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Ograniczenia prawa własności nieruchomości w parkach narodowych z uwagi na ochronę przyrody – ujęcie empiryczne

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Streszczenie:

Przyroda stanowi niezaprzeczalne dobro wymagające ochrony. Najwyższą formą jej ochrony jest park narodowy. Nie powstaje i nie funkcjonuje on jednak w próżni, ale we współczesnym dynamicznie rozwijającym się świecie. Takie spostrzeżenie determinuje nie tylko imperatyw w postaci potrzeby ochrony przyrody, lecz także pogodzenia wszystkich związanych z tym interesów. Przedmiotem publikacji jest analiza empiryczna funkcjonowania instytucji parku narodowego. Artykuł jest studium cywilistycznym odnoszącym się do wszystkich parków narodowych utworzonych w Polsce. Jest przez to zbiorem i prezentacją podstawowych danych do analizy cywilistycznej tej instytucji prawa administracyjnego. Opiera się na przeprowadzonych na jego potrzeby badaniach orzecznictwa oraz przede wszystkim informacji uzyskanych na podstawie przygotowanej listy pytań ze wszystkich parków narodowych i urzędów wojewódzkich w Polsce, w których utworzone zostały takie obszary specjalne. Przedmiotem analizy są cechy i elementy konstytutywne tych obszarów przez pryzmat prawa cywilnego: począwszy od terytorium parku, cech wyróżniających ów obszar, przez zasady obowiązujące na jego obszarze (zakazy) w szczególności odnoszące się do wykonywania prawa własności nieruchomości, a kończąc na roszczeniach właścicielskich. W konkluzji znaleźć można odpowiedź na pytanie jak pogodzić wymogi współczesnego obrotu cywilnoprawnego i gospodarczego, zrównoważonego rozwoju z ochroną przyrody. Są one szczególnie ważne na etapie tworzenia parku lub rozszerzania jego terytorium. Wyniki badań zostały przedstawione w formie tabelarycznej i opisowej.

Słowa kluczowe: prawo ochrony przyrody, prawo własności, park narodowy, nieruchomości, sposób korzystania z nieruchomości, obszary specjalne, odszkodowanie, empiryczne badanie prawa, odpowiedzialność władzy publicznej

Restrictions on property ownership in national parks due to nature protection – empirical approach

Abstract:

Nature is an undeniable good that requires protection. The highest form of its protection is the national park. It does not arise and does not function in a vacuum, but in a modern

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dynamically developing world. Such an observation determines not only the imperative of the need to protect nature, but also the reconciliation of all related interests. The subject of the publication is an empirical analysis of the functioning of national parks. The article is a civil study of all national parks established in Poland. It is therefore a collection and presentation of basic data for a civil-law analysis of national parks of administrative law. It is based on a study of court cases conducted for its needs and, above all, on the information obtained on the basis of a prepared list of questions from all national parks and voivodeship offices in Poland, where such special areas have been created. The subject of the analysis is the features and constitutive elements of these areas through the prism of civil law: starting from the territory of the park, features distinguishing this area, through the rules in force in its area (prohibitions), in particular relating to the exercise of property ownership, and ending with ownership claims. The conclusion section provides the answer to the question of how to reconcile the requirements of modern civil law and economic transactions, sustainable development with nature protection. They are especially important at the stage of creating a park or expanding its territory. The study results are presented in tabular and descriptive form.

Keywords: nature protection law, ownership law, national park, way of using the property, special areas, compensation, empirical study of law, responsibility of public authority

1. Introduction

Protecting the natural world is a constitutional duty of public authorities². At the same time, article 86 of the Polish Constitution requires everyone to look after the natural environment and makes everyone liable for the deterioration of the environment caused through their actions. These provisions taken together create a clash of two values protected by law, namely nature and ownership. The benefits of a national park are unquestionable and these benefits are enjoyed by society as a whole for purposes such as leisure and recreation, and for research and scientific purposes. The role of national parks is defined by law. It follows from judicial decisions that living in a national park can undoubtedly be a privilege and an advantage. When a national park is established over an area of land, the natural landscape and scenery features of the area are clearly emphasised, and this attracts people to the place. However, as the natural features of the area are subject to legal protection, the ownership of land in that area cannot be enjoyed fully as it can in other areas, outside national parks. For instance, building a large farm or conducting specific business activities are prohibited. The law is not indifferent to this problem. In addition to the benefits that come with the location of a property within the boundaries of a national park,

² Por. art. 74 ust. 2 Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (Dz.U. Nr 78, poz. 483, ze zm.), dalej: Konstytucja.

legal remedies are available to the owners of such properties to compensate them for restrictions of their ownership rights. These include civil-law remedies such as repurchase by the government or the payment of compensation. At the same time, these remedies exemplify the liability of public authorities for their lawful actions.³ This paper aims to establish the practical side of reaching a balance between the two protected values: nature and ownership. This paper is a presentation and analysis in civil-law terms of the results of academic research. The research involved asking certain questions to the management of all the national parks in Poland. A preliminary study of the relevant law shows that the provisions on compensation for the owners of properties covered by national parks are not clear and precise. As a result, an in-depth analysis of statutes, namely the Environment Protection Act⁴ and the Nature Protection Act⁵, is needed in order to apply the right provisions to the facts at hand. This paper is therefore an attempt to put the interpretation of both statutes in order.

This paper on national parks is one of the parts of a large research project designed as a series of research studies dealing with civil-law aspects of the functioning of particular *special areas* located in Poland⁶.

2. National parks

In positive law, the concept of national park is the fullest form of natural conservation. The idea to establish national parks was born in the United States in the second half of the 19th century and reached Europe in the early 20th century.⁷ As a legal concept, national parks were first introduced in

³ P. Dzienis, *Znaczenie zasad słuszności w odpowiedzialności odszkodowawczej władzy publicznej, Białostockie „Studia Prawnicze”* 2008, nr 3, s. 33-45.

⁴ Ustawa z dnia 27 kwietnia 2001 r. – Prawo ochrony środowiska (Dz.U. z 2019 r. poz. 1396, ze zm.), dalej: u.o.ś.

⁵ Ustawa z dnia 16 kwietnia 2004 r. o ochronie przyrody (Dz.U. z 2022 r. poz. 916, ze zm.), dalej: u.o.p.

