

ENVIRONMENTAL RESTRICTIONS ON AGRICULTURAL PROPERTIES LOCATED IN PROTECTED AREA IN THE WESTERN POMERANIAN VOIVODSHIP

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Purpose: The aim of the publication is to provide a concise overview of the restrictions on the use of agricultural properties located in protected areas.

Design/methodology/approach: As regards protected areas the Central Statistical Office publishes basic information annually in its studies and in the Local Data Bank on the forms of nature protection established in a given area, such as the area and forms and use in general terms for the whole country or by voivodeship, district and sometimes commune. However, it does not provide information on the overlapping of individual forms of nature protection and their spatial distribution, which was necessary in the case of this study. Therefore, an analysis of the spatial distribution and diversity of protected areas in the West Pomeranian Province was carried out using data made available by the General Directorate for Environmental Protection (individual forms of nature protection), the Central Geodetic and Cartographic Documentation Centre (territorial division units of the country), and cadastral data by districts from the Land Parcel Identification System.

The study also used data from the Central Register of Nature Protection Forms maintained by the General Directorate for Environmental Protection and the Local Data Bank provided by the Central Statistical Office.

Findings: The most restrictive restrictions on the management of agricultural real estate in protected areas occur in the case of the two most important legal forms of nature protection: national parks and nature reserves. With regard to the other forms of nature conservation, these restrictions are not felt as much by property owners.

Originality/value: Research on the analysis of specific properties located in protected areas is rare. The authors wanted to show the constraints, difficulties faced by owners of agricultural properties located in environmentally valuable areas.

Keywords: agricultural real estate, protected areas, restrictions, use.

Category of the paper: Research paper.

1. Introduction

Empirical research on the agricultural real estate market had a regional character. It covered Zachodniopomorskie Voivodship, in which, as mentioned above, over 48.7% of the area is occupied by agricultural land, and protected areas account for approximately 21.58% of the area of the voivodship.

The study covered all poviats (counties) of Zachodniopomorskie Voivodeship in which protected areas covered by forms of nature protection occur.

Cities with powiat rights (Szczecin, Koszalin and Świnoujście) were excluded from the analysis due to their specific character.

In the studied poviats characterised by special natural values, the reconciliation of nature protection requirements and ensuring the possibility of exploiting natural resources requires the application of sustainable development principles and ensuring the favour of society for the development of protected area systems.

In Poland, the list of national parks, nature reserves and landscape parks has remained unchanged for many years, almost all Natura 2000 sites have also been designated.

The subject of the research was the agricultural real estate market, and the distinguishing feature of the agricultural real estate accepted for the research was its location in protected areas.

Environmental protection is the totality of measures designed to remedy or prevent damage to physical surroundings or natural resources, as well as measures designed to reduce the risk of such damage or encourage the efficient use of natural resources, including measures to save energy and use renewable energy sources (EU Commission Regulation No 651/2014). Due to the enormous importance of environmental protection in the economy, it is one of the most discussed topics. The search for how to achieve optimal economic development has always been one of the fundamental problems of modern economics. Taking into account the fact that societies, through their development, cause changes in the natural environment and spatial structure, the need for rational shaping of space and protection of natural resources is not in doubt and there are more and more arguments in favour of its implementation. However, we must be aware that certain investment arrangements cannot be introduced without detriment to ourselves. The role of the legislator in this process is to guarantee and reconcile different values in the system of law, so that to protect the environment but not to limit the economic progress. Unfortunately, restrictions on the use of property due to environmental protection is one of many cases where the property cannot be used to its full potential, regardless of the legal title held. Thus, environmental restrictions are able to affect the agricultural real estate market in a very burdensome manner, although those interested in acquiring agricultural real estate are usually interested in carrying out agricultural activities on it. In the case of this branch of economy, the dependence on environmental conditions is obvious. The production space here

is defined by environmental conditions, and agricultural production is based on the use of environmental resources (Otwowski, 2007). However, trading in agricultural real estate, in areas protected by establishing one or more legal forms of nature conservation, is subject to various restrictions.

