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PROTECTION OF PRIVATE FORESTS IN THE CONTEXT OF CLIMATE CHALLENGES

Abstract

The discussion will focus on the formation of legal protection of private forests from a multifaceted perspective. Today, private forests in Poland occupy about 19% of the total forest area and are an important element of the country's ecological and economic security. They also play a key role in resolving the ongoing climate crisis. However, private forests in Poland face a number of problems. In the face of climate challenges, loss of biodiversity, and forest degradation, the protection of public forest resources and those in private hands after increasing the number of legal instruments is insufficient. In the coming years, one of the biggest challenges for forestry will be to participate in the efforts to reduce climate change, as well as to adapt to it and cope with its effects.

KEYWORDS

private forest, climate changes, The Common Agricultural Policy

SŁOWA KLUCZOWE

lasy prywatne, zmiany klimatu, Wspólna Polityka Rolna

1. INTRODUCTION

Private forests in Poland today occupy about 19%¹ of the total forest area and are an important element of the country's ecological and economic security. They also play a key role in resolving the ongoing climate crisis. However, private forests in Poland face numerous problems, including high fragmentation and lack of up-to-date management documentation.² Moreover, the report of the "Pracownia na rzecz Wszystkich Istot" Association entitled "Łasy poza kontrolą" shows some irregularities also in forests owned by the State Treasury. Over the past 30 years, timber harvesting in Poland in forests managed by the State Forests has more than doubled – from 20 million m³ in 1990 to 49 million m³ (gross volume) in 2019. In all of the 46 forest districts analyzed, timber was harvested for many months on the basis of makeshift harvesting plans.³ On the other hand, as we read in the Forestry Statistical Yearbook, for many years the area of forests in the country has been systematically but slowly increasing. At the end of the year under review, it increased by 4,400 hectares compared to the state recorded a year earlier.⁴

Sustainable management of private forests can help stem the climate-environment crisis. In addition to proper forest management, the tools to achieve these goals are to increase the power of NGOs and citizens in the environmental decision-making process.

In the face of climate challenges, loss of biodiversity, and forest degradation, the protection of public forest resources and those in private hands after increasing legal instruments is insufficient. In the coming years, one of the biggest challenges for the forestry will be to participate in efforts to reduce climate change, as well as to adapt to it and cope with its effects. In addition, the problem of compensating private forest owners related to their implementation of the protective function of the forest has not been resolved. Meanwhile, the conservation value of forest complexes is not insignificant. The discussion will consider the formation

¹ According to the Statistical Yearbook of Forestry as of 31 December 2021, the area of forest land was 9467.5 thousand hectares, of which forests covered an area of 9264.7 thousand hectares and accounted for 29.6% of the country's area. However, according to the standard adopted for international assessments, taking into account land related to forest management, the share of the area of land of forest land in the country's land area was 30.9%. Broken down into public and private forests, the former account for 7479 thousand hectares (i.e., about 80.7%) of the area of forests, and the latter 1786 thousand ha (i.e. ca. 19.3 %). For more details, see: Główny Urząd Statystyczny, *Rocznik Statystyczny Leśnictwa*, Warszawa – Białystok 2022, p. 36.

² See *Najwyższa Izba Kontroli, Nadzór nad gospodarką leśną w lasach niestanowiących własności Skarbu Państwa*, LZG.410.006.2020, pp. 12-13.

³ See *Łasy poza kontrolą. Raport o wybranych nieprawidłowościach gospodarki leśnej w obszarach cennych przyrodniczo w Polsce*, Stowarzyszenie Pracownia na rzecz Wszystkich Istot, Bystra lipiec 2021, pp. 4-5.

⁴ Główny Urząd Statystyczny, *Rocznik Statystyczny Leśnictwa*, Warszawa – Białystok 2022, p. 36.

of legal protection of private forests from a multifaceted perspective, covering organizational, legal, and financial issues in the context of climate change.

2. FOREST, PRIVATE FOREST, LAND FOREST

The concept of forest in terms of current legislation is not the same as the one used in biological and natural sciences.⁵ For the purposes of this study, it is necessary to use the legal definition of a forest contained in the provision of Article (3) of the Forest Law,⁶ which reads as follows: A forest within the meaning of the Law is a land:

- 1) with a compact area of at least 0.10 hectares, covered with forest vegetation (forest crops) – trees and shrubs and undergrowth – or temporarily deprived of it:
 - (a) intended for forestry production or
 - (b) constituting a nature reserve or being part of a national park, or
 - (c) included in the register of historical monuments;
- 2) related to forest management, occupied for the following objects and areas used for forest management: buildings and structures, water reclamation facilities, forest zoning lines, forest roads, areas under power lines, forest nurseries, timber storage areas, as well as areas used for forest parking lots and tourist facilities.

