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LIFE IN A CLEAN ENVIRONMENT AS A PERSONAL INTEREST

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ABSTRACT: The purpose of this article is to assess the emerging trend in Poland for seeking redress dictated by the inadequate state of the environment, based on the concept of personal rights. The considerations begin with the classification of life in a clean environment internationally. Then, the topic of determining the nature of the right to live in a clean environment in the Polish legal order is raised. First of all, constitutional regulations in this respect are assessed. In the further part of the work, the considerations focus on the subject of life in a clean environment treated as a personal interest, which is closely related to the findings made in part on the constitutional approach to the use of the natural environment. As a part of these considerations, the issue of addressing possible claims is also raised. The paper presents a general assessment of the enforcement of the right to live in a clean environment by formulating claims based on the concept of violation of personal rights, in particular those, which include financial demands.

KEY WORDS: environment, health, personal interest, compensation

Introduction

The natural environment creates conditions for proper functioning and development of the society. The condition of the community influences the quality of life of the society as a whole and of the individuals living in it. In the 1990s, the American philosopher and law professor James W. Nickel formulated the question: "Should environmentalists use rights language?" (Nickel, 1993). It seems that there are three standpoints in this respect – two extreme and one intermediate. The first of them approve of speaking in terms of rights about all environmental issues, including biotic or animal rights (e.g. Shelton, 2015). The opposite view assumes the avoidance of using legal categories in relation to the sphere of the environment (e.g. Stone, 1987). In this regard, the indirect position Nickel postulates assume using rather categories of environmental goods, respect for them and obligations towards nature, resting on both present and future generations. On the basis of this concept, he does not deviate completely from speaking about the rights related to functioning in the natural environment. It is emphasized, however, that this should only concern the most important issues, such as the right to a safe environment (Nickel, 1993). Contemporary discussion on this topic goes much further, as it reveals a tendency to treat the ht to the environment in terms of human rights. A proper environment is a prime condition for the fulfilment of other individual rights, hence the justification that such a claim is a fundamental matter.

The connection between human rights and environmental law in international law appeared in the 1970s. At The United Nations Conference on the Human Environment, held in 1972 in Stockholm, the so-called The Stockholm Declaration, which endorses the direct links between the human environment and his fundamental rights, including the right to life, was accepted (Stockholm Declaration, 1972). Also in The Rio Declaration on Environment and Development in principle 1 it was pointed out that human beings are at the centre of concerns for sustainable development and they are entitled to a healthy and productive life in harmony with nature (Rio Declaration, 1992). However, no specific regulations were formulated that would directly enunciate the human right to the environment. The human rights acts in force concern human rights to the environment indirectly, treating them as falling within the scope of the right which is directly protected. An example in this respect may be Art. 12 of The International Covenant on Economic, Social and Cultural Rights, which provides the right of everyone to enjoy the highest attainable state of physical and mental health (International Covenant, 1966). In practice, this provision may also apply to environmental issues to the extent that they may constitute an obstacle to the enforcement of this right.

The view contained in the Report to the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities is important in this respect (Ksentini, 1994). In this report, the author points out that in international law there are tendencies to shift the emphasis from the position of international law relating to the environment to the position of the human right to a satisfactory environment. It is true that universal norms of international law do not explicitly define the human right to the proper environment, however, according to the author, this right can be derived from other human rights, and it falls under the existing system of protection of human rights. The author of the report indicates that they can be derived from the norms of substantive law, including the right to life, proper healthcare, the right to food, the right to private property, etc., and procedural standards, in particular the right to information and access to justice. Also, under Polish law, there is a conviction that the environment is a common good, which is why its protection should be a priority from society's point of view and thus be addressed by the combined efforts of the governments and individuals in order to realize the public interests. Its high priority is primarily supported by the fact that in the Constitution of the Republic of Poland, the country's supreme law, the Polish legislature has extensively outlined numerous issues concerning the environmental protection and obligations for public authorities to fulfill in that regard. Regulating the matters of the environmental protection in the Constitution is of utmost importance, as it enlists the most crucial points concerned with the organization of the state. Consequently, providing society with the appropriate environmental conditions is one of the government's fundamental duties. Considering these points, it can be concluded that every citizen should be guaranteed a right to environment usage. The logical consequence of such a notion is the following question: can such law be executed efficiently?

