

ACTA UNIVERSITATIS BRUNENSIS

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IURIDICA

Editio Scientia

vol. 600

PUBLICATIONS  
OF THE MASARYK UNIVERSITY

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theoretical series, edition Scientia

File No. 600

**SUSTAINABLE DEVELOPMENT  
AND CONFLICTS OF INTERESTS  
IN NATURE PROTECTION  
IN CZECHIA, POLAND AND SLOVAKIA**

Ilona Jančářová,  
Jana Dudová et al.

Masaryk University  
Brno 2017

Vzor citace

JANČÁŘOVÁ, Ilona a Jana DUDOVÁ et al. *Sustainable development and conflicts of interests in nature protection in Czechia, Poland and Slovakia*. 1st edition. Brno: Masaryk University, Právnická fakulta, 2017.

313 p. Publications of Masaryk University, theoretical series, edition Scientia, File No. 600. ISBN 978-80-210-8815-3 (brož.), 978-80-210-8817-7 (online)

CIP - Katalogizace v knize

Jančářová, Ilona

Sustainable development and conflicts of interests in nature protection in Czechia, Poland and Slovakia. / Ilona Jančářová, Jana Dudová et al. --1st edition. -- Brno: Masaryk University, 2017. 313 stran. -- Publications of Masaryk University, theoretical series, edition Scientia, File No. 600. ISBN 978-80-210-8815-3 (brož.), 978-80-210-8817-7 (online)

349.6\* 502.17\* (437.3)\* (438)\* (437.6)\* (048.8:082)\*

- právo životního prostředí

- ochrana přírody

- Česko

- Polsko

- Slovensko

- kolektivní monografie

349 – Pracovní, sociální, stavební právo. Právo životního prostředí [16]

Financial support from:

Jihomoravský kraj

ČEPS, a.s.

AGROLIP, a.s.

is greatly appreciated.



**Jihomoravský kraj**

Reviewers: prof. JUDr. Milan Damohorský, DrSc.

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ISBN 978-80-210-8815-3

ISBN 978-80-210-8817-7 (online : pdf)

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# 1 UNESCO'S MAN AND THE BIOSPHERE PROGRAMME IN THE FRAMEWORK OF POLISH LEGISLATION – CURRENT AND FUTURE CHALLENGES FOR NATURE PROTECTION AND LAND USE

## 1.1 Nature Conservation in Poland – General Legal Overview

The conservation of nature by legal means in Poland has a long and glorious tradition. The first act on nature conservation was adopted in 1934, whereas the present act originated in 2004. Nature conservation is a notion of environmental protection, stressing the so-called conservation approach (protective, striving to maintain in the best shape) towards natural elements in place in which they occur (*in situ*). Beside the protection *in situ*, to which the Polish legislator pays special attention, also issues concerning the so-called protection *ex situ* (e.g. creation and management of botanical and zoological gardens, or the trade in plant, animal and fungi species in danger of extinction) undergo regulations in NCA of 2004.

In the Polish NCA of 2004 the main terms determining the scope of legal protection are animate nature, inanimate nature and landscape. Literally, according to article 2 section 1 of NCA, nature protection “lies in preservation, sustainable use and renewal of natural resources, creations and components”. As a public task, nature conservation is subject to the principle of decentralization of public authorities, expressed in article 15 of KRP, which means that from the legal point of view, the task is conducted in Poland both by government administration and self-government administration. The analysis of the division of competence between those two administrative sectors within nature conservation does not give a clear answer, which criterion the Polish legislator uses in that division. From among three levels of self-government bodies in Poland (gmina self-government, powiat self-government and voivodship self-government) only two were given competence within nature conservation by the legislator, i.e. voivodship self-government (e.g. creation of landscape parks and areas



of protected landscape, voivodship landscape audit) and gmina self-government (e.g. creation of natural monuments), whereas powiat self-government bodies were only given competence in this scope incidentally.