The listed land can be considered a forest, although the qualification of land as a forest based on the above criteria may be controversial.⁷ Considerations related to the concept of a forest have been the subject of numerous contributions from the literature⁸ and case law.⁹ The discrepancies center around the qualification criteria, which still have not lived to see unification. Thus, in practice, the

⁵ See definitions of the term ‘forest’: <https://sjp.pwn.pl/sjp/las;2477491.html> (accessed 15 June 2023); <https://www.encyklopedialesna.pl/haslo/las/> (accessed 15 June 2023).

⁶ Act of 28 September 1991 – Forest Law (Journal of Laws 2022, item 672).

⁷ The Forest Law introduces four criteria for recognizing a piece of land as a forest: natural, spatial, the criterion of use – for forest production, and the criterion of connection with forest management. For more information, see: literature on the definition of a forest and forest land: W. Radecki, *Paragraf i środowisko. Prawna definicja gruntu leśnego i lasu*, Aura 2011, No. 5, p. 36; B. Rakoczy (in:) *Ustawa o lasach. Komentarz*, Warszawa 2011, Article 3., LEX; W. Radecki, *Ustawa o lasach. Komentarz*, Warszawa 2011, p. 25.

⁸ J. Bieluk, K. Leśkiewicz, *Ustawa o lasach. Komentarz*, Warszawa 2017, pp. 10–22; A. Habuda, *Prawna definicja lasu i kategoryzacja lasów*, (in:) *Polskie prawo leśne*, A. Habuda (ed.), Warszawa 2016, pp. 101–112.

⁹ Decision of the Supreme Administrative Court of 2 October 2015, II OSK 308/14, LEX No. 2002652; Decision of the Supreme Administrative Court of 23 April 2013, I OSK 1983/11, LEX No. 1336348.

qualification of land as a forest based on the criterion of use is determined¹⁰ by data from the land register kept on the basis of the Act of 17 May 1989 – Geodetic and Cartographic Law.¹¹ Based on the geodetic and cartographic law, the Decree of the Minister of Development, Labor and Technology of 27 July 2021 on the registration of land and buildings, Annex No. 1 of the Decree has been published, which defines the rules for classifying land into different land uses. The following categories have been differentiated:

I. forests – denoted by the symbol “Ls”, these forests include land defined as a “forest” in the Act of 28 September 1991 Forest Law.

II. wooded and shrub land – denoted by the symbol “Lz” – which is land covered with forest vegetation, the area of which is less than 0.1000 ha.

Article (2) of the Forest Law proclaims the principle of unity of forestry, according to which the provisions of the Act apply to forests, regardless of their form of ownership. The provision of Article 5 of the Forest Law makes a dichotomous division of forests into forests owned by the State Treasury and those not owned by the State Treasury. The principle of unity of forestry does not exclude important distinctions relating to forests not owned by the State Treasury. The concept of “private forests” has not been defined in current Polish law, so in order to define this concept, it is necessary to apply the provisions of the Act 28 September 1991 – Forest Law and court case law. Private forests in Poland are considered to be forests owned by individuals, including forests of associations of private forest owners, land communities, agricultural production cooperatives, machinery rings, religious associations, and social organizations.¹² At the same time, the concept of ‘private forests’ should not be equated with the concept of ‘non-state forests’ which is broader and refers to all private forests, including those in the use of local government units, universities, schools, and various educational institutions, research and development units, as well as entrepreneurs with the status of a research and development center. To paraphrase, every private forest will be a non-state forest, while not every non-state forest will be a private forest.¹³ From a legal perspective, the legal consequences of the application of dichotomous division give rise to certain legal consequences, as there are fundamental differences concerning the sphere of public ownership of forests owned by the State Treasury, and in relation to the legal regime pertaining to forests that

¹⁰ The issue of the destination criterion has been the subject of two Supreme Court rulings – see in more detail: Decision of the Supreme Court of 28 January 2009, IV CSK 353/08, LEX No. 527250; Decision of the Supreme Court of 28 January 2010, I CSK 258/09, LEX No. 565990.