2. Restrictions on agricultural real estate transactions in protected areas

Restrictions on agricultural real estate trade in protected areas result from local spatial development plans and protection plans established for particular forms of protection. Under the provisions of the Nature Conservation Act, protection plans are prepared for national parks, nature reserves, landscape parks and Natura 2000 sites. In the case of national parks, nature reserves and landscape parks, the protection plan is the basic document planning nature protection. For Natura 2000 areas, the plan of protection tasks is such a basic document, and the plan of protection is prepared for the area or its part only if there is a need to make the planning more detailed.

Table 1.

Validity of protection plans and protection tasks in individual forms of nature protection in the zachodniopomorskie voivodship

Specification	Protection plan	Conservation tasks
National parks	not in force	mandatory in two
nature reserves	in force in eighty-one	mandatory in seven
Landscape parks	mandatory in three	valid in seven
Natura 2000 area	mandatory in seventeen	not established

Source: own study.

In two existing national parks in Zachodniopomorskie Province, plans for protection tasks have been established. In case of nature reserves, out of one hundred and eighteen existing ones, only in eighty-one a protection plan is in force, in seven a plan of protection tasks is in force, in two of them both documents. For thirty-two reserves there are no protection plans or protection task plans in force. Out of seven landscape parks established in the voivodeship, three have valid plans of protection and four have plans for protection tasks. In the case of eighty-five Natura 2000 areas established in the Zachodniopomorskie Voivodeship, only seventeen have a protection plan.

It is very important that the marketing of agricultural properties located in areas valuable for natural reasons depends on the possibility of using the property for economic activity (Blaszke, 2018a). As a rule, the activities undertaken on the property must not adversely affect the protected nature (Blaszke, 2018b). In national parks and nature reserves there are restrictions on most types of use, with a full prohibition of interference in the case of strict protection zones. The establishment or enlargement of a national park or nature reserve by areas

that constitute real estate not owned by the State Treasury takes place with the consent of the real estate owner. If the owner does not agree then expropriation of the property in question is carried out (Ogonowska, 2018).

The conducted research has shown that the properties included in the two national parks established in the West Pomeranian Voivodeship are in the vast majority owned by the State Treasury. Ownership of real estate by natural or legal persons concerns 1,237.43 ha under active protection (87 properties, including 31 agricultural ones) and 1.54 ha under landscape protection (three properties, including one agricultural one) in the case of Wolin National Park, as well as an area of 2.4164 ha under landscape protection (one property) in Drawieński National Park.

Table 2.

Entities that own properties included in the Wolin National Park and the Drawa National Park

Type of protection	Ownership	Area
Wolin National Park		
strict protection	State Treasury	500,19 ha
active protection	State Treasury	9 135,66 ha
	natural and legal persons	1 237,43 ha
landscape protection	State Treasury	60,08 ha
	natural and legal persons	1,54 ha
Drawa National Park		
strict protection	State Treasury	18 553,6482 ha
active protection	State Treasury	10 563,8814 ha
landscape protection	State Treasury	82,2182 ha
	natural and legal persons	2,4164 ha

Source: own study.

In the surveyed period no agricultural real estate owned by a natural or legal person located within the boundaries of national parks was traded. However, if the owner of a property located within the boundaries of a national park decided to sell it, then the national park has the right of first refusal to purchase this property in favour of the State Treasury.

3. Statutory prohibitions and restrictions on agricultural properties located in protected areas

On the territory of national parks and nature reserves it is prohibited to carry out agricultural activities, except for places designated for this purpose and the use of chemical and biological plant protection products and fertilizers (Skotarczak, Blaszkę, 2019). The area in which farming is possible is determined by the Minister for the Environment (Slusarz, 2018). The said prohibition does not apply to areas under landscape protection during their economic use by organisational units, legal or natural persons and the exercise of property rights.

Table 3.*Occurrence of the catalogue of statutory prohibitions and restrictions in protected areas*

prohibitions and restrictions		
obligatory	optional	do not occur
national parks	landscape parks	Natura 2000 areas
nature reserves	protected landscape areas	
	nature monuments	
	documentation sites	
	nature and landscape complexes	
	ecological grounds	

Source: own study.

