

CONSTITUTIONAL RIGHTS AND OBLIGATIONS OF CITIZENS TOWARDS THE ENVIRONMENT UNDER THE CONDITIONS OF SUSTAINABLE DEVELOPMENT

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ABSTRACT

The aim of this article is to determine the status of citizen's rights to 'a clean environment' and their obligations towards the environment under sustainable development conditions, considering international and domestic regulations. It analyses three interlinked aspects: human rights to a clean environment, obligations of citizens and public authorities towards the environment, and environmental protection in accordance with the principle of sustainable development. Human rights to 'a clean environment' are enshrined in the Constitution, drawing on the Universal Declaration of Human Rights and the Rio de Janeiro 'Environment and Development' Declaration. These rights are implemented by public authorities through ensuring ecological safety and the use and protection of environmental resources, adhering to the sustainable development principle. In addition every citizen has obligations towards the environment, because he should take care of environmental resources and use them in accordance with the principles of environmental protection law. The analysis of legal doctrine and legislation highlights a clear relationship between the necessity for public authorities to ensure constitutional rights to a 'clean environment' and their obligations towards the environment through the protection of environmental resources in line with the sustainable development principle. This entails balancing the human right to a 'clean environment' against the environmental right to the continuity and sustainability of resources (natural balance), while also ensuring economic growth. An example of these principles in action is Agenda 2030, currently being implemented in Poland and other EU Member States.

Keywords: human rights, environmental protection law, constitutional obligations of public authorities, sustainable development principle, Agenda 2030

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INTRODUCTION

The right to life, closely linked to the right to a 'clean' environment, is a fundamental human right. Since life on Earth is unsustainable without environmental resources such as water, air, and soil, these human rights must be considered collectively. Environmental resources of adequate quality and quantity, when protected, can be secured for society. J. Ciechanowicz-McLean posits that environmental protection, through human rights as a substantive guarantee, also manifests as an instrumental right, facilitating the safeguarding of fundamental human rights. Thus, human rights to the environment cannot be exercised separately. Protection of a human right to life is a good example of such an attitude.¹ The international human rights catalogue, rooted in the Universal Declaration of Human Rights of 1948,² serves as a foundation for regulations concerning human rights protection in many subsequent constitutions and international agreements. According to the literature, passing the Declaration initiated the process of constructing an international universal system for human rights protection.³ Therefore, the Declaration became a 'cornerstone' of this system and supporting individual rights protection systems at regional and national levels. Alongside the International Covenant on Economic, Social and Cultural Rights⁴ and the International Covenant on Civil and Political Rights,⁵ it forms the International Bill of Rights⁶. The human right to life is affirmed in Article 3 of the Declaration: 'Everyone has the right to life, liberty and the security of person.'

The Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, plays a pivotal role in the European system of human rights protection.⁷ It aimed to foster greater unity among its members through the protection and advancement of human rights and fundamental freedoms. The Convention is viewed as a means to achieve unity of the member states in developing and respecting individual rights standards. It defines protected rights and mandates state parties to respect the rights of those exercising convention-based rights. The

¹ Ciechanowicz-McLean, J., Nyka, M., 'Human rights and the environment', *Przegląd Prawa Ochrony Środowiska*, 2012, No. 3, p. 90.

² Universal Declaration of Human Rights, adopted by the UN General Assembly by Resolution 217/III A on 10 December 1948 in Paris.

³ Johnson, G., Symonides, J. (eds), *The Universal Declaration of Human Rights, a History of its Creation and Implementation 1948–1998*, UNESCO, 1998; Jaskólska, J., 'Treść Powszechnej Deklaracji Praw Człowieka', *Człowiek w Kulturze*, 1998, No. 11, pp. 49–97; Symonides, J., 'Powszechna Deklaracja Praw Człowieka (po 60 latach od jej przyjęcia)', *Państwo i Prawo*, 2008, No. 12, pp. 3–16; Liżewski, B., Myślińska, M., 'Mechanizm ochrony praw człowieka w systemie Rady Europy i w systemie interamerykańskim (teoretyczna analiza prawnooporównawcza)', *Studia Iuridica Lublinensia*, 2014, No. 21, p. 108.

⁴ International Covenant on Economic, Social and Cultural Rights, opened for signature in New York on 19 December 1966 (Journal of Laws of 1977, No. 38, item 169).

⁵ International Covenant on Civil and Political Rights, opened for signature in New York on 16 December 1966 (Journal of Laws of 1977, No. 38, item 167).

⁶ See more: Kędzia, Z., '70 lat powszechnej Deklaracji Praw Człowieka – pomnik czy żywy dokument?', *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 2018, Vol. LXXX, Issue 4, and literature cited therein.