⁶ P. Dzienis, *Funkcjonowanie zakazów i ograniczeń sposobu korzystania z nieruchomości chroniących krajobraz kulturowy na przykładzie Wilanowskiego Parku Kulturowego – część 1, „Nieruchomości@”,* 2020, nr III (III), s. 46-68 oraz P. Dzienis, *Funkcjonowanie zakazów i ograniczeń sposobu korzystania z nieruchomości chroniących krajobraz kulturowy na przykładzie Wilanowskiego Parku Kulturowego – część 2 empiryczna, „Nieruchomości@”,* 2021, nr I (I), s. 135-153; P. Dzienis, *Triada własności nieruchomości a instytucja parku kulturowego w Polsce w ujęciu empirycznym, „Samorząd Terytorialny”,* 2021, nr 9, s. 37-64; P. Dzienis, *Opóźnienie zapłaty odszkodowania w obszarze ograniczonego użytkowania wokół portu lotniczego – Glosa do uchwały Sądu Najwyższego z 8 listopada 2019 r., III CZP 32/19, OSP* 2020, nr 9; P. Dzienis, A. Grajewski, *Dochodzenie roszczeń wynikających z ustanowienia obszarów ograniczonego użytkowania wokół portów lotniczych po wyroku TK z 7.3.2018 r., MoP* 2019, nr 8, s. 424; P. Dzienis, A. Grajewski, *Sąsiedzi lotnisk nie wznowią postępowania, „Dziennik Gazeta Prawna”* z 2019.02.05, nr 25.

⁷ Por. szerzej W. Radecki, *Parki narodowe w systemach prawnych ochrony przyrody polskim, czeskim i słowackim. Część I – historyczna, „Ius Novum”* 2014, nr 4, s. 11.

Polish law in a nature protection statute of 1934. The statutory definition of national park is (a) an area that stands out with its natural, scientific, social, cultural and educational features, (b) the area of which is at least 1,000 hectares and (3) where all the natural and landscape features are protected. It is an ecologically special area where certain prohibitions imposed by law apply. Each national park is a legal person (a body corporate), which is stated expressly in s.8(1) of the Nature Protection Act. All national parks are listed in an annex to that Act. Each national park is headed by its director. The main responsibilities of the director are to manage the activities of the park and to represent the park externally. A scientific council is set up for each national park as an opinion-giving and advisory body attached to the director (s.95(3) of the Nature Protection Act). The council is set up on the basis of an internal regulation of the minister for environmental affairs (s.98). The protection of property (or assets) in national parks and the prevention of offences, including criminal offences, within the context of nature are the responsibility of Park Guard officers, who are members of the National Park Service (s.108(1)). For each newly established park, articles are adopted in a regulation of the minister for environmental affairs, whose function involves supervising the activities of national parks. The articles set out the rules for the internal organisation of the park and for the work of its director, including the procedure for the delegation of powers. Under the law as it stands, each national park is established by an act of Parliament.⁸ The Council of Ministers uses secondary legislation, namely regulations, to define the size, boundaries and buffer zones of the parks, and those State Treasury properties within the boundaries of the parks which are not given to them for perpetual usufruct [Polish: *użytkowanie wieczyste*, or a long-term land lease].

For the purposes of this paper, it is important to note that each national park is classified as a *special area* within the meaning of administrative law. The term *special area* is not a legal term. It is rather an exclusively theoretical concept in the legal dogma of administrative law. According to the views of legal academics, scholars and commentators, a *special area* is constitutively (a) an area located within the jurisdiction and sovereignty of the Republic of Poland, (b) spacious, (c) with no requirements for the owners of properties located within its boundaries, (d) with clearly defined boundaries, (e) with a specific public task defined for the area and (e) with a special legal

⁸ Tak jednoznacznie W. Radecki, *Parki narodowe w systemach prawnych ochrony przyrody polskim, czeskim i słowackim. Część II – prawo obowiązujące*, „Ius Novum” 2015, nr 1, s. 11-12.

framework that applies in that area.⁹ Examples of such special areas include areas separated for nature protection (such as national parks, nature reserves, Natura 2000 areas), environmental protection (such as restricted use areas), health protection (spa protection areas and spa towns), access to public property and/or public infrastructure (marine areas, paid parking areas), stimulation of socio-economic development (such as special economic zones) or national security (such as borderland areas).¹⁰

3. Restrictions of ownership: general considerations

According to s.140 of the Civil Code, the owner of an item of property may, within the limits imposed by law and the principles of community life [Polish: *zasady współżycia społecznego*], make use of that item in accordance with the socioeconomic function of his right [of ownership], and this right of use includes (without limitation) the right to enjoy the civil fruits and other benefits of that item. Article 64(3) of the Polish Constitution reads that the right of ownership may only be restricted by means of a statute and only to the extent that such restriction does not violate the substance of such a right. This restriction on the grounds of environment protection can also be found in the judgments of the Polish Supreme Court¹¹. The right of ownership is restricted by, for instance, (a) the Act on Spatial Planning and Spatial Development and (b) the Nature Protection Act. As the Polish Supreme Court explained clearly, "the fact that a person can reside in and make use of the area of a national park is undoubtedly a great privilege for that person, although it comes with certain restrictions imposed by the priority of protecting the nature of that area. The Nature Protection Act contains provisions that set the limits of the freedom to use an item of property within the meaning of s.140 of the Civil Code"¹². This means that the owner of a property may not develop his land freely. His freedom to use the property is subject to certain restrictions provided for in law¹³. One such

⁹ P. Zacharczuk, *Obszary specjalne w polskim materialnym prawie administracyjnym*, Warszawa 2017, s. 26; W. Radecki, *Srodki prawne ochrony przyrody*, „Przyroda polska” 2004, nr 12, <http://www.przyrodapolska.pl/grudzien04/prawo.htm>.

¹⁰ Zacharczuk P., *Obszary specjalne w polskim...*, Warszawa 2017, s. 26.

¹¹ Por. wyrok SN z 12 kwietnia 2013 r., IV CSK 608/12, Legalis nr 628232, dot. odszkodowania na podstawie art. 129 ust. 2 p.o.ś. za ograniczenie możliwości korzystania z nieruchomości położonej na obszarze parku krajobrazowego w nadmorskim pasie o szerokości 200 m., licząc od podnóża brzegu klifowego.

¹² Por. wyrok NSA z 5 lipca 2016 r., II OSK 2776/14, Lex nr 2102241.