An overview of the literature

The issue of considering environmental issues in legal terms is widely described, in particular at the international level. Many papers have been published presenting various concepts in this respect – from extreme, ordering a close relationship between these two spheres (Shelton, 2015), through indirect, accepting mutual relations of law and environment, but properly balanced (Nickel, 1993), and extremely avoiding any connections between these two areas (Stone, 1987). This discussion has evolved towards accepting the validity of environmental rights and giving them the value of human rights. As for the ground of Polish law and the title problem of a clean environment treated as a personal right, it should be emphasized that this is a

novelty in Polish public space. Until now, the doctrine rather talked about the possibility of enforcing the right to a clean environment, citing violation of other personal rights (Smólska-Korpała, 1981). This concept was approved in the jurisprudence (e.g. docket number: I CR 356/75). The opposite standpoint also appeared; however, it did not find clear support in case law (Radecki, 1983). Currently, the problem of a clean environment treated as a personal right is a novelty in Polish public space. The discussion on this topic was initiated in 2015, when a Polish citizen residing in the Śląskie Voivodeship, one of the most polluted areas in the country, filed a lawsuit against the State Treasury (docket number: II C 1259/15). He demanded financial compensation for the violation of the personal right to live in a clean environment. This case has not yet been completed. The first instant court hearing ruled that living in a clean environment is not a personal right, while the second instance court hearing asked the Supreme Court to resolve the legal question presented.

The institution of legal questions (Art. 390 of the Code of Civil Procedure) serves to ensure uniformity, correctness and stability of court decisions. Importantly, a resolution of the Supreme Court resolving a specific issue is binding on the given case. This is very important in the context of personal rights because of the regulations in Art. 23 of the Civil Code, which provide for them, only list a sample catalogue of personal rights. Hence the general conclusion that there are also other personal rights not mentioned in this provision. With regard to the recognition of these “other” goods, an important role is attributed to judicature because each time the plaintiff formulates a request based on the violation (or threat) of his personal interest that is not listed in the Civil Code, the court first decides whether such personal interest exists at all. The court’s decision to recognize the value indicated by the plaintiff as personal interest is in a way the basis for formulating claims on such grounds for the future. It is true that everything depends on the circumstances of the case, but the mere recognition of the existence of specific personal interest, in at least one case, enlarges the catalogue of examples of personal rights that can be invoked. When it comes to living in a clean environment treated as a personal right, it should be emphasized that it is a new approach. The mere interest in enforcing this right is a recent phenomenon. This is due to the fact that in Poland it was only recently that the awareness of the need to care for the state of the environment and legal measures to enforce the right to live in a healthy environment begun to arise. From the overview of research on ecological awareness of Poles carried out in the years 1992-2012 (Kłos, 2015), it appears that Polish society at the turn of the 1980s and 1990s was at the stage of shaping ecological awareness. On the one hand, Poles were becoming aware of the importance of environmental

protection for their lives and health; on the other hand, they did not know how to use this knowledge in practice. Emerging environmental organizations and associations (e.g. Klub Przyrodników) played a large role at that time. In the first years of the 21st century, an increase in the level of appropriate social attitudes towards the natural environment was noted. Importantly, Polish citizens increasingly began to notice the close relationship between their own behaviour and the quality of the environment. The overview of the research also shows that the number of people representing the attitude of the so-called ecological indifference began to decrease. The current state of ecological awareness is to some extent shown by the one-themed research conducted for the Ministry of the Environment in 2019, which concerned the awareness and ecological behaviour of Polish residents in the area of air quality, waste management and the so-called returnable bottles. Due to the theme of this work, the results of the air quality research will be presented (Jakość Powietrza, 2019). According to these surveys, only 1/3 of respondents take actions aimed at protecting their own health connected to air quality at their place of residence. The survey report indicates that this mainly applies to residents of large cities. It is also pointed out that every third Pole makes personal efforts to reduce emissions. The sample tested is representative because it takes into account demographic variables: gender, age and place of residence. The results of the study lead to the conclusion that the ecological awareness of Polish society is increasing, but it is still not fully satisfactory. Poles' ecological awareness can be described as germinating. This, in turn, means that some citizens, out of concern for their health and life, have decided to enforce the right to live in a clean environment through the courts. Until now, these were lawsuits based on the violation of already recognized personal rights, such as, for example, freedom of movement or privacy (e.g. Judgment of the Regional Court for Warsaw-Śródmieście in Warsaw – VI Civil Department of 24 January 2019, VI C 1043/18).