All persons owning agricultural property in protected areas may carry out economic, forestry, fishing, hunting and agricultural activities, however, these activities must be adapted to the requirements of nature conservation (Stelmasiak, Lebowa, 2018). Depending on the rank of the respective form of nature conservation, the rules for the use of the area differ. Within the areas where a landscape park, protected landscape area or Natura 2000 are located, many forms of activities are allowed, such as agriculture, forestry, tourism, fishing, among others.

With regard to landscape parks, if there are agricultural or forest properties or other properties within their boundaries that have been used economically so far, they are left for further economic use. However, the consent to economic use of the land included in the property located within the boundaries of the park, mentioned in the regulations, does not mean arbitrariness. The owner of the real property located within the boundaries of the landscape park must respect the limitations imposed in the park. In landscape parks established in the zachodniopomorskie voivodeship there are prohibitions concerning agricultural use of agricultural properties. They mainly concern:

- implementation of projects likely to have a significant impact on the environment,
- discharging liquid manure, with the exception of fertilizing one's own agricultural land,
- keeping animals without litter,
- keeping open drainage ditches and sewage tanks.

The above mentioned prohibitions concern mainly the situation in which the landscape protected in the park may be endangered and do not significantly affect the quality of agricultural activity.

In the area of landscape parks located in the zachodniopomorskie voivodeship, ways of making available and using the areas of parks have been defined which are valid in the entire area with respect to farming. They refer mainly to:

- agricultural use of land with a preference for extensive methods and the implementation of agri-environmental packages, with permanent and temporary grassland being the most recommended form of use,
- the location of indoor livestock buildings with a stocking density of no more than 350 LU for cattle and sheep and 240 LU for other livestock species in one complex of livestock buildings,

- the location of market orchards outside the coastal zones of surface waters and directly adjacent to forests,
- the removal of volunteer trees and bushes up to the age of 15 years on agricultural land,
- prohibition on building on open farmland, except within the limits of former habitats until local spatial development plans have been adopted,
- prohibition to afforest meadows and pastures and areas where afforestation may cause degradation of habitats of rare species of flora and fauna,
- prohibition on removing mid-field, roadside and waterside trees,
- prohibition on creating plantations of perennial energy crops covering an area of more than 10 ha,
- a ban on the construction of new drainage facilities used exclusively for drainage.

Agricultural properties located within the boundaries of landscape parks can still be used for agricultural activities, except that these activities must be rational (Alemu, 2022). The rationality of the agricultural activity is, in fact, the observance of rules that avoid disturbing the natural arrangement of natural factors and the harmony or aesthetics of the landscape (Tóth, Czeglédi, Kern, Erős, 2019). When designating a protected landscape area, the future development of ecological, tourism and recreational functions is taken into account and restrictions are related to preventing the devastation of the environment and landscape. In case of designation of a protected landscape area, entities that own an agricultural property in the area covered by this form must pay attention to a certain circumstance. Namely, the prohibitions that may be in force in this form do not have to be the same for the entire protected landscape area, but different restrictions may apply in different parts of it (Gruszecki, 2010). In the case of protected landscape areas, prohibitions are introduced that may be in force in the whole protected area or in its part.

The following prohibitions of agricultural activities may be introduced in a protected landscape area:

1. kill wild animals, destroy their burrows, lairs, other shelters and breeding places and spawning grounds, spawn eggs, with the exception of amateur fishing and activities related to rational agricultural, forest, fishing and hunting management,
2. carrying out projects likely to have a significant impact on the environment (Act on Disclosure of Environmental Information),
3. erecting new buildings within a 100 m wide strip of land from:
 - a) the coastlines of rivers, lakes and other natural bodies of water,
 - b) the extent of the water surface in artificial water reservoirs situated in flowing waters at the normal level of impoundment specified in the water permit (Water Law Act, Art. 122 (1) (1)),
 - with the exception of water equipment and facilities used for rational agricultural, forestry or fishery management.

