (Art. 145§1).**

For the purposes of this provision – just as in the PCPA – a combined construction of *mens rea* was adopted. In the same way as under the provision of Art. 144 PCPA, penal liability relied at least on unintentionality when it came to violation of safety principles in traffic and only on unintentionality when it came to causing an accident.

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31 Dz. U. z 1959 r, nr 69, poz. 434.

32 Announcement of the First President of the Supreme Court of 31 August 1963 *on Guidelines of the Judiciary and Judicial Practice ...*, p. 608.

33 Decision of the Supreme Military Court of 4 October 1960, file reference Rw 1111/60. In *Wojskowy Przegląd Prawniczy*, nr 1, 1961, p. 128–129.

Although the term road accident was not expressly used by the legislator, there can be no doubt that its concept was accepted in line with the definition adopted in the doctrine of law and in the description of the *actus reus* under Art. 144 PCPA, that is as an event on a public road resulting in bodily injury or death of a person, or a serious damage to property.<sup>34</sup>

In the special part of the Penal Code of 1969, the legislator included also Art. 323§1 PC, which penalised causing an accident in land, water or air traffic as a result of driving, by a soldier, of an armed motor vehicle contrary to safety principles. This misdemeanour was addressed separately in the Code because of a major hazard posed by an armed motor vehicle to life and property. The *mens rea* was identical to the *mens rea* under Art. 145 PC.

## Conclusions

The provisions of the Penal Code of the Polish Army on safety in the widely understood land and air traffic were a novelty in the system of Polish penal law. Normative specification of an “unfortunate accident involving humans” predated the legislative solutions of general law, in which an “accident” was only a concept developed in judicial practice and in the doctrine, but was absent in the provisions of penal law. On the other hand, the correlation of penal liability for causing an accident with non-observance of internal regulations and rules governing road traffic, also unintentional, made an introduction to the specification of the terms of liability for road offences in civilian traffic. Moreover, the application of combined guilt in military law contrasted, in terms of its novelty of approaching road traffic events, with the artificial and clearly erroneous conception of eventual intention (*dolus eventualis*) to cause a danger of catastrophe within the general penal law framework (Art. 215 of the Penal Code of 1932).

The construction and practice under Art. 144 PCPA also shows that the military Code was not only a tool in the struggle to consolidate the new political system but also an important element in the evolution process of the Polish penal law after the Second World War. The provisions of that legislative act were, undoubtedly, also a manifestation of the transitions relating to the operation of the army during the war, whose element were significant numbers of combat and transport vehicles used in the hostilities. The military legislator recognised that phenomenon and was aware of the specificity of road traffic events taking place in land communication with the involvement of military equipment, which is why already in 1944 the legislator took a specific legislative action. The general legislator was waiting, as though the legislative actors did not appreciate the advancing communication revolution also in civilian life, which gave rise to problems concerning the uniformity of judicial practice and of the post-war system of penal law.

On the other hand, the relatively scant knowledge of Art. 144 PCPA was, in the first place, a consequence of situating that provision as an offence perpetrated in connection

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34 ANDREJEW, I. *Polskie prawo karne w zarysie*. Warszawa : Państwowe Wydawnictwo Naukowe, 1973, p. 337; ŚWIDA, W. *Prawo karne*. Warszawa : Państwowe Wydawnictwo Naukowe, 1978, p. 476–477.



with performance of official duties. The post-war practice showed that the discussed provision became not as much an offence relating to official duties as, first and foremost, a forerunner of a new group of offences against safety in communication. This was the case as the *mens rea* construction adopted in that provision and the developed judicial practice led to the introduction of the misdemeanour of causing a traffic accident into the Penal Code of 1969. It should be noted that the essential elements of that approach have still remained valid in the Polish system of penal law of the XXI century.<sup>35</sup>

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- Act of 6 June 1997 – Penal Code (Dz. U. z 2021 r. poz. 2345, 2447).

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35 Art. 177. § 1. Whoever unintentionally causes an accident in which another person has suffered a bodily injury specified in Article 157 § 1, by violating, even unintentionally, the safety rules for land, water or air traffic shall be subject to a penalty of deprivation of liberty for up to 3 years. § 2. If the consequence of the accident is the death or a serious bodily injury to another person, the perpetrator shall be subject to a penalty of deprivation of liberty for a term of between 6 months and 8 years. § 3. If the injured person is a next of kin of the perpetrator, the prosecution of the offence specified in § 1 shall occur on a motion from the former” – Act of 6 June 1997 – Penal Code (Dz. U. z 2021 r. poz. 2345, 2447).

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**Summary: The Military Origins of Penal Liability for Causing a Road accident in Polish Penal Law, according to the Penal Code of the Polish Army of 1944**

This article concentrates on demonstrating the impact of military penal law on the formation of the terms of penal liability for causing a road accident in Polish penal law after the Second World War. The Penal Code of 1932, still applicable at that time, was not able to meet the challenges posed before penal law by the communication, especially automotive, revolution. The lack of a special norm on road accidents brought a chaos to penal judicial practice and, especially, overuse of the construction of intentional causing of a danger of catastrophe. In the military judiciary the situation looked different. The Penal Code of the Polish Army adopted in 1944 provided, in Art. 144, for a situation of unintentional causing of an accident in land traffic, both in consequence of intentional and unintentional (since 1961) violation of legal provisions and rules applicable in road traffic. This solution was adopted in the general judiciary only in the Penal Code of 1969.

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