Environment as a constitutional right

It has been accepted in the doctrine that environmental law should be included in administrative law. It should be noted, however, that the objectives of environmental protection are also implemented by means of norms belonging to other branches of law, in particular constitutional law, public international criminal law. It is emphasized that the characteristic of this law is the fact that it “contacts” various areas of law (Cieślak, 2011). This chapter will detail the constitutional regulation of environmental issues, which may help answer the question about the nature of the right to live in a clean environment.

In the Constitution of Poland, the state lawmaker has extensively outlined numerous points concerning environmental matters. Constitutional codes focus chiefly on the obligations of the state authorities towards its protection. However, they do not limit those responsibilities exclusively to the respective government's acts. The regulations also place the duty to safeguard its well-being on every citizen. Art. 86 of the Constitution of Poland declares that *"Everyone shall care for the quality of the environment and shall be held responsible for causing its degradation"*. Within the frame of Polish constitutional doctrine, it became accepted that the aforementioned obligation comprises both the abstention from the acts that might prove harmful for the environment, and active participation in measures aiming to combat or prevent the environmental degradation and to restore the ecological balance.

However, for purposes of this paper, it is more imperative to focus on duties concerning the environmental protection on the authorities' part. Notwithstanding, it is worth remembering that an appropriate attitude and consciousness amongst the individuals towards the problem can facilitate the pursuit of a pro-ecological policy by the state. The Constitution of Poland underscores the following duties of the authorities concerning environmental protection:

- the duty to prevent the negative health consequences of degradation of the environment – Art. 68(4),
- the duty to pursue policies ensuring the ecological security of current and future generations – Art. 74(1),
- the duty to protect the natural environment – Art. 5 and Art. 74(2),
- the duty to support the activities of citizens to protect and improve the quality of the environment – Art. 74(4).

The regulations concerning the protection of the environment are justified by Art. 1 of the Constitution of Poland, which states *"The Republic of Poland shall be the common good of all its citizens"*. The aforementioned duties vary in their nature. Part of them directly addresses environmental protection, while others involve it indirectly – their main goal being the protection of other values connected to the environment.

Art. 74(1), which concerns providing the ecological protection to current and future generations, can be rated among the former group. Ecological protection does not possess a legal definition. However, the interpretation of this term is conducted by the doctrine. According to the most common view, providing ecological security should be summarized as defining the optimal health conditions and providing them to the people due to the environmental situation. Such actions should involve the evaluation of potential dangers originating from the pollution, and the construction of the rules preventing the effects of biological, chemical, or physical pollution. To summarize, the

state is accountable for environmental protection, and this is constituted within the expectations and needs of the members of the society.

The next obligation included in this category is the duty described in Art. 5 and Art. 74(2) of the Constitution of Poland, which directly underscores the necessity of environmental protection. Said protection was defined in Polish law in Art. 3(13) of the Environmental Law Act, which states that the environmental protection is defined as *“action or abstaining from therein to preserve or restore the natural ecological balance; this protection involves in particular: reasonably shaping the environment and managing environmental resources in accordance with the principle of sustainable development, pollution prevention, and restoring the elements of the environment to their natural state”*.

The last duty worth mentioning at this stage is the duty of the state authorities to support the activities of citizens aiming to protect and improve the state of the environment. In this case, the obligations of the state are limited to support for pro-environmental initiatives taken by citizens. The doctrine underlines that this law is very general and declaratory, which makes it impossible to derive any concrete legal rights.

The duty applicable to the second discussed category is the prevention of negative consequences of environmental degradation. Art. 68 outlines the universal privilege to protect one's health, while Paragraph 4 of the same article associates the possibility of using this privilege with the necessity to provide an appropriate environment, which will not negatively influence the people's health. The fundamental value protected by this law is thus the human health, whereas the appropriate care about the environment is somewhat a guarantee of the ongoing respect towards this value.