¹³ T. Kurowska, *Obszar specjalny jako postać ingerencji administracji w sferę uprawnień właściciela*

restriction imposed by the provisions referred to above can be found in s.15(1)(1) of the Nature Protection Act. The socioeconomic function of the right of ownership in the case of a plot of land situated within a national park and which – when located in an area subject to landscape protection – is not used commercially by its owner, is the protection of nature and the preservation of the integrity of the entire area of the national park as an ecosystem in accordance with s.8(2) of the Nature Protection Act. The Polish Supreme Court accurately explained in its above-cited judgment, "the commercial use of the area of a national park should be interpreted to mean any type of commercial activity on the basis of the right of ownership, as such interpretation would undermine the main purpose of nature protection, namely the preservation and sustainable use of the resources of the natural environment, which involves protecting specific parts or features of the environment from destruction or degradation – for ecological reasons".

4. Assumptions of the empirical research work

In order to determine how the functioning of a national park affects the practical dimension of the right of ownership and, most importantly, whether public authorities had to deal with land repurchase claims and/or claims for compensation in July and August 2020, an empirical research study has been conducted. The study focused on the civil-law dimension of the functioning of national parks as a form of nature protection. It was designed to help increase the protection of valuable natural resources in Poland by proposing measures which, if implemented, would allow national parks to operate efficiently. The study involved asking a set of questions to the management of all the twenty-three national parks in Poland. When the answers were received from the management of the national parks, the second phase of the study involved asking questions to the governors of the voivodeships (or provinces) that have national parks within their boundaries. The rationale for this phase was the law as it stood. More specifically, the voivode (or province governor) is required by law to make compensation payments or to repurchase land located in national parks. The questions were emailed to all respondents under s.2(1) of the Act of 6 September 2001 on Access to Public Information¹⁴. All the national parks answered the

nieruchomości gruntowej, „*Studia Iuridica Silesiana*”, t. 6, Katowice 1979, s. 56.

¹⁴ Dz.U. z 2022 r. poz. 902.

questions. In fact, the management of the parks replied very quickly and said they would like to see the results of the research.

Respondents were asked about violations of the prohibitions set out in s.15(1) of the Nature Protection Act and, most importantly, about claims for compensation and/or land repurchase, with data provided specifically for property developers, broken down by the type of prohibition or restriction and the method of pursuing such claims (through the courts). It is worth looking at the questions in full for a complete understanding of the aim of the study and the findings that follow from an analysis of the results.

The questions asked to the management of all the national parks in Poland were organised in the following questionnaire.

National park: prohibitions and restrictions with regard to the use of land within the boundaries of national parks

1. *Have you identified any violations of the prohibitions and restrictions set out in s.15(1) of the Nature Protection Act of 16 April 2004 (consolidated text published in Dz.U. [Journal of Laws] of 2020, item 55, as amended, "Nature Protection Act") when managing the national park? If yes, please specify the prohibitions and restrictions that were violated.*
2. *Did the establishment of the national park require the voivode (province governor) to repurchase any land under s.132 of the Environment Protection Act of 27 April 2001 (consolidated text published in Dz.U. [Journal of Laws] of 2019, item 1396, as amended, "Environment Protection Act") and/or to pay any compensation under s.131 of the Environment Protection Act as a result of the imposition of a land use prohibition in connection with the establishment and operation of the national park?*
3. *If your answer to question 2 is 'yes', how many such cases and in which year(s) were there?*
4. *What was the total amount of compensation that was paid under s.131 of the Environment Protection Act until the time of your answer?*
5. *Of all the legitimate (or justified) claims, how many were based on the prohibition of commercial activities under ss.15(1)(1), 15(1)(9), 15(1)(11) and 15(1)(19) of the Nature Protection Act?*
6. *How many such land repurchase and/or compensation claims were resolved by the courts through litigation?*
7. *What is the size of the area of the national park?*

The questions were determined by the provisions of s.131(1) in conjunction with s.134(2) of the Environment Protection Act, which requires

the voivode to satisfy such civil-law claims. Therefore, the voivodes were asked questions only about such claims, and the questions were modified versions of questions 2-6. The questions were asked to eleven (11) voivodship governments.

5. The nature of the prohibitions and their violations

The prohibitions laid down in s.15(1) of the Nature Protection Act are subsequently repeated in the regulation of the Council of Ministers for each national park. Section 127 of the Nature Protection Act provides that a violation of any of the prohibitions is an offence. More serious cases are subject to criminal penalties¹⁵. It is these prohibitions that form a special legal framework for national parks. The main idea behind these prohibitions is nature protection, and this follows from an analysis of the prohibitions described in the law. However, some of the prohibitions clearly affect the right of ownership of land. This is reflected in the following presentation of the results of the research.

Table: Violations of prohibitions in national parks

Name of national park	Violation	Including with regard to land
Babia Góra National Park (with the legal seat in Zawoja)	None under ss.15(1)(7), 15(1)(8), 15(1)(9), 15(1)(11), 15(1)(19) or 15(1)(22)	None. The properties located within the boundaries of the Babia Góra National Park and owned by individuals, held as land commons or owned by other persons whose core business is not the protection of nature are located in an area subject to landscape protection, and this area is not affected by the prohibitions set out in s.15 of the Nature Protection Act.
Białowieża National Park (with	None. The activities	There were no violations

¹⁵ Por. art. 181 § 2, art. 187 i art. 188 k.k.

Name of national park	Violation	Including with regard to land
the legal seat in Białowieża)	undertaken in this park with regard to properties are covered by the scope of the Protection Plan.	of s.15 of the Nature Protection Act on the basis of land use.
Biebrza National Park (with the legal seat in Osowiec-Twierdza)	Yes. There were numerous violations, and they include changes to hydrographic conditions.	There were no violations under ss.15(1)(1), 15(1)(9), 15(1)(11) or 15(1)(19) of the Nature Protection Act.
Bieszczady National Park (with the legal seat in Ustrzyki Górne)	Yes. There were several violations of the prohibitions under ss.15(1)(10), 15(1)(13), 15(1)(14), 15(1)(15), 15(1)(16), 15(1)(18) and 15(1)(23).	None.
Drawno National Park (with the legal seat in Drawno)	None identified.	None.
Gorce National Park (with the legal seat in Poręba Wielka)	Yes, there were numerous violations. In 2019, violations were identified under ss.15(1)(10) – 2 violations, 15(1)(13) – 10 violations, 15(1)(16) – 65 violations, 15(1)(15) – 32 violations (bikers) and 15(1)(45) – 45 violations (pedestrians), 15(1)(18) – 49 violations and 15(1)(20) – 19 violations.	None.
Kampinos National Park (with the legal seat in Izabelin)	Yes. There were 9 violations over the last 10 years, predominantly under s.15(1)(1) of the Nature Protection Act.	None.
Karkonosze National Park (with the legal seat in Jelenia Góra)	Between 4,000 and 4,500 violations of the prohibitions in s.15 are identified every year. The prohibitions most frequently violated are those set out in ss.15(1)(10), 15(1)(13), 15(1)(15), 15(1)(16), 15(1)(18) or	None.