Natura 2000 is a programme of a network of nature conservation areas within the territory of the European Union whose aim is to preserve certain types of natural habitats and species which are considered valuable and endangered throughout Europe. They are established by an appropriate regulation of the minister in charge of the environment in agreement with the minister in charge of agriculture, the minister in charge of rural development, the minister in charge of fisheries and the minister in charge of water management. According to research conducted by P. Otowski, the majority of areas included or intended to be included in the Natura 2000 network in Poland are forest properties or agricultural properties (Otowski, 2007). Therefore, it is natural that the type and manner of agricultural activity carried out in those areas will be crucial for achieving protection goals. When comparing Natura 2000 to other existing area forms of nature protection in Poland, certain differences can be observed. In the case of this form, there is an assumption that, if it is possible, nature protection should be connected with the activity conducted on the given areas so far, if this activity does not threaten the objectives for which the form was established (Schulze, Knights, Coad, Geldmann, Leverington, Eassom, Burgess, 2018; Gąsiorowska-Mącznik, 2018). Such an assumption is motivated by the pursuit of social acceptance of this form of protection, as well as the need to continue agricultural activities in specific areas to ensure the survival of selected plant and animal species and natural habitats (Stasiak, 2001; Niewiadomski, 2020).

Economic, agricultural, forestry, hunting and fishing activity conducted in Natura 2000 areas is not subject to restriction if it does not have a significantly negative impact on the protection objectives of the Natura 2000 area. Conducting economic activity, not excluding agricultural activity in Natura 2000 areas which are part of national parks and nature reserves, is only allowed in the scope which does not infringe the prohibitions binding in those areas. In the case of each Natura 2000 area, an entity managing an agricultural property located in this area must consider whether the type and manner of its activity may have a significant negative impact on the components of the natural environment for the protection of which the area was designated. In Natura 2000 areas, there are no separate prohibitions and restrictions on activities that can be carried out in these areas (Kozłowska-Burdziak, 2020). With regard to national parks and nature reserves, obligatory prohibitions occurring in these areas are applied. A separate list of prohibitions has also been created for landscape parks and protected landscape areas. For nature monuments, documentary sites, natural and landscape complexes and ecological grounds, a common list of such prohibitions applies, while for Natura 2000 areas there is no such list (Cupiał, Rorat, Szelaż-Sikora, 2018). For a Natura 2000 area, the regional director of environmental protection prepares a draft plan of protection tasks for a period of 10 years, but the first draft is prepared within 6 years from the date of approval of the area by the European Commission as an area of Community importance or from the date of designation of a special bird protection area (Nature Conservation Act, Article 28). In the case of Natura 2000 areas, it is the plan of protection tasks that includes determination of the conditions of maintenance or restoration of the proper level of protection of the objects of protection of

Natura 2000 area, maintenance of integrity of Natura 2000 area and a coherent network of Natura 2000 areas, relating inter alia to farming, forestry and fishing.

4. Summary

Undoubtedly, it should be stated after R. Cymerman that the introduction and creation of protected areas is a "brake on freedom" in real estate management (Cymerman, 2000). In particular, it restricts the exercise of rights to real estate by excluding certain development functions, as well as largely reducing the development areas. Where it is possible to develop a property, many requirements are created during the investment, including the need to obtain a decision on environmental conditions. It should be noted that restrictions on the use of real estate may cause damage to owners and perpetual usufructuaries and may provide grounds for claiming damages. On the other hand, we observe the growing, especially in economic terms, importance of agricultural real estate as an important income generating factor. Frequent changes in the use of property lead to changes in its function and value. These changes in use intensify as the economy develops, often stimulating spatial and environmental conflicts. It should be remembered, however, that the consequence of misallocated land functions may be inadequate allocation of land resources, e.g. causing irreversible environmental changes.

In view of the introduced restrictions on the ownership of property, potential sources of assistance have been identified to compensate for the losses incurred by entities due to these restrictions. The basic compensation arises from the established support schemes for the reduction of the profitability of activities. If the provisions on support for reductions in income do not apply in a given area, the regional director for environmental protection may conclude an agreement with the owner, perpetual usufructuary or holder of agricultural property on the basis of other legal titles which contains a list of the necessary measures, the methods and deadlines for carrying them out and the conditions and deadlines for the settlement of payments for the measures carried out, as well as the value of compensation for lost income resulting from the restrictions introduced (Law on Nature Protection, Art. 36 (3)).

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