Government administration authorities and their competence within nature conservation raise an interesting issue concerning particular approach of the Polish legislator. Since 2008 there have been government administration bodies which are specialised, i.e. serve as environmental protection directors: GDOŚ (as a central body subject to the minister responsible for environmental protection issues) and 16 RDOŚ, as bodies of local government administration in a voivodship. As a rule, directors are responsible for nature conservation issues, impact assessment on environment and environmental damage. Beside the directors there are administrative bodies of nature conservation in Poland, which are narrowly specialized. Among them, in the first place there is forest administration (the State Forests Holding – “State Forests” – UOL) and so-called park administration (National Park Service and Landscape Park Service). A special solution functions in UPL, where game management<sup>2</sup> was given to the Polish Hunting Association, i.e. “an association of natural and legal persons who perform game management by way of breeding and harvest of game as well as act towards conservation of wild game by way of regulating the numerical strength of the game population” (article 32 section 1 of UPL). The Polish legislator assumed that the expert and scientific support within nature conservation should be given to the main bodies by the so-called consultative and advisory bodies: i.e. 1) the State Council for Nature Conservation (a body distinguished for the implementation of nature conservation principles in Poland in the 1920s and 1930s), 2) regional council for nature conservation, 3) scientific council of a national park, 4) council of a landscape park (article 95 of NCA).

Taking into consideration forms of nature conservation used in Poland, one may indicate that within conservation *in situ* the following forms may

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<sup>2</sup> Game management means “activities within the scope of conservation, breeding and harvest of wild game” (article 4 section 1 of UPL), whereas “hunting” as “as an element of conservation of natural environment, in the meaning of the Act shall be understood as conservation of game animals (wild game) and managing their resources in accordance with the principles of ecology and of rational agricultural, forestry and fishery management” (article 1 of UPL).

be distinguished: special conservation (article 6 of NCA) and universal conservation<sup>3</sup> (conservation of green areas and afforestation – article 78–90 of NCA). Special protection oriented toward the preservation of the most precious natural elements covers: 1) territorial forms of nature conservation (national park, nature reserve, landscape park, protected landscape area, Natura 2000 areas), 2) object-oriented forms of nature conservation, 3) species protection. Territorial forms should be included in the so-called special areas, which constitute “legal institution of the Polish material administrative law understood as areas not being objects, found in the borders of law and jurisdiction of the Republic of Poland, distinguished by legal acts on account of the realization of priority public tasks in those areas, where a special legal regime is in force, which limits or broadens former universal law”.<sup>4</sup> UNESCO biosphere reserves were not indicated directly in NCA of 2004 as another and independent type of territorial form of nature conservation in Poland.<sup>5</sup> Thus, they are an example of international obligations implemented in a non-standard way, i.e. without establishing individual legal bases of their creation and management. In practice, UNESCO biosphere reserves in Poland have, as a rule, a joint status, i.e. a status within the MAB Programme and a status of one or more Polish territorial forms of nature conservation or a status within another international network. Currently, there are six UNESCO national biosphere reserves (Białowieża Forest – 1977, Babia Góra – 1977, Łuknajno Lake – 1977, Słowiński – 1977, Kampinos Forest – 2000, Tuchola Forest – 2010) and four cross-border (East Carpathian: Poland-Slovakia-Ukraine – 1992, Karkonosze – 1992, Tatra Mountains – 1992, West Polesie: Poland-Ukraine-Belorussia – 2002/2012).<sup>6</sup>

<sup>3</sup> RADECKI, W. *Ustawa o ochronie przyrody. Komentarz*. Warszawa: Difin, 2008, pp. 64–65. ISBN 978-83-7251-852-1.

<sup>4</sup> ZACHARCZUK, P. *Obszary specjalne w polskim materialnym prawie administracyjnym*. Warszawa: C. H. Beck, 2017, pp. 81–82. ISBN 978-83-255-9582-1.

<sup>5</sup> ZIELIŃSKA, A. Rola rezerwatów biosfery w realizacji idei ekorozwoju. *Ekonomia i Środowisko*. 1999, No. 2, p. 152; RADECKI, W. *Ustawa o ochronie przyrody. Komentarz*. Warszawa: Difin, 2008, p. 69. ISBN 978-83-7251-852-1.