Name of national park	Violation	Including with regard to land
	15(1)(20).	
Magura National Park (with the legal seat in Krempna)	The question was narrowed down to land-related prohibitions.	None.
Narew National Park (with the legal seat in Kurowo)	None identified.	None.
Ojców National Park (with the legal seat in Ojców)	None identified.	None.
Tuchola Forest National Park (with the legal seat in Charzykowy)	None identified.	None.
Stołowe Mountains National Park (with the legal seat in Kudowa-Zdrój)	Yes, there were violations under s.15(1) of the Nature Protection Act. Financial penalties were imposed for violations under ss.15(1)(3), 15(1)(5), 15(1)(6), 15(1)(10), 15(1)(11), 15(1)(13), 15(1)(16), 15(1)(17) and 15(1)(18), while warnings were issued for violations under ss.15(1)(15), 15(1)(19), 15(1)(20) and 15(1)(23).	Yes. There were violations under ss.15(1)(11) and 15(1)(19) of the Nature Protection Act.
Warta River Mouth National Park (with the legal seat in Chyrzyno)	This national park keeps no register of violations, but violations identified within this park included mainly fishing during fishing ban periods, driving motor vehicles and walking off trails and roads.	None.
Pieniny National Park (with the legal seat in Krościenko nad Dunajcem)	None.	None.
Polesie National Park (with the legal seat in Urszulin)	Yes, numerous violations occurred.	None.
Roztocze National Park (with the legal seat in Zwierzyniec)	Yes, there were violations. They covered the prohibitions set out in ss.15(1)(1), 15(1)(3), 15(1)(5), 15(1)(10), 15(1)(13)-(16), 15(1)(18), 15(1)(20) and	Yes, there were violations under s.15(1)(1) of the Nature Protection Act.

Name of national park	Violation	Including with regard to land
	15(1)(23) of the Nature Protection Act.	
Slovincian National Park (with the legal seat in Smóldzino)	Yes, numerous violations occurred under ss.15(1)(5), 15(1)(6), 15(1)(10), 15(1)(13), 15(1)(14), 15(1)(15), 15(1)(16), 15(1)(18) and 15(1)(21) of the Nature Protection Act.	None.
Świętokrzyski National Park (with the legal seat in Bodzentyn)	Yes, there were violations under ss.15(1)(5), 15(1)(8), 15(1)(10), 15(1)(12), 15(1)(13), 15(1)(15), 15(1)(16), 15(1)(18), 15(1)(19) and 15(1)(20) of the Nature Protection Act.	Yes, there were violations under s.15(1)(19) of the Nature Protection Act.
Tatra National Park (with the legal seat in Zakopane)	Yes, there were violations of prohibitions. Most of the prohibitions imposed in the park have been violated since the early days of the park.	Yes, there have been cases of construction work without permission or the use of land (including forest land) for unauthorised purposes.
Greater Poland National Park (with the legal seat in Jeziory)	None.	None.
Wigry National Park (with the legal seat in Krzywe)	Yes, violations of the prohibitions set out s.15(1) of the Nature Protection Act occurred. They were specifically violations of ss. 15(1)(1)-(6), 15(1)(8)-(10), 15(1)(13)-(15), 15(1)(17), 15(1)(18) and 15(1)(20)-(22).	Yes, under s.15(1)(1).
Wolin National Park (with the legal seat in Międzyzdroje)	Violations were identified of most of the prohibitions set out in s.15 of the Nature Protection Act. The prohibitions violated most frequently included those in ss.15(1)(1), 15(1)(3), 15(1)(5), 15(1)(6), 15(1)(8), 15(1)(10), 15(1)(13), 15(1)(14),	Yes, there were violations under ss.15(1)(1) and 15(1)(19) of the Nature Protection Act.

Name of national park	Violation	Including with regard to land
	15(1)(15), 15(1)(16), 15(1)(18), 15(1)(19), 15(1)(20), 15(1)(21) and 15(1)(23). No violations were identified under ss.15(1)(4), 15(1)(11), 15(1)(12), 15(1)(17), 15(1)(25), 15(1)(26) or 15(1)(27).	

The table above summarises the answers to the question about violations of prohibitions in place on the premises of national parks, with special emphasis on those of the prohibitions which affect the ownership of properties owned by third parties and used for purposes other than the protection of nature. The prohibitions defined in ss.15(1), 15(7), 15(8), 15(9), 15(11) and 15(19) of the Nature Protection Act are of particular significance. These prohibitions cover, particularly, the following areas of activity:

- the construction and/or alteration of buildings, other structures and technical facilities, except for buildings, other structures and facilities used for the purposes of a national park or nature reserve (s.15(1)(1) of the Nature Protection Act);
- changes to hydrographic conditions or river or stream engineering, unless such changes are made for the purposes of nature protection (s.15(1)(7) of the Nature Protection Act);
- extraction of rocks, including peat, and fossils, including fossil remains of plants and animals, minerals and amber (s.15(1)(8) of the Nature Protection Act);
- destruction of soil and/or changes to the intended and actual use of land ¹⁶(s.15(1)(9) of the Nature Protection Act);
- the conduct of production, trade and agricultural activities, except for locations designated in a protection plan (s.15(1)(11) of the Nature Protection Act);
- the placement, installation or presentation of boards, notices, advertisements and other signs other than connected with nature

¹⁶ W wyroku WSA w Warszawie z 16 grudnia 2009 r., IV SA/Wa 1022/09, Legalis nr 215995 wyjaśniono pojęcie zmiany sposobu użytkowania gruntu, którego nie można utożsamiać ze zmianą przeznaczenia gruntów rolnych i leśnych na cele nierolne i nieleśne w rozumieniu ustawy o ochronie gruntów rolnych i leśnych. WSA wyjaśnił, że przeciwko tożsamemu rozumieniu znaczenia tych pojęć przemawia chociażby treść art. 15 ust. 1 pkt 9 ustawy o ochronie przyrody, w którym ustawodawca wyraźnie oddziela pojęcie „zmiany przeznaczenia” od pojęcia „użytkowania gruntów”, posługując się tymi pojęciami oddzielnie.

protection, the availability of a national park or nature reserve, or environmental education activities, except for road signs and other signs connected with the protection of public order and security (s.15(1)(19) of the Nature Protection Act).

