CONTENT

INTRODUCTION	9
1 Belgian courts-martial during the Great War 2 Structure 3 Sources and research methodology	9 14 16
CHAPTER 1. OPERATIONS OF COURTS-MARTIAL IN '14-'18 WAR CONDITIONS	21
Introduction	21
1 The War and Belgian armed forces	22
 1.1 The state of the Army 1.2 Brief outline of the war 1.2.1 The war of movement in 1914 1.2.2 Position war behind the river Yser 1.2.3 The end offensive and the end of the war 1.3 Figures of the armed forces 1.4 The language issue in the Army 	22 25 25 32 33 35
2. War and military security	48
 2.1 Proclamation of state of war and state of siege and measures in this respect in 1914- 1915 2.2 Legislative measures regarding the state of war and state of siege in 1916 2.3 Establishment of a military intelligence service (1915-1916) 2.4 New measures for the punishment of offences against the security of the State in 1916-1917 2.5 The last weeks of the war (1918) 2.6 Measures after the Armistice 	48 52 58 59 62 64
3. Military criminal proceedings, a relic from the 19 th century	68
4. Organization and functioning of the courts-martial	73
 4.1 Organization of the military prosecutor's offices and the courts-martial 4.1.1 Amendment of the organization chart of the courts-martial and the military prosecutor's offices 4.1.2 Status of military magistrates and court clerks 4.2 Jurisdiction of the courts-martial 4.2.1 Mainly a ratione personae jurisdiction 4.2.2 Persons subject to the military justice system 4.2.3 Competence in respect of military personnel abroad 4.3 Number of cases 4.3.1 Cases dealt with by military prosecutor's offices and by courts-martial 4.3.2 Cases in the Military Court of Appeal 	73 79 83 83 84 91 94 94 98
Conclusion of chapter 1	101

CHAPTER 2. CORE MILITARY OFFENCES IN 1914-1918	103
Introduction	103
1 Overview of the committed offences	104
 1.1 The fall of the forts 1.2 During the war of movement 1.3 In the Yser Army 1.4 Behind the lines 1.5 During the liberation offensive 1.6 After the war 	104 105 106 108 109 109
2 Figures on the nature of the offences prosecuted by the Military Court of Appeal	110
3 Discussion of the main military law offences	114
 3.1 Insubordination 3.2 Mutiny 3.3 Desertion 3.4 Desertion to the enemy 3.5 Refusal of enlistment 3.6 Quitting post 3.7 Self-mutilation 3.8 Espionage and treason 	114 126 130 134 136 141 148 153
Conclusion of chapter 2	163
CHAPTER 3. THE INQUIRY	167
Introduction	167
1 The "summary inquiry" by a military Inquiry Council appointed by the Commanding Officer	169
1.1 "Summary inquiry"1.2 The suspect under arrest	169 172
2 Judicial inquiry	174
 2.1 Military Prosecutor and Judicial Committee 2.2 The arrest warrant 2.2.1 Applicable law 2.2.2 Issuing the arrest warrant 2.2.3 Contacts between the detainees and their counsel 2.3 Monthly confirmation of arrest warrant 2.3.1 Competent authority 2.3.2 Appeal – Request for release 2.3.3 Penalty reduction due to pre-trial detention 2.4 Inquiry measures 	174 181 181 182 185 187 187 187 188 192 193
3 Close of the inquiry	200
3.1 Non-prosecution3.2 Referral to Corps discipline3.3 Referral to court-martial	200 204 206
4 Relationship between military prosecutors and military authorities	207
4.1 Point of view of the Military Attorney General4.2 Influence of military authorities4.3 Tensions between military prosecutors and military authorities	208 210 216

5 Language of the inquiry	223
Conclusion of chapter 3	235
Simplified diagram of the inquiry phase	238
CHAPTER 4. TRIAL	239
Introduction	239
1 Military Courts' actors	242
 1.1 Members of courts-martial and the Military Court of Appeal 1.1.1 Courts-martial 1.1.2 The Military Court of Appeal 1.2 Military prosecutors 1.3 Lawyers 	242 242 245 247 248
2 Conduct of hearings	260
 2.1 Hearings of the courts-martial 2.1.1 Appearance of the accused 2.1.2 Hearing of the witnesses 2.1.3 Appearance of civil parties 2.1.4 Closing of arguments 2.2 Hearings of the Military Court of Appeal 	260 260 262 264 266 268
3 Sentencing	270
3.1 Principles3.2 Conviction to degradation3.3 Conviction to disciplinary punishment and referral to Corps discipline	270 273 277
4 Remedies	281
 4.1 Appeal 4.1.1 The initial challenge to the right to appeal against the judgments of field courts-martial 4.1.2 Procedural requirements for appeal 4.1.3 Non res judicata judgments at the end of the war 4.1.4 Illegality of appeal between 4 August 1914 and 28 December 1915 4.2 Appeal in the Court of Cassation and lifting of the appeal possibility during the war 	281 281 288 293 294 296
5 Language of hearing and language of judgments	300
6 Assessment by the judges	308
 6.1. Elements of assessment 6.2. Comparison of judgments in first instance and after appeal 6.3. Acceptance of mitigating circumstances 6.4. Medical condition as mitigating circumstance or ground for dismissal 6.5. Assessment of the accused's military value 6.6. Acquittal due to procedural errors 6.7. Rank of the accused 6.8. Conclusion 	308 310 311 314 318 322 325 329
Conclusion of chapter 4	331
Simplified trial phase diagram	337

CHAPTER 5. AFTER THE TRIAL	339
Introduction	339
1 Execution of judgement	340
1.1 Prior intervention of the military Commander in the execution of the sentence1.2 Freedom deprivation sentence execution1.3 Sentence execution in rehabilitation companies1.4 Death sentence execution	340 346 348 351
2 Rehabilitation, pardon, revisions, enhancing judgments and amnesty	355
 2.1 Rehabilitation 2.1.1 Law of 25 April 1896 on rehabilitation in criminal cases 2.1.2 Decree-laws of 20 January 1916 and 22 April 1918 on military rehabilitation 2.1.3 Practical consequences of rehabilitation 2.2 Pardon measures 2.2.1 During the war 2.2.2 After the war 2.3 Revisions and enhancing judgments 2.3.1 Revisions 2.3.2 Enhancing judgments 2.4 Amnesty (the 1919, 1921, 1929, 1937 and 1940 amnesty laws) 	355 355 359 360 360 367 369 369 372 373
Conclusion of chapter 5	376
FINAL CONCLUSIONS	381

SOURCES