<sup>6</sup> DENISIUK, Z. Polskie rezerваты biosfery – oczekiwania i nie spełnione nadzieje, *Roczniki Bieszczadzkie*. 2003, Vol. 11, p. 209, 211–212.

## 1.2 UNESCO's Man and the Biosphere Programme and Poland's experience

### 1.2.1 Legal Background of the MAB Programme

The leading role from the point of view of the environment and its protection in the system of the United Nations Organization is played above all by the agency called UNEP, which was established in December 1972 after the Stockholm Conference.<sup>7</sup> Also, UNESCO, acting on the grounds of the UNESCO Constitution of 1945, has been interested in the cooperation in the scope of the environment and its protection. Poland has been the party to the Constitution since 6 November 1946. According to article I of the Constitution, the purpose of UNESCO is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the people of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations. The Polish National Commission for UNESCO has been operating since 1956. The Commission is an advisory body to the Council of Ministers and fulfills advisory, coordinating and information function towards governmental and non-governmental institutions in Poland (directive No. 61/2005).

A significant moment for the international cooperation within the environment and its protection, which occurred at the beginning of the 1970 s perceptibly had its impact on UNESCO works. The evidence of it may be a concern for the protection of natural heritage of the planet, reflected in WHC. The other evidence is the second initiative of UNESCO from that period, i.e. the MAB Programme, established by the UNESCO General Conference in 1971. The aim of the programme was “to develop and implement an international programme of interdisciplinary research, which results would be the basis for the rational and sustainable use the resources of the biosphere. (...) The sites of the research, as well as of environmental monitoring, were to be the biosphere reserves, which should be representative of their biogeographic region,

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<sup>7</sup> KENIG-WITKOWSKA, M. M. *Międzynarodowe prawo środowiska. Wybrane zagadnienia systemowe*. Warszawa: Wolters Kluwer business, 2011, pp. 85–86. ISBN 978-83-264-0651-5.

established by the states taking part in the programme”.<sup>8</sup> In Poland, the activities in that scope are conducted by the National UNESCO-MAB Committee of Poland, acting within the Polish Academy of Sciences.

Special attention within the cooperation with the MAB Programme should be paid to SSBR and SFWNBR, adopted by UNESCO in 1995. SFWNBR<sup>9</sup> unifies basic terms and definitions essential to a discussed issue. According to article 1 of SFWNBR “Biosphere reserves” are “areas of terrestrial and coastal/marine ecosystems or a combination thereof, which are internationally recognized within the framework of UNESCO’s programme on Man and the Biosphere (MAB), in accordance with the present Statutory Framework”. In article 2 section 2, WNBR has been defined as a network that “constitutes a tool for the conservation of biological diversity and the sustainable use of its components, thus contributing to the objectives of CBD and other pertinent conventions and instruments”. Article 3 indicates that “in combining the three functions below, biosphere reserves should strive to be sites of excellence to explore and demonstrate approaches to conservation and sustainable development on a regional scale: (i) conservation – contribute to the conservation of landscapes, ecosystems, species and genetic variation; (ii) development – foster economic and human development which is socio-culturally and ecologically sustainable; (iii) logistic support – support for demonstration projects, environmental education and training, research and monitoring related to local, regional, national and global issues of conservation and sustainable development”.

Moreover, two more key issues were included in SFWNBR – criteria of qualifying an area as a biosphere reserve (article 4) and a procedure within that scope (article 5). According to article 4 section 1 of SFWNBR an area may be considered to be a biosphere reserve if it fulfills the following conditions: 1) encompasses a mosaic of ecological systems representative of major biogeographic regions, including a gradation of human interventions; 2) is of significance for biological diversity conservation; 3)

<sup>8</sup> SYMONIDES, E. *Ochrona przyrody*. Warszawa: Wydawnictwo Uniwersytetu Warszawskiego, 2014, p. 181. ISBN 978-83-235-1344-5.