In the case of agricultural, or farming, activities conducted within the boundaries of a national park, the prohibitions set out in ss.15(1)(25) and 15(1)(26) of the Nature Protection Act may apply, namely the prohibition of introducing particular species of plants, animals and/or mushrooms into the park without approval from the minister for environmental affairs or introducing genetically modified organisms into the park.

It is worth noting that legal academics, scholars and commentators have classified these prohibitions according to a number of criteria, including (a) applicability¹⁷ and (b) the scope of ownership rights,¹⁸: restrictions on the use and actual enjoyment of the civil fruits and other benefits of properties located within national parks. The property-related prohibitions of relevance in this study are divided according to the first of the two criteria into

- imperative prohibitions, but with exceptions where a particular activity conducted in a national park serves the purposes of the park, particularly protection purposes, namely the construction and/or alteration of buildings, other structures and technical facilities, except for buildings, other structures and facilities used for the purposes of a national park or nature reserve (s.15(1)(1) of the Nature Protection Act), changes to hydrographic conditions or river or stream engineering (s.15(1)(7) of the Nature Protection Act), and the placement, installation or presentation of boards, notices, advertisements and other signs (s.15(1)(19) of the Nature Protection Act);
- non-imperative prohibitions, which may be cancelled in a protection plan or as part of protection measures, such as the prohibition on the conduct of production, trade and agricultural activities (s.15(1)(11) of the Nature Protection Act).

The information gathered in the course of the research indicates numerous violations of the prohibitions, with the number of violations of property-related prohibitions decreasing. An interesting point was made in the answer from the Babia Góra National Park. According to the

¹⁷ W. Radecki, *Parki narodowe w systemach prawnych ochrony przyrody polskim, czeskim i słowackim. Część II – prawo obowiązujące*, „Ius Novum” 2015, nr 1, str. 13-14.

¹⁸ M. Pchalek, *Komentarz do art. 130*, [w:] M. Górski, M. Pchalek, W. Radecki, *Prawo ochrony środowiska. Komentarz*. Wyd. 3, Warszawa 2019, Legalis.

management of the park, no properties owned by third parties not involved in nature protection activities are located within the boundaries of the park. The properties in the Babia Góra National Park which are owned by individuals, held as land commons or owned by other persons whose core business is not the protection of nature are located in an area subject to landscape protection, and this area is not affected by the prohibitions set out in s.15 of the Nature Protection Act. No violations of the prohibitions under s.15 of the Nature Protection Act were identified in the Babia Góra National Park in relation to the activities of the owners of properties located within the boundaries of the park.

A similar point was made in the answer from the Świętokrzyski National Park. It is explained that all the properties owned by third parties are located in an area subject to landscape protection. According to s.15(2)(5) of the Nature Protection Act, the prohibitions set out in s.15(1) of the Nature Protection Act do not apply to landscape protection areas where the properties in such areas are used commercially by individuals, businesses or other organisations or where the right of ownership is exercised in accordance with the provisions of the Polish Civil Code. This exemption from (or non-applicability of) the prohibitions under s.15(2)(5) of the Nature Protection Act has been the subject of decisions by administrative courts. In its judgment of 2 June 2011 (case file number: IV SA/Po 250/11), the Provincial Administrative Court in Poznań emphasises the¹⁹territorial scope of the exemption and notes that "the exemption provided for in s.15(2)(5) of the [Nature Protection] Act does not apply to the entire area of a national park or nature reserve, but only that part of the park or reserve which is subject to landscape protection. Where a particular part of a national park or nature reserve is also protected through measures other than landscape protection, this exemption will not apply. Moreover, this exemption will only apply if one of the purposes precisely specified in that provision is satisfied, and the area will still be legally protected regardless of that provision". This judgment was issued in a case involving the Greater Poland National Park. The court was asked to decide on the conditions for the construction of a free-standing, single-family residential building in that park. More specifically, the court was asked to interpret the prohibition under s.15(1)(1) of the Nature Protection Act. Giving the reasons for the judgment, the court noted that the authority that refused to permit the construction of the building (where such refusal

¹⁹ Legalis nr 435175.

affects the land owner's right of ownership) was required to provide *clear evidence* that the grounds for the prohibition (or restriction of the right of ownership) actually exist.

The courts have also noted in their judgments the prospective nature of the prohibitions that become effective in an area of land when a national park is established on that land. In its judgment of 14 December 2010 (case file number: II OSK 1901/09)²⁰, the Supreme Administrative Court held in a case involving an agricultural holding within the Kampinos National Park that not only the owner of the property may continue to use the property commercially in a landscape protection area, but also that the law permits the extension, construction or upgrade to or of facilities within the existing habitat, which is obviously permitted also to the extent of the right of ownership in accordance with the provisions of the Civil Code. In this case, the court was asked to decide whether it was lawful for the owner of the holding to continue its activities following an extension to the facilities of the holding. In this case, the Supreme Administrative Court did not hold that it was lawful for the agricultural holding to conduct beekeeping activities on a piece of land that had not been used for agricultural purposes before, but established the rule to be followed. However, the courts take a different view as regards the use of a land property commercially to build a house on that land when the land may no longer be used commercially. The courts have explained in their judgments that the exemption under s.15(2)(5) of the Nature Protection Act means that the prohibitions do not apply where a property is used commercially for the purposes specified in that section and, therefore, the exemption applies to the present situation, not to any future projects, which may be permitted under a local land use plan where particular areas of land where nothing can be built are reclassified as land on which different structures can be constructed.²¹

The application of the exemption under s.15(2)(5) of the Nature Protection Act must be preceded, in each case, by arrangements with the director of the national park. The director will assess whether the intended project will adversely affect the environmental, architectural and/or landscape features of the park. The importance and substance of, and the need for, such arrangements was noted by the Provincial Administrative Court in Warsaw in its judgments of 24 November 2010 (case number: IV

²⁰ Legalis nr 343097.

²¹ Wyrok NSA z 4 listopada 2016 r., II OSK 227/15, Lex nr 2199336 na tle Kampinoskiego Parku Narodowego i zaskarżonej uchwały Rady Gminy Izabelin w przedmiocie miejscowego planu zagospodarowania przestrzennego wsi Laski dla ul. Cyklistów wraz z terenem przyległym – Etap I.