The aforementioned obligations are mainly guidelines, whose core is giving the state authorities certain sets of goals while simultaneously not explicitly stating how these duties are to be fulfilled or what exact consequences the failure to meet those expectations should eventually bring. The Constitution of Poland does not introduce a pronounced right to live in a clean environment. However, in the light of aforesaid laws, the thesis that a clean environment is a constitutional right is entirely justifiable. The point is further supported by the ruling of the Constitutional Tribunal of May 13th, 2009 (docket number: Kp 2/09), in which the Tribunal, analyzing regulations stated within Art. 68(4), Art. 74, Art. 86, and also Art. 31(3), ruled that *“The first of the regulations in question obliges the state authorities to prevent the negative consequences of the degradation of the natural environment. The second states that the protection of the environment is a duty of the state authorities, the policies of which are to ensure the ecological safety for the current and future generations (as well as support citizens in their efforts towards both the*

environmental protection and the improvement of the state of the natural environment). The third law introduces the general duty to protect the state of the natural environment and mentions the eventual consequences of damaging the environment, based on the laws included in the statute. The combination of all aforementioned laws leads to the conclusion that "healthy" environment is, in fact, a constitutional right, the realization of which should the process of the interpretation of the Constitution be subordinated to". Consequently, it ought to be assumed that the right to a clean environment is a constitutional right, and in situations when executing it becomes difficult or is obstructed, citizens should possess the right to demand the reinstating of the factual opportunity to this privilege.

Life in a clean environment as a personal right

The literature indicates that environmental protection standards are oriented not only towards the public interest but also the private interest (Stelmasiak, 2013). Indeed, the dominant tools used under this law are public law instruments, but the scope of using private law instruments is also gradually increasing, particularly the claims for compensation and restitution (Skoczylas, 1989; Rakoczy, 2015).

As mentioned before, the right to live in a healthy environment was not precisely defined neither in the Constitution of Poland nor in the lower legislations. Nonetheless, based on enforced environmental laws, especially on the constitutional level, a reasonable conclusion stating that such laws apply to every individual, can be raised. The natural consequence of pledging for any law is the possibility of enforcing it, especially in courts. This opportunity originates from Art. 45 of the Constitution of Poland, enacting a universal a right to a fair trial. Claims concerning matters connected with the poor environmental condition can be brought to a civil trial, in particular in the character of claims for damage. In this case, damage can be interpreted as the state of affairs varying on the circumstances, e.g. damage to health, a decrease in the value of a property, etc. Thus, the matters in question are financial losses, i.e. the kind of damages that are economic in nature. Increasingly, however, aside from, or perhaps in the place of usual financial losses, people do seek legal claims by responsibility for the so-called infringement of personal interests.

What, then, are personal interests? Concerning the matter of their protection, Art. 23 and Art. 24 of the Civil Code regulate the subject. The first law contains a catalogue of the possible examples of personal interests and guarantees their protection on the grounds of civil law. The list includes the following personal interests: health, freedom, honour, freedom of conscience,

surname or pseudonym, image, the confidentiality of mail, immunity of residence, work in the fields of science, art, inventions and streamlining. In the Polish doctrine of the civil law, personal interests came to be defined as non-financial personal values and are an expression of human dignity, mainly concerning the matter of individuality, as well as both physical and mental integrity of a person (Machnikowski, 2019). This definition points towards the fact that personal interests are assigned to every person and are inalienable, just as human dignity is an imperative right. That human dignity is what every human is entitled to for the sole reason of being a human. The privilege is inborn and cannot be renounced. However, the character of individual interests should be examined based on objective criteria, which means a case-by-case classification of a situation in the framework of the social appraisal of the behaviour at hand, and not solely on the subjective feelings of the given individual. Personal interests are values vital for the entire society. It is also worth underlining that those values change with time, dictated by what merits are widely respected at the moment. Another characteristic of personal interests is their non-material character, which means they are not usually evaluated in economic terms. They are commonly held at a higher esteem than financial rights due to the close connection to human dignity. As mentioned before, the list of personal interests in Art. 23 of the Civil Code serves merely as an example. Sometimes it is said that it is an open catalogue (Sobolewski, 2020); however, this formulation should be used with caution. The term "open-ended" could potentially suggest certain flexibility when defining further personal interests, without any reflection on their actual state. The doctrine sometimes indicates that in a sense this catalogue is closed because the list is dependant on how many and which humane values the society currently recognizes and deems as the most important for the public (Machnikowski, 2019). This view is justified due to the fact that it is not possible to express approval for an unlimited extension of the catalogue of personal rights from Art. 23 of the Civil Code. Therefore, certain features have to be specified that a given value must have in order to qualify as a personal interest. It is emphasized in this connection that personal rights are values that are closely related to the essence of humanity and the nature of man, independent of his will, of a permanent nature and can be specified and objectified, or being a manifestation of creative activity, testify to the individuality of man (Grzybowski, 1957). The aforementioned Art. 24 of the Civil Code enumerates the catalogue of means entitled in the case of danger or infringement of personal interests, assuming that such action goes against the law. Among them, there are included financial claims, namely the ones demanding a monetary reparation or a particular payment for an indicated social cause, and fixing the property damage.