<sup>9</sup> Zob. BREYMEYER, A. *Warunki naturalne w Europie, Polsce i sieć rezerwatów biosfery MAB*. In: BREYMEYER, A. (ed.). *Rezerваты biosfery w Polsce*. Warszawa: Polski Komitet Narodowy UNESCO-MAB, 1997, pp. 11–13. ISBN 83-86902-71-X.

provides an opportunity to explore and demonstrate approaches to sustainable development on a regional scale; 4) has an appropriate size to serve the three functions of biosphere reserves, as set out in Article 3 of SFWNBR. Furthermore, article 5 section 4 of SFWNBR presents recommendations referring to a spatial form of a biosphere reserve, which is to be designated taking three zones into consideration: a) a legally constituted core area or areas devoted to long-term protection, according to the conservation objectives of the biosphere reserve, and of sufficient size to meet these objectives; b) a buffer zone or zones clearly identified and surrounding or contiguous to the core area or areas, where only activities compatible with the conservation objectives can take place; c) an outer transition area where sustainable resource management practices are promoted and developed. According to article 4 section 6, while designating a biosphere reserve it is necessary to ensure involvement and participation of a suitable range of, *inter alia*, public authorities, local communities and private interests. In comparison, article 4 section 7 presents minimal requirements referring to the management of a biosphere reserve, i.e. the necessity to ensure: a) mechanisms to manage human use and activities in the buffer zone or zones; b) a management policy or plan for the area as a biosphere reserve; c) a designated authority or mechanism to implement this policy or plan; d) programmes for research, monitoring, education and training.

According to article 5 of SFWNBR, the body responsible for issuing a decision on qualifying an area as a biosphere reserve and at the same time as a part of WNBR is ICC-MAB Programme. The procedure of qualification, presented in article 5 section 1, includes the following stages. Firstly, States, through National MAB Committees where appropriate, forward nominations with supporting documentation to the secretariat after having reviewed potential sites, taking into account the criteria as defined in Article 4 of SFWNBR. Secondly, the MAB secretariat verifies the content and supporting documentation: in the case of incomplete nomination, the secretariat requests the missing information from the nominating State. Thirdly, nominations are considered by the Advisory Committee for Biosphere Reserves for recommendation to ICC and lastly, ICC-MAB Programme takes a decision on nominations for designation, which the Director-General of UNESCO

notifies the State concerned. Article 5 sections 2-3 of SFWNBR presents transitory decisions, encouraging states to check and adapt existing biosphere reserves to current requirements, as well as to consider the necessity of broadening the area of national reserves, which should be made according to article 5 section 1. At the same time, it was accepted that biosphere reserves designated before accepting SFWNBR automatically became a part of WNBR.

Beside SSBR and SFWNBR, other acts showing the direction of activities of the MAB Programme may be indicated, e.g. the Madrid Action Plan 2008–2013; the MAB Strategy 2015–2025; the Lima Action Plan for UNESCO's Man and the Biosphere Programme and its World Network (2016–2025); the Lima Declaration on the UNESCO Man and the Biosphere Programme and its World Network of Biosphere Reserves of 17 March 2016.<sup>10</sup> The strategic objectives of the MAB Programme for the period 2015–2025 are as follows: 1) to conserve biodiversity, restore and enhance ecosystem services, and foster the sustainable use of natural resources; 2) to contribute to building sustainable, healthy and equitable societies, economies and thriving human settlements in harmony with the biosphere; 3) to facilitate biodiversity and sustainability science, ESD and capacity building; 4) to support mitigation and adaptation to climate change and other aspects of global environmental change.

In reflection of the aims presented above, the implementation of the MAB Programme requires the consideration of the achievements of international cooperation within environmental protection at various forums – organizational and conventional. Because of this, UNESCO was summoned in the Lima Declaration “to continue to improve the effectiveness of collaboration with relevant specialized agencies and programmes of the UN system, in particular UNDP, FAO, UNU and UNEP, and with active NGOs, with the aim of enabling Member States to use biosphere reserves as priority places to demonstrate and promote the achievement of the SGD and related targets, as well as relevant goals, targets and objectives specified under the CBD, the UNFCCC and the UNCCD” (point 23).