¹¹ Act of 17 May 1989 - Geodetic and Cartographic Law (Journal Law 2021, item 1990).

¹² See E. Wysocka-Fijorek, *Spoleczne, prawne i ekonomiczne aspekty rozwoju gospodarki leśnej w lasach prywatnych*, Zeszyty Naukowe Szkoły Głównej Gospodarstwa Wiejskiego w Warszawie Problemy Rolnictwa Światowego, Vol. 14 (XXIX), issue 3, 2014, pp. 216–225.

¹³ “Gospodarowanie w lasach niepaństwowych – poradnik dla właścicieli” has been prepared and published by the Regional Directorate of State Forests in Białystok in cooperation with the Biebrza National Park as part of the International Forest Day celebrations., pp. 10-11.

are not owned by the State Treasury (including private forests), involving legal instruments for forest management or property protection.

3. LEGAL PROTECTION OF PRIVATE FORESTS

According to the provisions of Civil Code Article 140,¹⁴ the owner (within the limits set by laws and rules of coexistence) may, to the exclusion of others, use things in accordance with the social and economic purpose of his right, in particular, may collect benefits and other income from things. Within the same limits, he may dispose of the thing. Under the provision of Article (64) of the Constitution of the Republic of Poland,¹⁵ this right is protected and can only be restricted by law and only to the extent that it does not violate its essence. The primary means of exercising the right to forest ownership is through sustainable forest management.

Article (5) of the Forest Law makes a dichotomous division of forests into state-owned and non-state-owned forests, including the identification of the authority that supervises forest management. Forest management supervision in the meaning of Article (5) is the protection of certain goods and the hierarchy between them. Such goods are forest resources, including those that are not owned by the Treasury. The term ‘supervision’ can, therefore, include a general authorization for supervisors to observe the actions of supervised entities and to intervene in emergency and conflict situations, including the authority to take specific measures indicated in the law. In the current state of the law, the supervision of forest management in forests that are not owned by the State Treasury belongs exclusively to the district chief. The regulations provide a basis for distinguishing the tasks of the starost as own tasks and the tasks of the starost as tasks of government administration.¹⁶

As part of his supervision of forests that are not owned by the State Treasury, the starost issues administrative decisions in the first instance. The entrusting authority can only be the starost who entrusts supervision to the forest head. According to articles of the Forest Law, the starost is obliged to provide funds for the task of supervision. The legal form of entrusting supervision is an agreement. It should be assumed that it requires a written form. The starost cannot impose on the head of the forest district the performance of supervision of forests that are not

¹⁴ Act of 23 April 1964 – Civil Code (Journal of Laws 2022, item 1360).

¹⁵ Constitution of the Republic of Poland Act of 2 April 1997, (Journal of Laws Number 78, item 483).

¹⁶ D. Danecka, W. Radecki (in:) D. Danecka, W. Radecki, *Ustawa o lasach. Komentarz, III edition*, Warszawa 2021, Article (5) LEX.

the property of the State Treasury. Here the will of both parties is necessary. If the forest manager to whom supervision is entrusted issues an administrative decision, he does so on behalf of the starost, regardless of whether the starost entrusts him with his own tasks or tasks of government administration.¹⁷

According to Article 19 (2) of the Forest Law, simplified forest management plans are drawn up for forests that are not owned by the State Treasury and for forests that are part of the Agricultural Property Stock of the State Treasury. However, for fragmented forests up to 10 hectares in area, which are not owned by the Treasury, the forest management tasks are determined by a decision of the starost issued on the basis of an inventory of the state of forests (Article 19 item 3 of the Forest Act).¹⁸ Thus, the primary task of the district governor in implementing permanently sustainable forest management in private forests is to commission and approve simplified forest management plans – as basic planning documents for forest management in forests that are not owned by the State Treasury, in accordance with the provisions of Articles 21 (1)(2) and 22 (5) of the Forest Law.

Private forest owners should take care of the implementation of forest management tasks. According to Article 13 (1) of the Forest Law, forest owners are obliged to permanently maintain forests and ensure the continuity of their use, and in particular to:

1) preserve forest vegetation (forest crops) and natural swamps and bogs in forests;

2) reintroduce forest vegetation (forest crops) in forests for up to 5 years after removal of the forest stand;

3) care for and protect the forest, including fire protection;

4) reconstruct stands of trees that do not ensure the achievement of forest management objectives contained in the forest management plan, simplified forest management plan or the decision referred to in Article 19 (3);

5) rationally use the forest in a manner that permanently ensures the optimal realization of all its functions by:

(a) logging within the limits not exceeding the productive capacity of the forest,

(b) harvesting raw materials and by-products of forest use in a manner that ensures the possibility of their biological recovery, as well as the protection of undergrowth.