⁷ Convention for the Protection of Human Rights and Fundamental Freedoms (Journal of Laws of 1993, No. 61, item 284).

convention performs constitutional functions (i.e. filling the gaps, being a model and being an impulse), and the degree of performing them varies from one state-party to another.⁸ Poland ratified the Convention in 1993, committing to consider the human rights it encompasses in its legislative, administrative, and judicial actions.⁹

Human rights to the environment within the EU are encapsulated in the Charter of Fundamental Rights of the European Union¹⁰ and are often associated with a catalogue of political and social rights, also falling within the scope of solidarity rights or third-generation rights. For the exercise of human rights to a 'clean environment', society must have access to essential environmental resources of appropriate quality and quantity, safeguarded by adequate legal protection. As per international and EU rules, environmental protection is implemented in line with the principle of sustainable development, the tenets of which are outlined in the Rio de Janeiro Declaration on Environment and Development.¹¹ Its preamble highlights the centrality of human beings in sustainable development, advocating for a life in harmony with nature. Sustainable development rests on the pillars of international human rights law, environmental law, and economic law. This principle obliges states as entities responsible for the protection and rational use of the environment, to ensure that society can utilise environmental assets based on principles of reality and equality, facilitating the rational use of non-renewable resources and the restoration of renewable resources without surpassing environmental safety limits.¹²

The concept of sustainable development in the EU's human rights context is integral to Agenda 2030 for sustainable development,¹³ implemented by Member States. Human rights to a 'clean environment' in Polish law, and citizen's obligations towards the environment are outlined in the Constitution of the Republic of Poland,¹⁴ through programmes and legal acts regulating environmental protection

⁸ Jurczyk, T., 'Geneza rozwoju praw człowieka', *Homines Hominibus*, 2009, No. 1(5), p. 37; Pazura, A., Uniejewski, J., 'Konwencja o Ochronie Praw Człowieka i Podstawowych Wolności jako fundamentalny akt prawa europejskiego – czy twierdzenie to nadal zachowuje aktualność?', *Przegląd Prawa Konstytucyjnego*, 2016, No. 2(30), p. 72, doi: 10.15804/ppk.2016.02.03.

⁹ Cichoń, Z., 'Europejska Konwencja Praw Człowieka nadal najskuteczniejszym na świecie instrumentem ochrony prawa człowieka (w 55. rocznicę podpisania Konwencji)', *Palestra*, 2005, No. 11–12, p. 179. See also: Garlicki, L. (ed.), *Konwencja o Ochronie Praw Człowieka i Podstawowych Wolności. Tom I. Komentarz do artykułów 1–18*, Warszawa, 2010, p. 66 et seq.

¹⁰ Charter of Fundamental Rights of the European Union (2016/C 202/02) (OJ EU C 202/389, 7.6.2016).

¹¹ Rio Declaration on Environment and Development, <http://libr.sejm.gov.pl/tek01/txt/inne/1992.html> [accessed on 8 April 2024], hereinafter 'Rio Declaration'.

¹² See more: Ciechanowicz, J., *Międzynarodowe prawo ochrony środowiska*, Warszawa, 1999; Roliński, M., 'Z problematyki zasad ochrony środowiska', *Studia Iuridica Lublinensia*, 2014, No. 21, pp. 145–155.

¹³ Resolution adopted by the General Assembly on 25 September 2015. 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development* (UN A/RES/70/1), hereafter referred to as 'the 2030 Agenda'.

¹⁴ Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997, No. 78, item 483, as amended) hereinafter: 'the Constitution of the Republic of Poland'.

and use principles in accordance with the sustainable development principle, such as the 2001 Environmental Protection Act (EPA).¹⁵

This article aims to elucidate the status of human rights to a 'clean environment' and individual obligations towards the environment under sustainable development conditions, considering international and domestic frameworks. It explores three interconnected aspects: (1) human rights to a clean environment, (2) obligations of citizens and public authorities towards the environment, and (3) environmental protection according to the sustainable development principle. The study employs a dogmatic and legal methodology, analysing regulations from the Universal Declaration of Human Rights, conventions, the Polish Constitution, and other domestic laws regarding environmental resource use, alongside relevant literature.