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<sup>10</sup> UNESCO, *A New Roadmap for the Man and the Biosphere (MAB) Programme and its World Network of Biosphere Reserves*. Paris, 2017. ISBN 978-92-3-100206-9 [online]. Available at: <http://unesdoc.unesco.org/images/0024/002474/247418E.pdf>

### 1.2.2 The MAB Programme in Polish Nature Conservation Law

Trying to establish legal frameworks of functioning of UNESCO biosphere reserves A. Breymeyer enumerates international environmental conventions and other agreements, on which, according to her, the MAB Programme is based and whose aims it pursues.<sup>11</sup> She distinguished two fundamental groups of acts, including global cooperation (Ramsar Convention; World Heritage Convention; MAB Programme; Bonn Convention; CBD) and European. Within the second group, A. Breymeyer divides the acts depending on a given forum of cooperation: within the UNECE (CPUTWIL), Council of Europe (PEEN<sup>12</sup>; European Diploma for Protected Areas<sup>13</sup>; Bern Convention; European Network of Biogenetic Reserves), within countries of given European regions (Barcelona Protocol; HELCOM Convention;) and within the European Union (Bird Directive; Habitats Directive). Accepting such an assumption, in its most important parts of her work referring to hard law acts of international public law (conventions) and EU directives, the author does not deal with the question of legal basis of the MAB Programme from the point of view of the system of Polish law sources, which from practical point of view may be explained by the fact that UNESCO biosphere reserves most often have the so-called joint status. Not questioning the above assumption, it may be indicated at the beginning that in the UNESCO resolutions adopted for the MAB Programme, the issue of a joint status of a biosphere reserve (beside the MAB Programme also as an area proposed within the frames of an environmental convention or included in another nature network) was accepted as a solution coherent with the aims of the programme. The joint status or solely the MAB Programme status was not the issue of the utmost importance

<sup>11</sup> BREYMEYER, A. Transboundary Biosphere Reserves on the EU East End. The Present and Projected Management. In: BREYMEYER, A., ADAMCZYK, J. (eds.). *Transboundary Biosphere Reserves at the Eastern End of European Union. People and Ecological Dilemmas*. Warszawa: National UNESCO-MAB Committee of Poland, 2005, p. 26. ISBN 83-899961-56-3.

<sup>12</sup> Creating PEEN was one of the priorities of the Pan-European Biological and Landscape Diversity Strategy, adopted by European environmental ministers in 1995; GORIUP, P. The Pan-European Biological and Landscape Diversity Strategy: integration of ecological agriculture and grassland conservation. *Parks*, 1998, No. 3, pp. 38–39.

<sup>13</sup> The Council of Europe's award for adequately protected natural or semi-natural areas of exceptional European interest from the point of view of conservation of biological, geological or landscape diversity. Available at: <http://www.coe.int/en/web/bern-convention/european-diploma-for-protected-areas>

in the UNESCO works. In cooperating states, biosphere reserves are established in various ways and the attempts to unify that issue in legal dimension within the MAB Programme are hard to notice.<sup>14</sup> In Poland, the status of a UNESCO biosphere reserve is combined with territorial forms of nature conservation: national park, nature reserve or landscape park, e.g. Łuknanko Lake Nature Reserve and Słowiński National Park have both the status of the MAB Programme and the status of the area of Ramsar Convention. Moreover, the joint status may be of alternating character, meaning that it is possible that the area of a given UNESCO biosphere reserve in Poland is subject to several forms of nature conservation at the same time. Additionally, it is possible that a part of a UNESCO biosphere reserve is situated in areas which are not under special protection.<sup>15</sup>

The UNESCO resolution on the MAB Programme as an act of *soft law* of international public law is binding for the Polish state only under article 9 of KRP, according to which Poland “shall respect international law binding upon it”. However, from the formal point of view, the implementation of international obligations requires the implementation of an international law act to the Polish law system, which would be the basis of such obligations. According to article 87 section 1 of KRP the sources of universally binding law are ratified international agreements, published in the Journal of Laws of the Republic of Poland (article 91 section 1 of KRP). The agreements are ratified by the President of the RP in two modes taking into account the subject of the agreement: upon prior consent of the Parliament or without the consent if it is not required (article 89 sections 1-2 of KRP). UNESCO Constitution of 1945 fulfils the criteria of the first mode, but the UNESCO resolution on the MAB Programme for obvious reasons (*soft law* act) could not undergo that procedure. Additionally, a resolution cannot be judged as a special exception in the Polish Constitution, allowing the law established by an international organization to be applied directly in Poland, because according to article 91 section 3 of KRP it is only possible “if it results from an agreement, ratified by the Republic of Poland,

<sup>14</sup> UNESCO. *Biosphere reserves: The Seville Strategy and the Statutory Framework of the World Network*. Paris: UNESCO, 1996, p. 4.