SA/Wa 1630/10)²² and 5 November 2010 (case number: IV SA/Wa 1633/10)²³. Both cases involved the Kampinos National Park. The court stressed that the director of the national park had not only the right, but also the obligation, to assess whether the intended project would affect the natural and aesthetic (landscape) features the protection of which was the purpose for which that national park was established. It also follows from the court's reasons for the judgments that the director of the national park should take into account in their assessment the need to ensure that any interference with the substance of the park should cause as little inconvenience as possible and that no material changes to it, including to the landscape features of the park, should result from the interference. The nature of the exemption under s.15(2)(5) of the Nature Protection Act, which is not an independent legal basis and which should be read and interpreted in conjunction with the provisions of the Civil Code, was noted by the Provincial Administrative Court in Warsaw in its judgment of 26 January 2010 (case number: IV SA/Wa 1795/09)²⁴.

The limits of the applicability of the exemption under s.15(2)(5) of the Nature Protection Act were accurately noted by the Supreme Administrative Court, which explained that s.15(2)(5) of the Nature Protection Act must not be interpreted broadly as an exception to the prohibition on the construction of or alterations to buildings or other civil engineering structures located within the boundaries of national parks. The commercial use of a piece of land must not be interpreted to mean any human activity, including residential development, as this would undermine the main purpose for which national parks are established, which is specified in s.8(2) of the Nature Protection Act. It also follows from this judgment that the reference to commercial use in s.15(2)(5) of the Nature Protection Act includes, for example, forest or agricultural use rather than residential development²⁵.

The ownership structure of land is crucial within the context of the subject matter of this paper in relation to the Białowieża National Park. All the land in the park, except for 3,600 sq. m., is owned by the Polish State Treasury, and the Białowieża National Park holds the land in perpetual usufruct [Polish: *użytkowanie wieczyste*, or a long-term land lease]. This means that violations of the prohibitions under discussion are unlikely.

²² Legalis nr 379403.

²³ Legalis nr 379548.

²⁴ Legalis nr 218674.

²⁵ Wyrok NSA z 5 lipca 2016 r., II OSK 2776/14, Lex nr 2102241.

The answer received from the Tatra National Park is also noteworthy. The management of the park point out that there have been cases of construction work without permission or the use of land (including forest land) for unauthorised purposes. Therefore, the measures taken by the management of the park in relation to s.15(2)(5) of the Nature Protection Act involved checking that the local zoning plans or the provisions of the act of 3 February 1995 on the protection of agricultural land and woodlands are complied with²⁶.

6. Areas of culture parks as special areas in Poland

The area of a national park is one of the elements based on which a national park may be classified as a special area. The size of each national park is specified in the document establishing the park. It is important to ask the question about what features a piece of land must have to be incorporated into a national park. The answer is provided by the statutory definition of [national] park if it is interpreted using the purposive approach to statutory interpretation. The table below shows the sizes, locations and establishment dates of all the national parks in Poland. It, therefore, indicates the diversity of the natural features protected by law in Poland and that nature protection is still a topical issue, bearing in mind when the parks were established.

Table 2. Locations and sizes of national parks in Poland

Name of national park	Area in hectares	Province	Year of establishment
Babia Góra National Park (with the legal seat in Zawoja)	3391.55	małopolskie	1954
Białowieża National Park (with the legal seat in Białowieża)	10,517.32	podlaskie	11 August 1932, as the second national park after the Pieniny National Park
Biebrza National Park (with the legal seat in	59,223	podlaskie	1993

²⁶ Dz.U. z 2017 r. poz. 1161.

Name of national park	Area in hectares	Province	Year of establishment
Osowiec-Twierdza)			
Bieszczady National Park (with the legal seat in Ustrzyki Górne)	Land owned by the Bieszczady National Park: 29,038.7973; land owned by others: 152.6118. Total land size: 29,191.4091 (based on the answers from respondents) or 29,200.48 (according to the relevant regulation of the Council of Ministers).	podkarpackie	1973
Drawno National Park (with the legal seat in Drawno)	11,341.79	lubuskie, zachodniopomorskie (West Pomerania) and wielkopolskie (Greater Poland)	1990
Gorce National Park (with the legal seat in Poręba Wielka)	The size of this park according to the relevant regulation of the Council of Ministers is 7,019.07. Outside the boundaries of the park described in that regulation, the Gorce National Park owns another 18.44 ha of land.	małopolskie	1981
Kampinos National Park (with the legal seat in Izabelin)	38,544.33	mazowieckie [Mazovian]	1959
Karkonosze National Park (with the legal seat in Jelenia Góra)	5,951.4236	dolnośląskie	1959
Magura National Park (with the legal seat in Krempna)	19,437	małopolskie and podkarpackie	1995
Narew National Park (with the legal seat in Kurowo)	7,350	podlaskie	1996
Ojców National Park (with the legal seat in	2,145.62 (according to the relevant	małopolskie	1956

Name of national park	Area in hectares	Province	Year of establishment
Ojców)	regulation of the Council of Ministers) 2,163.21 (based on the answers from respondents)		
Tuchola Forest National Park (with the legal seat in Charzykowy)	4,798.23	pomorskie [Pomerania]	1996
Stołowe Mountains National Park (with the legal seat in Kudowa-Zdrój)	6,340	dolnośląskie	1993
Warta River Mouth National Park (with the legal seat in Chyrzyno)	8,098.76	lubuskie	2001
Pieniny National Park (with the legal seat in Krościenko nad Dunajcem)	2,371.75	małopolskie	1 June 1932, the first national park in Poland
Polesie National Park (with the legal seat in Urszulin)	9,760	lubelskie	1990
Roztocze National Park (with the legal seat in Zwierzyniec)	8,482.83	lubelskie	1974
Słovincian National Park (with the legal seat in Smółdzino)	32,744.03, including 11,171.14 (the inshore waters of the Baltic Sea).	pomorskie	1967
Świętokrzyski National Park (with the legal seat in Bodzentyn)	7,626.45	świętokrzyskie	1950
Tatra National Park (with the legal seat in Zakopane)	21,164.00	małopolskie	1955
Greater Poland National Park (with the legal seat in Jeziory)	7,597.20	wielkopolskie	1957
Wigry National Park	15,095.45	podlaskie	1989

Name of national park	Area in hectares	Province	Year of establishment
(with the legal seat in Krzywe)			
Wolin National Park (with the legal seat in Międzyzdroje)	10,937.4	zachodniopomorskie [West Pomerania]	1960

The sizes of national parks often change in relation to the original areas. More specifically, national parks tend to grow in size. For instance, when the Drawno National Park was established on 1 May 1990, its size was 8,691.50 ha. Its present area is 11,535.66 ha, which includes 11,210.6922 ha of land held in perpetual usufruct [Polish: *użytkowanie wieczyste*, or a long-term land lease]. This is also an example of the ownership structure of the land covered by this national park.