Moving the deliberation about personal interests towards the possible claims concerning the worsening state of the natural environment, it is necessary to state at the beginning that applying such construction to vindicate the examined rights is far from simple. The proceeding of the possible infringement of personal interests requires to present the subject responsible for the violation (or endangering), reasons showcasing his liability, and evidence of the infringement (or threat). The most extensive doubts concern the question of whether life in a clean environment is an individual right. An unequivocal answer in this respect is necessary because only establishing that there has been a violation of personal rights determines the possibility of considering the issue of liability in the light of Art. 24 of the Civil Code.

There are two basic views of the doctrine. The first refuses to grant an independent legal personality to a personal interest in the form of a clean environment. On the basis of this theory, the inherent nature of the subjective right to live in a clean environment is negated, which is justified by the thesis that it is unnecessary to fragment existing personal rights (Smólska-Korpała, 1981). The position of the Supreme Court from the 70s of the last century is significant in this respect, in which it was stated that the human right to an uncontaminated environment could be protected by means of instruments provided for in Art. 24 of the Civil Code, when the violation of this right also constitutes a violation or threat to personal rights from Art. 23 of the Civil Code (docket number: I CR 356/75). Therefore, on the basis of this concept, it is not possible to individualize the personal interest in the form of the natural environment.

The second concept assumes that a clean environment should be seen in the category of independent personal interest (Radecki, 1983). Referencing the aforementioned doctrinal definition of personal rights, one can state that it is justified to include living in a clean environment in such a category. It is a certain non-financial value for the healthy environment is a fundament of human existence (and by extension, the society as a whole) to properly function, which can fulfil both financial and non-financial human rights. However, the healthy environment by itself is an invaluable right, impossible to measure in economic terms. While referencing the other definition of personal interest, it is necessary to concur that functioning in a healthy environment is closely connected to a human being and is a representation of one's dignity. Every person is guaranteed the right to use the environment for the sole reason of being a human. It correlates with human dignity as it assures the proper conditions towards maintaining said dignity. The statement about the independent nature of the right to live in a clean environment is based on constitutional regulations. Although there is no provision that would explicitly indicate such a right, in accordance with the rules of proper legislation

referred to in Art. 2 of the Constitution, the law should not only declare future rights. It seems, therefore, that the right to live in a clean environment can be interpreted in particular from Art. 74(2) of the Constitution. Since environmental protection is the responsibility of public authorities, the consequence of its implementation should be a clean environment. In addition, constitutional provisions have been made more specific by the norm from Art. 4 of the Environmental Protection Act (Prawo ochrony środowiska, 2001) according to which everyone is entitled to the universal use of the environment by law and which includes the use of the environment, without the use of installations, to meet personal and household needs, including leisure and sports.