<sup>15</sup> CELIŃSKI, F., DENISIUK, Z. Polskie rezerваты biosfery czekają na możliwość pełnienia swoich funkcji. *Chrońmy Przyrodę Ojczyzny*, 1993, No. 2, pp. 23–24.



establishing an international organization”, but the UNESCO Constitution of 1945 does not include such decisions. As a result, it must be accepted that the sole legal basis of Poland’s cooperation within the MAB Programme is the UNESCO Constitution of 1945. So far, the Polish legislator has not attempted to adopt the results of that cooperation into the Polish legal system, continued pursuant to other UNESCO resolutions (*soft law* acts) concerning biosphere reserves. The legislator has not done it despite the fact that ten Polish areas had been proposed to WNBR, including four trans-boundary areas and despite the works of the National UNESCO-MAB Committee of Poland, which is unequivocal with one-sided submission of the Polish public administration to an interior act (resolution) of an international organization, which is formally not binding. The problem with defining the legal status of a UNESCO biosphere reserve has also an additional “internal” dimension beside NCA of 2004. It is difficult to establish the Polish legal path of forming individual biosphere reserves, because there is only one such act in the legal system, the PTRB “West Polesie”, which according to article 15 section 1 of UUM has the status of a technical international agreement, not ratified in any way, but only approved by the Council of Ministers, which means that it can only be treated as a *soft law* act. Comparing legal solutions for UNESCO biosphere reserves adopted in Poland with other international environmental obligations concerning the establishment of special areas it may be stated that the situation is exceptional. For instance, Natura 2000 areas underwent full implementation path from TFEU, Bird and Habitats Directives to NCA of 2004. Then, the Polish wetlands on the list of Wetlands of International Importance, similarly to UNESCO biosphere reserves have not been included directly in NCA of 2004, however, they are directly rooted in the *hard law* act, i.e. the Ramsar Convention and not only in *soft law* acts, i.e. UNESCO resolutions. It means that in the main act of the Polish nature conservation law, the NCA of 2004, UNESCO biosphere reserves (definition, protection objectives, management rules) have not been implemented so far as an independent type of territorial form of nature conservation according to article 6 of NCA. Additionally, the term “UNESCO biosphere reserve” was implemented in Poland into legislative acts only in 2015. While implementing the European Landscape

Convention, the Polish legislator introduced new tools of nature conservation (UWNOK), adding a new article 38a in the UPZP, considering the so-called voivodship landscape audit, which must consider such reserves.

### 1.3 Conclusion: MAB Biosphere Reserves, Ecosystem Services and New Opportunities for Land Use

Does the current lack of independent legal basis for UNESCO biosphere reserves in Poland negatively impact the realization of tasks resulting from Poland's obligations within the MAB Programme? The answer to this question is not easy for a number of reasons. On one hand, the fact of the joint status of UNESCO biosphere reserves mentioned above seems to minimise the lack of independent legal bases. For instance, the legal form of a national park undoubtedly in combination with legal instruments allows for an effective protection and management of a valuable natural area. However, it is indicated that in the situation when the area of a UNESCO biosphere reserve is subject to various legal forms of territorial protection (including Natura 2000) it may come to the divergences between the objectives of national forms and Natura 2000 and the objectives of the MAB Programme. It is pointed out that the MAB Programme more strongly than other forms beside preservative nature conservation pays attention to the significance of sustainable development of a protected area taking into consideration the role of local societies.<sup>16</sup> Moreover, taking into account the technical side of establishing UNESCO biosphere reserves, embracing three zones: core zone, buffer zone and transition zone, the incompatibility of that solution with the logic of the Polish forms of territorial nature conservation or Natura 2000 may be indicated. In the Polish conditions, within the frames of a given territorial form, the legislator focuses above all on the designation of a core zone, requiring the designation of a buffer zone obligatory only in the case of a national park, and optionally in the case of a nature reserve or a landscape park. The third type of a zone, the "transition zone",