The open-ended catalog of behaviors listed in Article 13(1) is intended to lead to the sustainable maintenance of forests and ensure the continuity of their use. At the same time, these are obligations that the legislator imposes on the forest owner and other obligated entities.¹⁹

¹⁷ B. Rakoczy, *Ustawa o lasach. Komentarz*, Warszawa 2011, pp. 38–39.

¹⁸ K. Karpus, 4. *Uproszczony plan urządzenia lasu oraz inwentaryzacja stanu lasu* (in:) *Wybrane problemy prawa leśnego*, B. Rakoczy (ed.), Warszawa 2011, LEX.

¹⁹ B. Rakoczy (in:) *Ustawa o lasach. Komentarz*, Warszawa 2011, Article (13), LEX.

Verification of how forest management is carried out by private owners is the responsibility of the district governor, who, under Article 5 (3) of the Forest Law, may entrust the conduct of supervisory matters on his behalf, including the issuance of administrative decisions in the first instance, to the territorially competent District Forest Officer.

If the owner of a forest that is not owned by the State Treasury does not perform the obligations set forth in Article 13 or does not perform the tasks contained in the simplified forest management plan or the decision referred to in Article 19 (3), in particular with regard to:

- 1) reintroduction of forest vegetation (forest crops),
- 2) reconstruction of the forest stand,
- 3) care and protection of the forest, including:
 - (a) removal of trees overrun by harmful organisms, as well as scrap and tipping,
 - (b) tending of forest vegetation (forest crops) up to 10 years of age,
 - (c) fire protection treatments – the district governor orders the performance of these duties and tasks by decision (Article 24 of the Forest Act).

Thus, in the framework of the supervision of private forests, exercised on behalf of the starost, or in the ordinary inspection of the condition of its own forest, if the Forestry Division finds that there is a situation on private land where the duties listed in the aforementioned provision are not being performed, the Forestry Division may notify the starost of the need to initiate administrative proceedings²⁰ in accordance with Article 61 §1 of the Code of Administrative Procedure.²¹

On the other hand, if a final decision issued under Article (24) of the Forest Law is not voluntarily executed – the owner may be obliged to compulsorily fulfill the obligation under the provisions of the Law on Administrative Enforcement Proceedings.²²

Since these are non-monetary obligations the authority can only apply two enforcement measures:

- 1) a fine for the purpose of coercion which, according to Article 121 of the Administrative Enforcement Proceedings Law, may not exceed the amount of:
 - (a) with respect to natural persons – 10,000 PLN at one time, and impose repeatedly a total of 50,000 PLN,
 - (b) with respect to legal persons and organizational units – PLN 50,000, and impose repeatedly a total of PLN 200,000;

²⁰ Act of 14 June 1960 – The Code of Administrative Procedure (Journal of Law 2023, item 775).

²¹ <https://prawolasu.com/brak-wykonywania-obowiazkow-z-zakresu-gospodarki-lesnej-przez-wlasciciela-lasu-prywatnego/> (accessed 28 June 2023).

²² Act of 17 June 1960 – Administrative Enforcement Proceedings Law (Journal of Law 2022, item 479).

2) substitute execution at the expense and risk of the obligated party (Article 127 of the Administrative Enforcement Proceedings Law).

4. FUNCTIONS OF FORESTS

Regardless of the form of ownership, as well as management methods, forest ecosystems are providers of many products and services, both marketable and public goods. In a document issued in 1997, the National Forest Policy, it is indicated that forests perform a wide scope of diverse functions, both naturally or as a result of forest management activities. These are:

- ecological (protective) functions providing: stabilization of the water cycle in nature, preventing floods, avalanches, and landslides, protecting soils from erosion and the landscape from steppe, shaping the global and local climate, stabilizing the composition of the atmosphere and its purification, creating conditions for the preservation of the biological potential of a large number of species, ecosystems and genetic values of organisms as well as ensuring the enrichment of diversity and complexity of the landscape, better conditions for the health and life of the population and agricultural production;
- production (economic) functions consisting of preserving the renewability and sustainable use of timber, non-timber uses harvested from the forest and hunting management, developing qualified tourism, profits from the sale of the aforementioned goods and services, as well as functions consisting of creating jobs and contributing to the income tax of the state and local government budgets;
- social functions, which help to: shape favorable health and recreational conditions for society, enrich the labor market, serve to create various forms of use of the forest by the local community, develop degraded areas and marginal soils, strengthen the defense of the country, serve the development of culture, education and science and environmental education of society.²³

The above-mentioned functions of the forest are considered essential, however, in the context of climate change, which has led to an increased number of extreme weather events in recent years that have threatened the sustainability of forest ecosystems, as well as biodiversity, the ecological function concerning primarily carbon fixation takes on particular importance. Threats involving global climate warming, such as increasing concentrations of greenhouse gases – especially CO₂ – in the atmosphere, oblige the international community to make this issue a top priority. However, before the international community became aware

²³ National Forestry Policy, Ministry of Environmental Protection, Natural Resources and Forestry, Document adopted by the Council of Ministers on 22 April 1997, p. 1.

of the effects and threats of climate change, its attention was primarily focused on preventing air pollution and protecting the ozone layer.²⁴

The 1997 Kyoto Protocol,²⁵ an essential element of the United Nations Framework Convention on Climate Change (UNFCCC), enumerated forestry activities that promote increased carbon fixation.

The general principles for balancing the amount of sequestered carbon in forests and the possibility of its inclusion in the total CO₂ emissions balance are based on the decisions made at conferences of States Parties to the Convention indicated, with particular reference to the Paris Agreement²⁶ in 2015. According to the Agreement, Parties should take measures to protect and increase the efficiency, as appropriate, of sinks and reservoirs of greenhouse gases, including forests. Moreover, Parties are encouraged to take steps to implement and support, including through impact-based payments, the existing framework, as set forth in relevant guidelines and decisions already agreed under the Convention, relating to policy-level solutions and positive incentives for activities to reduce emissions from deforestation and forest degradation, and the role of conservation, sustainable forest management and enhancement of forest carbon stocks in developing countries; as well as policy-level alternatives such as joint mitigation and adaptation solutions for integral sustainable forest management, while reaffirming the importance of creating incentives, as appropriate, for the non-carbon benefits of such solutions.

According to the data, currently, forests in Poland, regardless of ownership division, absorb a net 21,960 kt of CO₂.²⁷ Improvements in greenhouse gas reduction can be achieved through appropriate forest management activities. For example, these could include increasing forest area through afforestation of former agricultural land, silvicultural treatments that increase standing stock, extending the life of wood products and recycling them, energy use of wood, or increasing carbon retention in the soil.²⁸

Expectations for the role of forests in actions that can mitigate climate change are considerable. Forests have been included in the accounting methodology defined for the land use, land use change, and forestry sector. According to the wording of Regulation (EU) 2018/841 of the Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land

²⁴ See: J. Ciechanowicz- McLean, *Prawne problemy umów międzynarodowych z zakresu ochrony klimatu*, Gdańskie Studia Prawnicze, Vol. XXXVI, 2016, pp. 107-120.

²⁵ Kyoto Protocol to the United Nations Framework Convention on Climate Change, signed at Kyoto on 11 December 1997, (Journal of Laws of 2005, item 1683 and 1684).

²⁶ Paris Agreement to the United Nations Framework Convention on Climate Change, done in New York on 9 May 1992, adopted in Paris on 12 December 2015 (Journal of Laws of 2017, item 36).

²⁷ <https://unfccc.int> – Poland's National Inventory Report 2022 – data for 2020 (accessed 15 June 2023).

²⁸ Report on the State of Forests in Poland 2021... *ibidem*, p. 37.

use, land use change, and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No. 525/2013 and Decision No. 529/2013/EU,²⁹ it is specified that total emissions must not be greater than total removals in the LULUCF sector. The Polish State bears the responsibility for fulfilling the commitments to achieve the target in the LULUCF sector. Therefore, it is reasonable to support the private sector in increasing the size of the forest stand in Poland. Active forest management contributes to higher carbon sequestration by forests, and most importantly also significantly affects the balance of the entire LULUCF sector.³⁰