RIGHT TO A CLEAN ENVIRONMENT

On the international forum, three generations of human rights can be distinguished: first-generation rights include liberal defence rights in the form of classic civil and political liberties; second-generation rights cover economic, social, and cultural aspects; and third-generation rights address comprehensive issues, such as the right to a clean environment, right to peace, and the right to self-determination, participation and communication.¹⁶ Hence, the human rights in question comprise three generations of rights, namely: (1) political rights and liberties as well as personal liberties (classic human rights); (2) economic, social, cultural and educational rights (also known as social or welfare rights), and (3) 'solidarity rights', i.e. a catalogue of rights which include the right to development, the right to peace, the right to environment, the ownership right to the common heritage of mankind and the right to communication. The concept of environmental rights emerged in the 1980s, alongside the World Committee for Environment and Development. Today, it is acknowledged that people are entitled to rights concerning the environment, which are understood in a variety of ways. These rights can be, on the one hand, a collection of subjective rights and entitlements associated with individual fundamental components of the environment, such as the right to clean water, soil, and air. On the other hand, they are received as unified subjective rights, comprising a combination of such rights, i.e. the right to a clean and unpolluted environment, the right to ecological balance, or simply the right to the environment.¹⁷ The rights to the environment constitute a complex of one's rights to its resources, which

¹⁵ Environmental Protection Law of 27 April 2001 (consolidated text: Journal of Laws of 2022, item 2556 as amended), hereinafter referred to as 'EPA'.

¹⁶ Vasak, K. (ed.), *International dimensions of human rights*, Vol. 1, Vol. 2, Paris, 1982; Riedel, E., 'Trzecia generacja praw człowieka jako strategia urzeczywistniania praw politycznych i społecznych', *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1990, Vol. LII, Issue 3–4, pp. 117–118.

¹⁷ Sommer, J. (ed.), *Prawo człowieka do środowiska naturalnego*, Wrocław–Warszawa–Kraków–Gdańsk–Łódź, 1987; Ciechanowicz-McLean, J., Dembicki, P., *Prawa człowieka do życia i do środowiska*, in: Gronowska, B., Rakoczy, B., Kapelańska-Pregowska, J., Karpus, K., Sadowski, P. (eds), *Prawa człowieka a ochrona środowiska – wspólne wartości i wyzwania*, Toruń, 2018, p. 52; Drzewicki, K., 'Trzecia generacja praw człowieka', *Sprawy Międzynarodowe*, 1983, No. 10; Rakoczy, B.,

remain uncontaminated by anthropogenic pollution to an extent that could harm individuals.¹⁸

The subject literature highlights a contradiction within third-generation rights concerning the right to life in an unpolluted environment and the right to development. This contradiction emerges from the right to life (first generation), the right to healthcare and social security (second generation), and the right to a clean environment alongside the right to development (third generation).¹⁹ Consequently, one can claim that by exercising the right to development, one contributes to environmental pollution, potentially undermining the ability to guarantee the right to live in 'a clean environment'. The general proclamation of the third-generation right to the environment is contained in Article 28 of the Universal Declaration of Human Rights, which states: 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.' The third generation includes the right to a clean and sustainable environment, often linked with or included in the catalogue of political and welfare rights. This is affirmed by the inclusion of environmental rights within the group of solidarity rights, the third generation, in the Charter of Fundamental Rights of the European Union.²⁰

The essence of the subjective human right to the environment is articulated in the 1972 Declaration of Stockholm on the Human Natural Environment,²¹ which recognises a direct link between human rights and the environment. This document emphasises the importance of the right to the environment, safeguarding its natural resources, intergenerational justice, resource management and rationality of planning.²² Regarding intergenerational justice, the Declaration provides for responsibility for environment protection and improvement for the present and future generations (principle 1) and for securing Earth's non-renewable resources against exhaustion so that all of humanity benefits from their use (principle 5).²³ Principle 1 reads: 'Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.' This highlights the global acceptance of the right

Ograniczenie praw i wolności jednostki ze względu na ochronę środowiska w Konstytucji Rzeczypospolitej Polskiej, Toruń, 2006, p. 234.

¹⁸ Wierzbowski, B., Rakoczy, B., *Podstawy praw a ochrony środowiska*, 1st ed., Warszawa, 2004, pp. 15–17.

¹⁹ Mazur-Bubak, M., 'Prawo do rozwoju a prawo do życia w środowisku wolnym od zanieczyszczeń – analiza problemu i kilka propozycji redukcji konfliktu', *Polityka i Społeczeństwo*, 2019, No. 3(17), p. 30.

²⁰ Charter of Fundamental Rights of the European Union (2016/C 202/02) (OJ C 202/389, 7.6.2016).

²¹ Stockholm Declaration, Resolution of the Stockholm Conference of 14.6.1972, concerning the natural human environment, https://dfaeurope.eu/wordpress/wp-content/uploads/2014/05/stockholm-declaration_english.pdf [accessed on 5 April 2024], hereinafter 'Stockholm Declaration'.

²² Ciechanowicz-McLean, J., *Międzynarodowe prawo ochrony środowiska*, Warszawa, 2001, pp. 22–23.