These reflections are not far from reality, as presently there has been an ongoing passionate debate in Poland, regarding whether life in a healthy natural environment is a personal interest, or not. The direct source of this debate was a case of a citizen of Rybnik (a city in Southern Poland), who in 2015 sued the State Treasury in Poland, demanding reparation of fifty thousand zlotys for the infringement of personal interests due to high level of air pollution in the city (docket number: II C 1259/15). In his explanation, the plaintiff indicated that he had been living in Rybnik for several years, and every year the weather reports indicated that air pollution levels severely bypassed the norm, e.g. the concentration levels of PM10 and PM2.5 dust, sulphur dioxide, and carbon monoxide. The plaintiff believed that inhabiting a terrain with such volatile environmental conditions resulted in numerous negative consequences. The plaintiff mainly underscored the enormous physical discomfort, usually manifesting itself as fears concerning the influence of polluted air on his and his loved ones' health. He argued further that the pollution leads to the lowering of the comfort of living and limits the freedom to use one's property and movement, especially in the light of recommendations from authorities to stay inside homes due to the presence of dangerous substances in the air. The plaintiff supported his claim by both EU and Polish laws. As a basis, he included the directive 2008/50/EC of the European Parliament and of the Council of 21st May 2008 on ambient air quality and cleaner air for Europe. Furthermore, he invoked Art. 5 and Art. 74 of the Constitution of Poland, stating that the public authorities are obliged to protect the quality of the environment and strive towards improving it. As the basis for the claimed responsibility of the State Treasury for the infringement of personal interests, the plaintiff invoked Art. 448 and Art. 417 of the Civil Code, which concern the claims in the case of the infringement of personal interests and the responsibilities of the State Treasury for the damage resulted due to its actions. The court of the first instance ruled that life in a clean natural environment cannot be generally recognized as a personal interest while acknowledging that a polluted environment does influence or

could potentially influence other personal interests, whether listed in the Civil Code or acknowledged under different judicial decisions.

While the court agreed with the plaintiff that the quality of air in Rybnik does leave much to be desired, it ruled that such a fact did not infringe a recognized personal interest that is health. It was added that the right to free movement was not violated and that the plaintiff was able to move out of Rybnik. The case was investigated by Polish Ombudsman, who demanded the claim to be re-examined by the court of the second instance. The court of appeal did not announce a substantive verdict but rather took the case to the Supreme Court with a request to settle the disputed legal issue (Art. 390 of the Code of Civil Procedure). Namely, it was the question of whether life in a clean environment is a personal interest, which can be potentially enforced in the court of law. The Supreme Court's ruling of this case can be a turning point in the ongoing discussion regarding the subject. On the one hand, it can open or close the door to future lawsuits against the State Treasury for the infringement of the personal interests of the citizens due to the negligence of the natural environment. On the other, it will reflect what axiological stance the Polish statute currently possesses, as to whether it is, in fact, connected with human dignity in the understanding of the Polish law.

The lack of a unitary stance in the doctrine and judicial decisions regarding the question of whether life in a clean environment is a personal right is not the only obstacle in the realization of such claims. Another problematic issue is the matter of who should be a respondent to such lawsuits – the central power or local authorities. From the evaluation of the author of this work, the party which such eventual claims should be directed towards is the State Treasury and not the local authorities. Primarily, the state (understood as the central authority) has a far greater range of options and possible measures to influence environmental politics in comparison to local authorities. The most efficient tools in that regard are the legislative powers, that is, those constituting appropriate regulations introducing concrete instruments towards the prevention of environmental pollution. In addition, there is a broadly developed government clerical apparatus in the field of environmental protection – both at the central and field level. Such central-level bodies include, first and foremost, the minister competent for the environment, the minister competent for the climate, government plenipotentiaries in environmental matters, the General Director for Environmental Protection, the Chief Inspector for Environmental Protection or the President of the National Water Management Board. At the local level, they include regional director for environmental protection, voivodship inspector for environmental protection, director of the regional water management board or director of the regional mining office. The extensive organizational network of government administra-