According to the table, national parks can be found in 11 Polish voivodeships (or provinces). The voivodeships of małopolskie and podlaskie have the largest numbers of national parks: 6 (six) and 4 (four), respectively. Each of the voivodeships of podkarpackie, lubuskie, zachodniopomorskie, wielkopolskie, dolnośląskie, pomorskie and lubelskie has two national parks. Two national parks, namely the Drawno National Park and the Magura National Park, occupy areas in more than voivodeship: 3 (three) for the former and 2 (two) for the latter.

In terms of the applicability of the prohibitions under s.15 of the Nature Protection Act and the extent of the right of ownership, the buffer zone [Polish: *otulina*] of the park is important. The prohibitions that apply within a national park do not apply in the buffer zone of the same park. However, the functions of the buffer zone should be taken into account when exercising the right of ownership of the land within that zone²⁷. The Nature Protection Act imposes no specific restrictions regarding the exercise of ownership rights in relation to land located in the buffer zone. Extensive interpretation of s.15(1) of the Nature Protection Act is not justified²⁸. It is important to note that the buffer zones of national parks and the exercise of ownership rights in land located within such zones have been the subject of numerous judgments by administrative courts, which tend to interpret the provision of s.15(1) of the Nature Protection Act along such lines.

²⁷ Wyrok WSA w Warszawie z 29 listopada 2007 r., IV SA/Wa 1859/07, Legalis nr 280078.

²⁸ Por. wyrok WSA w Warszawie z 22 sierpnia 2006 r., IV SA/Wa 966/06, Legalis nr 92802; wyrok WSA w Warszawie z 9 listopada 2006 r., IV SA/Wa 1161/06, Legalis nr 93504.

7. Civil claims in connection with the use of land located within culture parks

Civil claims available to the owners of land protected under s.131 of the Environment Protection Act as remedies within the context of the restrictions on their ownership rights in such land include compensation claims or land repurchase claims. Either of the claims is available to the land owner only if the use of his land is restricted in connection with the protection of environment resources when the land or any features of the land is/are protected under the provisions of the Nature Protection Act. This, therefore, is connected with the establishment of a national park that encompasses such land. The compensation claimed is awarded via an administrative procedure upon an application by the land owner affected by the restriction. Section 131(1) of the Environment Protection Act requires the district governor [Polish: *starosta*], not the voivode [Polish: *wojewoda*] to determine the amount of the compensation. However, s.134(2) of the Environment Protection Act provides that "compensation shall be paid and/or land shall be repurchased by, inter alia, 2) the State Treasury, represented by the voivode of the relevant voivodeship, if the restriction on the use of the land is imposed by a regulation of the Council of Ministers, a regulation of the competent minister or a regulation of the voivode". In the case of national parks, which are established, as mentioned earlier, under statutory provisions (before these provisions were amended in 2011, national parks had been established by way of a regulation of the Council of Ministers), compensation must be paid and/or land must be repurchased by the State Treasury, represented by the voivode of the relevant voivodeship. If the land owner disagrees with the award, they will have 30 days of the date of being delivered a notice of the award decision within which to file a claim with a court of law. The award decision itself is non-appealable. The court claim is a separate statutory remedy available to the land owner which replaces the right of appeal against the award decision to a higher-instance authority. This allows the land owner to defend their rights.²⁹ The court claim remedy is available also if the relevant authority fails to issue an administrative decision within 3 (three) months of the date of the land owner's application. The filing of the court claim does not suspend the enforcement of the decision (s.131 of the Environment Protection Act). The scope of judicial intervention in the

²⁹ Tak wyrok WSA w Olsztynie z 23 kwietnia 2020 r., II SA/OI 79/20, Legalis nr 2364941.

case of such a claim is extensive. It follows from past court decisions that in proceedings based on a claim under s.131(1) of the Environment Protection Act, the court is authorised to assess the legitimacy of the compensation awarded by the relevant administrative authority, not only the amount of the compensation³⁰.

If a land repurchase claim is not settled amicably and it is rejected by the relevant authority, the land owner may ask a court for an order requiring the authority to purchase the land covered by the claim in accordance with s.64 of the Civil Code in conjunction with s.1047(1) of the Code of Civil Procedure.³¹

In terms of the matter at hand, the aforementioned ownership structure of the land covered by a national park is important as well. This includes the location of land in a *landscape protection area*. According to s.7 of the Environment Protection Act, a national park or nature reserve may be established or extended to include land that is not owned by the State Treasury with the consent of the owner of such land or, if such consent is not given, through expropriation in accordance with the Land Management Act of 21 August 1997. According to s.10(3) of the Environment Protection Act, when the statute establishing a national park or a regulation changing the boundaries of a national park comes into force, the national park acquires (a) a perpetual usufruct right [Polish: *użytkowanie wieczyste*, or a long-term land lease] in the land owned by the State Treasury and located within the boundaries of the park to be used for the purposes of the park and (b), by operation of law, full ownership of the buildings, other structures and premises situated on that land. Moreover, s.10(3a) of the Environment Protection Act provides expressly that the acquisition of the rights referred to in 10(3) must not violate or infringe any third-party rights. In such a case, it is important to determine the link between the above provision of the Nature Protection Act and s.131 of the Environment Protection Act. According to legal academic, scholars and commentators, s.131(1) of the Environment Protection Act will apply only when and if the owner of a piece of land has consented for the land to be subject to the restrictions that come with the establishment of a national park. This consent may be given in a compensation agreement. If the owner refuses to give such consent, the

³⁰ Wyrok SA w Białymstoku z 6 czerwca 2013 r., I ACa 107/13, Legalis nr 719580.

³¹ Por. o cywilnoprawnej drodze realizacji tego typu roszczenia wyrok SA w Katowicach z 12 listopada 2002 r., I ACa 1156/02, Legalis nr 1045363; wyrok WSA w Warszawie z 20.8.2009 r., I SA/Wa 666/09, Legalis nr 227928.

provisions of the Land Management Act and the expropriation procedure provided for therein shall apply to a compensation award.