<sup>16</sup> WITKOWSKI, Z., MROCZKA, A. Positives and negatives of coexistence of two networks: the Natura 2000 and the biosphere reserves in Poland. In: BREYMEYER, A. (ed.). *Międzynarodowe sieci obszarów chronionych w Polsce: światowa sieć rezerwatów biosfery UNESCO-MAB i Europejska Sieć Natura 2000*. Warszawa: Polski Komitet Narodowy UNESCO-MAB, 2011, pp. 38–40. ISBN 978-83-7585-141-0.

is unknown in the Polish nature conservation law. Meanwhile, the interpretation of the three zones of the MAB Programme is in practice sometimes conducted in Poland in a completely different way. The example of it may be the Bory Tucholskie Biosphere Reserve, where the core zone includes the Bory Tucholskie National Park and 25 nature reserves, the buffer zone includes four local landscape parks, whereas the transition zone includes the area of 22 neighbouring gminas, situated outside the indicated national park and landscape parks.<sup>17</sup> Such a broad approach to designating three zones of a UNESCO biosphere reserve must bear, beside the doubts of legal nature, a lot of practical difficulties, taking for example into account the necessity of cooperation between a large group of administrative bodies, which are responsible for those conservation forms and areas.<sup>18</sup> It is also assessed that the lack of independent legal bases for UNESCO biosphere reserves in Poland results in their omission in the process of widely understood environmental planning, regional and spatial development.<sup>19</sup> However, there is a chance that the situation will improve to some extent on account of the landscape audit in voivodships.

To sum up, the current legal state of UNESCO biosphere reserves in Poland constitutes a factor weakening the opportunities to fully use those areas in such a way as required in the MAB Programme. There is no doubt that within ten Polish reserves, out of three functions indicated in article 3 of SFWNBR, the conservation function is realized most efficiently, whereas the realization of the two others (development and logistic support) encounters a lot of difficulties, the source of which is in the first place legal insecurity, carrying with it both organizational difficulties and the lack of an independent financial source necessary to fulfill those functions.<sup>20</sup> In the light

<sup>17</sup> Rezerwat Biosfery Bory Tucholskie. Available at: [http://www.pnbt.com.pl/rezerwat\\_biosfery\\_bory\\_tucholskie-309](http://www.pnbt.com.pl/rezerwat_biosfery_bory_tucholskie-309)

<sup>18</sup> ANTCZAK, A. Biosphere reserve management: a necessity or an extravagance? In: BREYMEYER, A. (ed.). *Międzynarodowe sieci obszarów chronionych w Polsce: światowa sieć rezerwatów biosfery UNESCO-MAB i Europejska Sieć Natura 2000*. Warszawa: Polski Komitet Narodowy UNESCO-MAB, 2011, pp. 98–99. ISBN 978-83-7585-141-0.

<sup>19</sup> DĄBROWSKI, P. *Factors hampering the functioning of the Polish biosphere reserves*. In: BREYMEYER, A. (ed.). *Międzynarodowe sieci obszarów chronionych w Polsce: światowa sieć rezerwatów biosfery UNESCO-MAB i Europejska Sieć Natura 2000*. Warszawa: Polski Komitet Narodowy UNESCO-MAB, 2011, pp. 122–123. ISBN 978-83-7585-141-0.

<sup>20</sup> DENISIUK, Z. Polskie rezerваты biosfery – oczekiwania i nie spełnione nadzieje. *Roczniki Bieszczadzkie*, 2003, Vol. 11, pp. 225–226.

of the MAB Strategy 2015–2025, requiring among other things that “states and other entities with territorial and governance competences explicitly integrate biosphere reserves into national and regional development, territorial planning, environment and other sectoral legislation, policies and programmes, and support effective governance and management structures in each biosphere reserve” (Strategic line of action – A.1.) – the Polish state once again is facing the challenge of elaborating well-thought and coherent legal basis of the functioning of UNESCO biosphere reserves.

