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## **ISSUES OF REGULATION OF MILITARY SYSTEM RELATIONS IN GREAT BRITAIN IN THE MODERN INTERNATIONAL LAW**

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The question of regulation of military service relations, technical and material support, responsibility for misdemeanors of soldiers has been raised. In all countries of the world, the development of these issues has taken place in different ways, and therefore we have the opportunity to observe different systems of regulation of relations in the military sphere. Everyone knows that the rule of law is inextricably linked to each person and society as a whole. There is a reason to study the issue of military law and the differences of different legal systems of different countries, taking into account the development and extraction of useful information from different systems of military law

Although England and Wales, Northern Ireland and Scotland have diverged in more detailed rules of common law and the law of justice, and although certain legislative powers have been transferred to Northern Ireland, Scotland, Wales and London, there are key areas of law common to all.

The United Kingdom does not have a single legal system, as it was created by a political union of independent states. Article 19 of the Treaty of Union, introduced by the Union Act of 1707, created the United Kingdom, which guaranteed the continued existence of the Scottish legal system.

The law of England and Wales has a dualistic character, ie it has a dual structure, which is expressed in the division of law into common law and the law of justice. The history of English law followed three paths through the formation of common law, supplementing its right to justice (Equity Law) and interpretation of statutes (Statute Law) [3].

The main source of constitutional law in England is the constitution, ie the only legal act of supreme legal force. The Constitution of England exists in the so-called «material sense» and is a set of regulations, court precedents, constitutional agreements, doctrinal sources that establish human rights and freedoms, determine the formation and powers of public authorities, as well as the principles of relations between the state, society and man.

In England, there is a parliamentary system of government, where Westminster parliament is the highest law-making body. The head of state is the monarch, the role, which is mainly ceremonial. The judiciary consists of the monarch, legally qualified judges and magistrates [4].

Service Justice System. The main elements of the Service Justice System are:

The Court Martial is for many the most familiar aspect. The Court Martial has global jurisdiction over all service personnel and civilians subject to service discipline (e.g. family members, civilian contractors, teachers, administrative staff when serving abroad) and hears all types of criminal case including murder and serious sexual offences.

Sentencing is not determined by the Judge Advocate alone; instead the Judge Advocate sits with a board of three to five lay service members in the Court Martial, with the Judge Advocate presiding over the sentencing deliberations. A simple majority is required to pass a sentence, and the judge has the casting vote. When determining sentences, the Court Martial must take into account what is in the best interests of the Service, because the whole Services justice system is designed to underpin the operational effectiveness of the Armed Forces. This often makes the sentencing exercise different from that in the civilian courts.

Serious matters, including both offences against the civilian criminal law and specifically military disciplinary offences, may be tried in the Court Martial, which is a standing court. A Judge Advocate arraigns each defendant and conducts the trial which is broadly similar to a civilian Crown Court trial in all cases, even when dealing with a minor disciplinary or criminal offence.

Following a finding or plea of guilty, the board joins the Judge Advocate to decide on sentence. The Court Martial has the same sentencing powers in

relation to imprisonment as a Crown Court, including life imprisonment. Most of the sentencing powers in the Criminal Justice Act 2003 are also available in the Court Martial.

The Court Martial mirrors the Crown Court in practice, procedure and sentencing powers with important additional features:

Trials are conducted with smaller Boards (juries) of usually 3 or 5 lay members, depending on the gravity of the case, and up to 7 members in long or very serious cases. Boards in cases involving serving personnel are made up of serving military personnel;

Trials involving civilian defendants usually require a civilian board of up to 7 civilian members. With the exception of the size of the Board, procedure during trial and sentence is identical to the Crown Court [2].

Sentencing proceedings for service personnel convicted at trial or, in the event of a guilty plea are conducted together with the Board. The Judge Advocate (JA) directs the Board in relation to sentencing guidelines and principles, and has a casting vote;

The Court Martial can pass the full range of custodial and non-custodial sentences available in the Crown Court (with the exception of POCA orders and disqualification from driving) and an additional range of sentences available under the Armed Forces Act 2006, including dismissal from Her Majesty's Service, detention for up to two years in military detention and reduction in rank. Almost all defendants in the Court Martial are serving military personnel of good character and the consequences of these sentences upon them and their families can be very significant. In every sentencing hearing, however serious, the lay board members of varying ranks require very careful direction, guidance and management. Sentencing hearings generally take over an hour;

Summary Hearings by a Commanding Officer:

Minor disciplinary and criminal matters are dealt with summarily by the Commanding Officer of the accused. The vast majority of matters are disposed of in this way, which forms one of the foundations of the disciplinary system of the armed forces. A Commanding Officer has powers of punishment up to 28 days' detention, which may be extended to 90 days' detention with approval from Higher Authority. In all cases an accused person may elect for trial in the Court Martial rather than appear before their Commanding Officer, or may appeal to the Summary Appeal Court after the event.

Specified criminal offenses and disciplinary issues may be dealt with summarily by the accused's Commanding Officer and, according to the Judiciary of England and Wales, this remains the method through which the majority of minor and disciplinary offenses by members of the armed forces are handled. For these offenses the Commanding Officer retains the majority of rights to hear, amend charges relating to, determine punishment for, or dismiss

such cases. The explanatory notes to the Armed Forces Act 2006 emphasize the importance of the Commanding Officer's role in maintaining discipline within the Forces:

The Commanding Officer also has a duty to either report service offenses to the service police or conduct an «appropriate investigation» into them. The explanatory notes to the 2006 Act state that in many instances an investigation other than by the service police will be appropriate, as many of the service offenses include «less serious disciplinary offences».

The Commanding Officer has authority to impose up to twenty-eight days of detention, extendable to up to ninety days with approval from a higher-ranking authority. The accused may request that his or her case be heard before the Court Martial and may appeal the matter to the Summary Appeal Court after the conclusion of the hearing before the Commanding Officer.

If a serviceman or woman is to be detained in custody, or if private premises need to be searched in the course of investigations, or if a person needs to be arrested, the authority of a Judge Advocate is required.

The Office of the Judge Advocate General (OJAG)

The Judge Advocates are supported in the exercise of their judicial functions by the Office of the Judge Advocate General (OJAG).

This small administrative office, which primarily supports the JAG with deployment of the Judge Advocates and with liaison with certain parts of Government, forms part of the Judicial Office.

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