Table 2: Land repurchase claims and compensation claims in connection with the establishment and operation of national parks

Name of national park	Land repurchase claims	Compensation claims
Babia Góra National Park (with the legal seat in Zawoja)	None.	None.
Białowieża National Park (with the legal seat in Białowieża)	None (No such action was taken and no such events occurred).	None.
Biebrza National Park (with the legal seat in Osowiec-Twierdza)	None.	None.
Bieszczady National Park (with the legal seat in Ustrzyki Górne)	There were no such cases.	There were no such cases.
Drawno National Park (with the legal seat in Drawno)	None.	None.
Gorce National Park (with the legal seat in Poręba Wielka)	None.	No compensation for ownership restrictions has been paid by the Gorce National Park in recent years, including 2019.
Kampinos National Park (with the legal seat in Izabelin)	No land repurchase transactions occurred.	No compensation was paid.
Karkonosze National Park (with the legal seat in Jelenia Góra)	None.	None.
Magura National Park (with the legal seat in Krempna)	None.	None.
Narew National Park (with the legal seat in Kurowo)	None.	None.
Ojców National Park (with the legal seat in Ojców)	None.	None.
Tuchola Forest National Park (with the legal seat in Charzykowy)	None.	None.
Stołowe Mountains National Park (with the legal seat in Kudowa-Zdrój)	None.	None.
Warta River Mouth National Park (with the legal seat in	None.	None.

Name of national park	Land repurchase claims	Compensation claims
Chyryzno)		
Pieniny National Park (with the legal seat in Krościenko nad Dunajcem)	None.	None.
Polesie National Park (with the legal seat in Urszulin)	None.	None.
Roztocze National Park (with the legal seat in Zwierzyniec)	None.	None.
Slovincian National Park (with the legal seat in Smoldzino)	None.	None.
Świętokrzyski National Park (with the legal seat in Bodzentyn)	There were no land repurchase transactions and no compensation claims.	No compensation was paid and no compensation claims were received.
Tatra National Park (with the legal seat in Zakopane)	None.	Compensation was an issue only in connection with the expropriation of land needed to establish the park after 1955.
Greater Poland National Park (with the legal seat in Jeziory)	None.	None.
Wigry National Park (with the legal seat in Krzywe)	No, the voivode was under no obligation to repurchase any land. There were no claims resolved through the courts.	No, the voivode was under no obligation to pay any compensation. There were no claims resolved through the courts.
Wolin National Park (with the legal seat in Międzyzdroje)	None (2 court cases are pending)	None (2 court cases are pending)

The table above shows the answers to the question about civil claims connected with the establishment and operation of national parks. It is clear from the information in the table that there were generally no such claims. Before any conclusions are drawn, note should be taken of the answers that reflect the essence of the problem. It is important *when* this form of nature protection is established for a particular area of land. The law at that time determined land owners' claims. It can be seen from the answer from the Gorce National Park that the park was established on 1 January 1981.³² According to s.8(2) of the law referred to, the decision to exclude an

³² Dz.U. z 1980 r. Nr 18, poz. 66.

area of agricultural land or to change the use of such land is at the discretion of the director of the park subject to approval from a voivodeship government authority. On 9 January 1997, the Council of Ministers issued a regulation concerning the Gorce National Park³³, which cancelled the previous regulation in respect of the same park (except for section 1 of that regulation). This is the only provision in the document establishing the Gorce National Park. No compensation for ownership restrictions has been paid by the Gorce National Park in recent years, including 2019. The management of the park have explained that a case is pending before the Regional Court in Nowy Sącz to determine the value of a land property in connection with the exercise of a right of first refusal on that property by the Gorce National Park. Similarly, the management of the Wolin National Park have explained that two court cases are pending. As regards the Magura National Park, the management have explained that all the buildings once owned by a forest district office were acquired by the park and that no compensation has ever been paid in connection with their acquisition and no bans on the use of any structures have been imposed.

The answer from the Świętokrzyski National Park indicates that the management of the park received no land repurchase claims in connection with ownership restrictions. However, the Świętokrzyski National Park regularly repurchases land located within the boundaries of the park whenever such land is for sale and the Świętokrzyski National Park has a right of first refusal on the land. Note should also be taken of the answer from the Tatra National Park, which indicates that compensation was an issue only in connection with the expropriation of land needed to establish the park after 1955.

The voivode of the podlaskie voivodeship has noted in the answer that he only applies for funds from a special government reserve that compensates local governments for the loss of income from property tax due to the property tax exemption for land properties located within national parks and nature reserves.

Although the lubelskie voivodeship received no claims connected with the operation of national parks, the answer from this voivodeship is noteworthy for a different reason. The lubelskie voivodeship government investigated only land repurchase claim in connection with land located in a Natura 2000 area. As the claim was rejected by the voivodeship

³³ Dz.U. Nr 5, poz. 26.

government, the owner of the land filed a claim with a court. The case is pending.

It follows from the above analysis that the procedure for claims under ss.131 and 132 of the Environment Protection Act is generally not used. It is a surprise, especially within the context of cases handled by administrative courts, where the number of cases involving prohibitions imposed on building extensions on land in national parks is large. This may be explained by the fact that expropriation is the priority choice when land is needed for national parks and the fact that the land needed by a national park had been purchased before the park was established or extended.

8. Conclusion

The problems surrounding the ownership of national parks are characterised by complexity both juridically and historically. It is common knowledge that protecting nature in a national park affects the ownership of the real property within the boundaries of the park. This is confirmed by, even if only, an analysis of prohibitions that apply within national parks. This is accentuated by the classifications of such restrictions by legal academics, scholars and commentators. The claims that serve to reach a balance between nature protection and ownership rights are guarantee-based claims. Such claims also serve to allow national parks to obtain new land for park extensions or to procure land for new national parks, while respecting the rights of land owners. A characteristic feature of the ownership structure of a national park in positive law is that the land within the boundaries of the park is owned by the park as a legal person or is held by the park in perpetual usufruct [Polish: *użytkowanie wieczyste*, or a long-term land lease]. This allows for preventing violations of the ownership rights of other persons on the one hand and avoiding violations of the national park prohibitions set out in s.15(1) of the Nature Protection Act on the other. This is ideal in terms of the subject matter of this paper. However, civil claims are particularly important in the process of establishing a new national park or procuring land to extend the area of an existing one. An overview of judicial decisions indicates a large number of cases involving disputes over the construction of or extensions to buildings, or the conduct of agricultural or business activities in areas subject to nature protection laws.

Reaching a compromise in such cases is necessary for the common good in order to ensure sustainability and nature protection for the generations to come.

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