tion in the field of environmental protection implies a claim on the multitude of tasks carried out by these bodies. This also gives grounds to the claim that the central government has greater opportunities in the field of environmental protection. Addressing claims to local authorities is likely to end in failure, due to the fact that the legislator at the local level did not foresee such broad tools for combating environmental pollution as the ones at the governmental level. In the doctrine, tasks at the local government level were divided into four groups: organizational, direct-executive, obligatory-regulatory and supervisory-control tasks (Górski, 1992). As an example of organizational tasks, one can indicate the creation of self-government environmental protection programs (e.g. Art. 107 of the Environmental Protection Law). Direct-executive tasks are those that involve the elimination or reduction of specific threats arising as a result of the functioning of local communities, e.g. the generation of municipal waste. The binding and regulatory tasks consist of establishing specific bans and orders against entities that influence the environment or use it (e.g. Art. 116 of the Environmental Protection Law). As far as supervisory and control tasks are concerned, they consist of examining the state of the environment and complying with specific obligations in this respect (e.g. Article 379 of the Environmental Protection Act). The role of local government environmental bodies in the environmental law system is obviously big; however, the strongest tools for implementing environmental protection remain in the hands of central authorities. First of all, the most important in this respect is appropriate lawmaking, which is the responsibility of the legislative authority, because it is the applicable law that is the basis for all the rights and obligations of specific authorities. In practice, proving the lack of necessary activity from the local authorities and the fact that poor air quality is a result only of inappropriate policies of the local government is nearly impossible. As a consequence, when deciding to execute the right for a clean environment, it seems more efficient to direct the eventual lawsuits towards the central authority.

Conclusions

The right to a clean environment is a privilege of every individual since the environment creates the fundamental conditions for the survival and development of society. Its state determines all aspects of individual people's functioning. Based on the above considerations, it can be concluded that living in a healthy environment has the characteristics of personal interest within the meaning of Art. 23 of the Civil Code. In Polish law, the infringement of personal interest (or threat to) can result in particular resolutions imposed by the court of law, including those granting a recompensation to

the sufferers. When considering the concept of environmental actions in which specific financial demands are formulated, one should think about the sense of such a solution. If such an action is aimed at providing the public authority with an additional stimulus and motivation to make efforts to improve the state of the environment, then such an initiative should be considered right. It should be noted, however, that even if one considers life in a clean environment as a personal interest, it cannot be given an absolute character. The dynamic development of agglomerations, industrial centres and various civilization structures, on the one hand, causes some nuisance, but on the other hand, it is, as a rule, socially desirable and accepted. Therefore, assessments cannot be made in this respect, ignoring the current economic context. If these aspects are not taken into account, the provisions of Art. 5 of the Civil Code, which is an abuse of subjective law, might be made of us. As a result, basing the request on the concept of violation of personal interest may end up being classified as an attempt to obtain unjustified material benefits. Therefore, it should be recognized that this solution should be used in exceptional situations, where evident negligence on the part of public authorities resulting in violation of citizens' right to live in a clean environment can be identified.

In an ideal assumption, environmental protection and efforts towards improving the state of the environment should rather take the form of concrete actions, instead of filing lawsuits against the public authorities, and by extension co-citizens, for long-term negligence concerning the matter. This is since Art. 86 of the Constitution of Poland obliges every citizen to care for the environment and as a consequence, holds them responsible for every instance the state of it worsens due to earlier actions. As an example, in the majority of cases, the reason for the creation of smog is so-called low emission (Smog – przyczyny i możliwości zwalczania, 2017), e.g. emission from cars or households warmed with coal. Thus, one must conclude that society does have a tremendous impact on what state the common good, our environment, is in. Based on these conclusions, the administrative measures, such as the introduction of plans guaranteeing payments for the replacement of furnaces or linking residential areas to heating systems, seem to be a far more prominent alternative. In this regard, it is worth mentioning the expectations of the members of society themselves. According to the research on air quality conducted for the Ministry of the Environment in 2019 (Jakość Powietrza, 2019), actions aimed at improving air quality should take the form of replacing old furnaces with low-emission ones, increasing the control of exhaust emissions in cars and increasing control over what is burned in home stoves. A crucial role is also played by public education in the field of environmental protection. Unfortunately, in Poland, littered forests and rivers, and the lack of com-

mitment to the obligation to segregate waste are still fairly common phenomena. Changing that requires a reformation of the collective consciousness of society members concerning the ecology and environmental protection. Social campaigns and various projects promoting pro-ecological behaviour are desirable in this respect. Such mechanisms result in shaping models of socially desirable behaviour. In addition, content related to economic awareness should be the subject of the core curriculum in schools at the lowest levels of education. Shaping ecological awareness in children and adolescents is crucial in this respect. It is worth remembering that the diligence towards the environment is a duty of the society as a whole, its representatives serving specified governmental functions, and individual people. Therefore, even the most innovative solutions will not have the same force as the actions of the whole society does, which comprise efforts concerning the condition of the environment, which, after all, is a common good.

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