5. SUPPORT FOR PRIVATE FORESTS IN THE COMMON AGRICULTURAL POLICY: 2023-2027

In November 2019, Parliament declared a climate crisis, calling on the European Commission to ensure that all of its legislative proposals are in line with the goal of limiting global warming to below 1.5°C and the goal of significantly reducing greenhouse gas emissions. The European Commission therefore prepared the European Green Deal, a roadmap for Europe to become a climate-neutral continent by 2050.³¹

The European Commission's proposals for the post-2020 CAP identify forestry as an integral part of rural development, and forest development and sustainable forest management as an element to be included in the support for sustainable and climate-friendly land use.³² Overall, the Common Agricultural Policy aims to promote smart and resilient agriculture, enhance environmental protection, strengthen climate action, contribute to the EU's environmental objec-

²⁹ Regulation (EU) 2018/841 of the Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No. 525/2013 and Decision No. 529/2013/EU, OJ UE L of 19 June 2018, L 156/1.

³⁰ See K. Jabłoński, W. Stempski, *Rola lasów i leśnictwa w pochłanianiu gazów cieplarnianych*, Czasopismo Inżynierii Lądowej, Środowiska i Architektury; Journal of Civil Engineering, Environment and Architecture, Vol. XXXIV, issue 64 (4/17), 2016, pp. 163–170.

³¹ https://www.europarl.europa.eu/news/pl/headlines/society/20200618STO81513/zielony-lad-klucz-do-neutralnej-klimatycznie-i-zrownowazonej-ue?&at_campaign=20234-Green&at_medium=Google_Ads&at_platform=Search&at_creation=RSA&at_goal=TR_G&at_audience=zielony%20%C5%82ad%20ue&at_topic=Green_Deal&at_location=PO&gclid=Cj0KCQjwO-kBhDIARIsAL6LoreiQQBGYCpgKO8zUb7bksE1M-66jWUa6mNaxLovuHFOh4mP0J2-QDOUaAiPgEALw_wcB (accessed 15 June 2023).

³² N. Dobrzyńska, E. Budka, M. Baranowska, *Wsparcie lasów prywatnych w ramach Wspólnej Polityki Rolnej*, (in:) W. Gila, P. Gołos, M. Sułkowska (eds.) *"Lasy prywatne – szanse, problemy wyzwania"*, Sękocin Stary 2020, p. 40.

tives and strengthen the socio-economic fabric of rural areas. The formulated specific objectives are already entirely related to environmental issues.³³

The preamble to Parliament and Council Regulation (EU) 2021/2115 specifies that forestry interventions should contribute to the implementation of the Commission's Communication of 16 July 2021 entitled "A new EU Forestry Strategy 2030" and, where appropriate, to the wider use of agro-forestry systems. They should be based on Member States' national or regional forestry programs or equivalent instruments, which should be developed on the basis of obligations under Regulation (EU) 2018/841 of the European Parliament and the Council and commitments made by participants in the Ministerial Conferences on the Protection of Forests in Europe. Interventions should be based on sustainable forest management plans or equivalent instruments that give due consideration to effective storage and sequestration of carbon from the atmosphere while enhancing biodiversity conservation. They may include forest area development and sustainable forest management, including land afforestation, fire prevention, and the establishment and restoration of agroforestry systems; protection, restoration, and improvement of forest resources, taking into account adaptation needs; investments to guarantee and improve forest protection and resilience, as well as the provision of the forest ecosystem and climate services; and measures and investments to support renewable energy sources and the bioeconomy.³⁴

The Forest Strategy³⁵ clearly emphasizes the role of all forest and land owners and managers. It is noted that their role in providing ecosystem services is crucial and should be supported. Among other things, the strategy aims to develop financial incentives, particularly for private forest owners and managers, to provide such ecosystem services. All measures are to be developed and implemented in close cooperation with Member States, as well as with public and private forest owners and other forest stakeholders, as it is they who will enable the necessary changes and the development of a dynamic and sustainable forest-based bioeconomy in the EU. The Strategy aims to involve all relevant actors and levels of governance, from member states to forest owners and managers, forest and timber sectors, scientists, civil society, and other stakeholders in active cooperation. The action identified in the Strategy, i.e. reforestation and afforestation of biodiverse

³³ B. Jeżyńska, *Pro-environmental Payments as an Instrument of the Biosphere Use Value Protection in Agriculture*, *Studia Iuridica Lublinsia*, Vol. 29, No. 2 (2020), p. 42.

³⁴ Regulation (EU) 2021/2115 of the Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No. 1305/2013 and (EU) No. 1307/2013, OJ UE L 435 of 6 December 2021, p. 13.

³⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – New EU Forest Strategy for 2030 (COM(2021) 572 final), p. 3.

forests, is one of the most effective elements for mitigating climate change and disaster risks in the forestry sector and can provide socio-economic benefits to local communities. The Strategy is assumed to counter the trend of declining net removals from land in the EU, namely from forests, over the past 10 years. Reversing this trend is a prerequisite for achieving the EU's agreed-upon more ambitious climate and biodiversity targets and ensuring forest resilience to climate change so that forests can fulfill their multiple functions.³⁶

The new CAP assumptions are in line with the concepts of sustainable development. The environmental-climate dimension is based on a number of specific objectives, including contributing to climate change mitigation and adaptation, also achieved by reducing greenhouse gas emissions and increasing carbon sequestration, and promoting sustainable energy; supporting the sustainable development and efficient management of natural resources such as water, soil, and air, also achieved by reducing dependence on chemicals; contributing to halting and reversing the loss of biodiversity, enhancing ecosystem services, and protecting habitats and landscapes.³⁷ Strategic plans are a novelty of the CAP 2023-2027 model.³⁸ Each Member State develops its own plan, which includes instruments known as Pillar I interventions (related to market and income policy) and Pillar II (related to rural development).

The Strategic Plan for the Common Agricultural Policy 2023-2027 includes dedicated instruments which are meant to positively influence the increase of forest resources in Poland. As shown in the document, the SWOT analysis shows that private forests in Poland are characterized by low biodiversity (dominated by coniferous species), which reduces their resilience and natural functions. A measure to help increase diversity in forests is the intervention titled "Increasing biodiversity of private forests". The beneficiaries of this support can be private forest owners or their associations as well as land communities. This mechanism will contribute to the specific objectives of, among others, mitigating and adapting to climate change, including by means of reducing greenhouse gas emissions and increasing carbon sequestration, as well as promoting sustainable energy; supporting sustainable development, and efficient management of natural resources. Assistance under the intervention is granted for the introduction of reforestation in existing forests, taking into account the local habitat, as well as the environmental and climatic conditions of the area. This is supposed to increase CO₂ sequestration, thereby contributing to climate change mitigation and ecosystem enrichment. The intervention includes plantings to increase biodiversity in pri-

³⁶ *Ibidem*, p. 18.

³⁷ B. Włodarczyk, *Prawne instrumenty ochrony środowiska i przeciwdziałania zmianom klimatu we Wspólnej Polityce Rolnej na lata 2023–2027*, Przegląd Prawa Rolnego, No. 2 (31) – 2022, pp. 14-15.

³⁸ The Polish strategic plan was approved by the European Commission on 31 August 2022.

vate forests by diversifying the forest structure and species composition of forest stands.³⁹

Forests help diversify the landscape and provide habitat for many species of flora and fauna, as well as migration channels for wildlife. The need to increase forest biodiversity is also pointed out in the EU's Biodiversity Strategy 2030,⁴⁰ part of the implementation of the European Green Deal. For this reason, the Strategic Plan's support for forest protection also includes Afforestation and Silviculture Premiums (under the afforestation commitment of RDP 2004-2006, RDP 2007-2013, RDP2014-2020 I 8.10). Thanks to this assistance, the main objective of afforestation – carbon sequestration – is realized, as well as the accompanying functions of soil and water conservation. The intervention promotes the preservation of the ecological stability of forest areas by reducing the fragmentation of forest complexes and creating ecological corridors.⁴¹

Another intervention that compresses the preservation of the ecological stability of forest areas by reducing the fragmentation of forest complexes and creating ecological corridors, and also constitutes a key element of the landscape, important for the preservation of agricultural biodiversity, is the Afforestation and Woodland and Agroforestry Systems Bonus (I 8.8). Beneficiaries carry out obligations as part of the maintenance and care of afforestation and buffer strips.⁴²

It is also worth mentioning the intervention – Afforestation of agricultural land (I 10.11.). Under the intervention, afforestation affecting the achievement of the goals of preventing erosion and strengthening the ecological stability of forest areas will be rewarded. The intervention will contribute to the national objective included in the National Program for Increasing Forest Cover, which is to increase Poland's forest cover to 33% in 2050. At the same time, it contributes to fulfilling the action plan, included in the EU's New Forest Strategy 2030, to plant at least 3 billion additional trees in the EU by 2030. Importantly, afforestation will be carried out with native tree or shrub species, including, among others, biocenotic or melliferous species.⁴³

³⁹ Strategic Plan for the Common Agricultural Policy 2023-2027, pp. 932-933, <https://www.gov.pl/web/rolnictwo/dokumenty-ps-wpr> (accessed 15 June 2023).