Meanwhile, the analysis of the MAB Strategy 2015–2025 provides foundation to indicate that a significant attention is paid in that period to the “development” function of biosphere reserves (Strategic Action Area A “The World Network of Biosphere Reserves consisting of effectively functioning models for sustainable development”). From the Polish perspective, it may be interpreted as an impulse to double the effort – to resolve the problem of the lack of independent legal basis not only by recognizing the construction of biosphere reserves in the Polish law, but also by broadening the regulation of that issue, among others, by introducing the ecosystem services. According to the Lima Action Plan (2016–2025), reserves should be “recognized as sources and stewards of ecosystem services” (outcome A.7 of Strategic Action Area A) through the following actions: “identification of ecosystem services and facilitation of their long-term provision, including those contributing to health and wellbeing; implementation of mechanisms for the equitable payment for ecosystem services (PES); implementation of programmes to preserve, maintain and promote species and varieties of economic and/or cultural value and that underpin the provision of ecosystem services”.

In the simplest way “ecosystem services” are defined as “the benefits people obtain from ecosystems”, distinguishing their types: 1) provisioning services, 2) regulating services, 3) cultural services, 4) supporting services. Whereas, PES is defined as “arrangements between buyers and sellers of environmental goods and services in which those that pay are fully aware of what it is that they are paying for, and those that sell are proactively and deliberately engaging in resource use practices designed to secure the provision of the services”.<sup>21</sup>

<sup>21</sup> GLOBAL ENVIRONMENT FACILITY. *GEF Investments on Payment for Ecosystem Services Schemes*. World Bank: Washington, DC, 2014, [online]. Available at: <https://openknowledge.worldbank.org/handle/10986/20681>; License: CC BY 3.0 IGO; p. 3.

The following types of PES systems may be distinguished: 1) public payment schemes (government pays land or resource managers to enhance ecosystem services on behalf of the wider public); 2) private payment schemes (self-organised private deals in which beneficiaries of ecosystem services contract directly with service providers); 3) public-private payment schemes (both government and private funds pay land or other resource managers for the delivery of ecosystem services).<sup>22</sup> The concept of ecosystem services and PES are the object of naturalists' and economists' interest in Poland, however, they are not of great interest to lawyers. In an interesting way, the conception in legal aspect is characterized by J. Salzman, who says that it provides an alternative to current models of legal regulations of environmental protection, based on the "polluter pays" principle. Within the concept of ecosystem services a desired environmental effect is achieved as an agreement with land or resources managers, who are no longer treated *en bloc* as "polluting" environment. Through conscious and environmentally friendly conduct they become holders of goods and services, for which they can obtain remuneration ("beneficiary pays" approach). According to J. Salzman, treating those ruling the earth's surface, on which there are natural elements, as "contractors" meeting the objectives of environmental protection in their individual dimension, has one more advantage – it offers a chance to extend the areas under desired protective actions and environmentally friendly management, especially the areas which are usually under stronger human pressure.<sup>23</sup> In the case of UNESCO biosphere reserves it especially applies to the areas situated in the transition zone.

The Lima Action Plan (2016–2025) indicates exactly this direction of shaping the relationship between human and the environment in land use as desired for further development of UNESCO biosphere reserves. In Polish conditions, taking into account the difficulties connected to the location of the MAB Programme in the Polish legal system, as well as the lack of detailed legal analyses dedicated to the concept of ecosystem services and its meaning in land use, the prospects of fulfilling the objectives of the MAB Programme by the year 2025 should be judged pessimistically.

<sup>22</sup> UK Department for Environment, Food and Rural Affairs. *Payments for Ecosystem Services (PES): best practice guide*, 2013 [online]. Available at: <https://www.gov.uk/government/publications/payments-for-ecosystem-services-pes-best-practice-guide>; p. 16.

<sup>23</sup> SALZMAN, J. A Field of Green? The Past and Future of Ecosystem Services. *Journal of Land Use and Environmental Law*, 2007, Issue 2, pp. 138–139, 147.