⁴⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions - EU Biodiversity Strategy for 2030, Brussels, 20 May 2020, COM(2020) 380 final.

⁴¹ Strategic Plan... *op. cit.*, p. 734.

⁴² *Ibidem*, pp. 821-824, 838.

⁴³ *Ibidem*, pp. 913-914.

6. CONCLUSION

A common feature of private forests in the EU owned by individuals is the high fragmentation of the area, which prevents realizing their potential. Forests owned by the state predominate, which means that private forest ownership is not as economically important as in other European countries. Supervision of forest management in private forests is carried out by 380 units (314 counties and 66 cities with county rights). Little is known about their values, goals, and motives for forest management.⁴⁴

According to the EU's Biodiversity Strategy 2030, the share of forest areas covered by forest management plans should include all managed public forests and an increasing number of private forests. This will enable forest owners and managers to effectively implement policy goals and priorities related to combating climate change.⁴⁵ On the other hand, the NIK Report indicates inadequate supervision of forest management in Poland in forests that are not owned by the State Treasury – which includes, in particular, carrying out activities related to shaping the balance in forest ecosystems, increasing the natural resilience of forest stands, and sustainably maintaining forests and ensuring the continuity of their use. The district governors failed to fulfill their obligation to prepare complete management documentation. They did not conduct reliable verification activities and, as a result, did not enforce fulfillment of the obligations on the forest owners. Cases were also found of administrative decisions not being issued even when information about the omissions of obligated persons was available.⁴⁶

It should be noted that in the last two decades, there has been intensive development of forest policy and forest-related policies, e.g. Forest Europe. In contrast, this has not been reflected in the most important document on forest resources, namely the “National Forest Policy”. This document has not seen a revision or update of its provisions for more than 20 years. In principle, the unfavorable situation is mitigated by the inclusion of many objectives and priorities related to forests and forest management in numerous strategic and programmatic documents of environmental policy, biodiversity protection policy, and agricultural policy adopted after 1997. However, the document “National Forest Policy” is the main reference for the formulation of important forestry objectives in program

⁴⁴ P. Gołos, E. Wysocka-Fijorek, W. Gil, *Potrzeby w zakresie gospodarowania w lasach prywatnych w opinii przedstawicieli różnych grup interesariuszy*, Sylwan 165 (8), p. 611.

⁴⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – New EU Forest Strategy for 2030 (COM(2021) 572 final), p. 25.

⁴⁶ Najwyższa Izba Kontroli, Nadzór nad gospodarką leśną w lasach niestanowiących własności Skarbu Państwa, LZG.410.006.2020, p. 12.

documents, and the lack of revision affects the progressive marginalization of the forestry sector in the ecological, economic and social space.⁴⁷

Forests have a fundamental role in absorbing and offsetting carbon emissions. Forest owners and managers need various incentives, including financial ones, to provide ecosystem services through forest protection and restoration in addition to timber and non-timber materials and products. These actions can increase forest resilience by adopting the most climate- and biodiversity-friendly forest management practices. In the CAP Strategic Plan 2023-2027, only one financial support has been dedicated to private forest owners, i.e. Increasing the biodiversity of private forests (I 10.14). The other interventions described are meant for farmers who meet the criteria of EU regulations. The support is subject to a lump sum and can be used for replanting to increase the biodiversity of existing forests, together with protection of plantings from damage, and maintenance cuts to increase the resilience and healthiness of forest stands. The aforementioned intervention is an inadequate mechanism for mitigation and adaptation to climate change, including reduction of greenhouse gas emissions and increase of carbon sequestration. Given the ongoing climate change, further support should be prepared to be available for private forest owners.

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⁴⁷ A. Kaliszewski, W. Gil, *Cele i priorytety „Polityki leśnej państwa” w świetle porozumień procesu Forest Europe (dawniej MCPFE)*, Sylwan 161 (8) 2017, pp. 648–658; P. Paschalis-Jakubowicz, *Polityka leśna a przyszłość lasów i leśnictwa*, Sylwan 164 (7) 2020, pp. 539–548.

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