²³ Final Documents of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992, Earth Summit, Warszawa, 1993.

to the environment as a universally recognised principle.²⁴ Similarly, the right to a healthy environment is provided in principle 1 of the Declaration of Rio de Janeiro on Environment and Development, which states that people are 'at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.'²⁵

The term 'right to a healthy environment' is also used in the world report on domestic legislation concerning environmental protection, prepared in 2019 as part of the United Nations Environment Programme (UNEP).²⁶ This term is defined as follows: 'This right asserts that the environment must meet certain basic benchmarks of healthfulness and includes affirmative substantive rights, such as the right to clean air and water, and defensive substantive rights, such as the right to be free from toxic wastes or pollution.' The right to a healthy environment is thus a fundamental environmental right and it can be expressed in various ways, including as a 'right to a clean environment' or a 'right to a sustainable development'. In essence, it relates to the value of maintaining 'a clean environment'.²⁷

Citizens' rights in Polish law are mentioned in Article 5 of the Constitution of the Republic of Poland: 'The Republic of Poland shall safeguard the independence and integrity of its territory and ensure the freedoms and rights of persons and citizens, the security of the citizens, safeguard the national heritage and shall ensure the protection of the natural environment pursuant to the principles of sustainable development.' Although the Constitution does not directly specify the right to a clean environment, it does refer to other rights contained in Chapter II 'The Freedoms, Rights and Obligation of Persons and Citizens', which can be regarded as environmental rights, e.g., the right to information on the quality and protection of the environment (Article 74 (3)), the right to support activities aimed to protect and improve the quality of the environment (Article 74 (4)), the right to healthcare by preventing harmful consequences of the environment degradation (Article 68 (4) in conjunction with Article 68 (1)), the right to submit petitions, proposals and complaints in the public interest, i.e., with a view to environmental protection (Article 63).²⁸ The guarantee of ecological security by the state, as an obligation of public authorities under Article 74 (1), is particularly significant. According to L. Garlicki, incorporating ecological security into internal security is fully justified. This way environment care falls under the security subgroup,

²⁴ Karski, L., 'Prawa człowieka i środowisko', *Studia Ecologiae et Bioethicae*, 2006, No. 4, p. 317.

²⁵ Ciechanowicz-McLean, J., Dembicki, P., op. cit., pp. 69–71; Bukowski, Z., 'Koncepcja zrównoważonego rozwoju a prawa człowieka', in: Gronowska, B., Rakoczy, B., Kapelańska-Pręgowska, J., Karpus, K., Sadowski, P. (eds), *Prawa człowieka a ochrona środowiska – wspólne wartości i wyzwania*, Toruń, 2018, p. 41.

²⁶ UNEP, *Environmental Rule of Law. First Global Report*, Nairobi, 2019, pp. 154–156, <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report> [accessed on 4 April 2024].

²⁷ Kenig-Witkowska, M.M., 'Prawo do środowiska w prawie międzynarodowym', *Państwo i Prawo*, 2000, No. 8; Kuźniar, D., 'Prawo do zdrowego środowiska jako konstytucyjnie gwarantowane prawo podmiotowe', *Przegląd Prawa Konstytucyjnego*, 2021, No. 3(61), p. 203, doi: 10.15804/ppk.2021.03.13.

²⁸ Karski, L., op. cit., pp. 323–324.

i.e. ecological security, defined as maintaining an environmental status that allows for human habitation and development.²⁹ The environmental protection doctrine defines this term as a complete elimination or minimisation of various threats to human life and health emanating from the living environment – the biosphere. These threats, often resulting from both deliberate and unintentional human actions, are referred to as anthropogenic ones and directed against humans.³⁰ The very concept of ecological security encompasses actions aimed at achieving and maintaining the desired state of the natural environment and at mitigating these threats.³¹ Ecological security is achieved by safeguarding the natural environmental resources in line with the sustainable development principle, which will be explored further in this article.

Citizen's rights to the environment are also articulated in the EPA, and they are implemented as part of the environmental use. This act of law provides for three types of use of environmental resources: common, ordinary, and special. According to Article 4(1) of the EPA, every citizen is entitled to common use of the environment. This type of use does not apply to using installations and includes meeting individual and household needs, including sport and leisure, with respect to introducing substances or energy into the environment or other types of common water use as outlined in the provisions of the Water Law Act of 20 July 2017 (WLA).³² This type of environmental use applies to resources owned by the State Treasury, i.e. public waters and forests. Ordinary environmental use is regulated in Article 32 (1) and (2) of WLA. It stipulates that everyone is entitled to use public inland surface waters, marine internal waters and territorial sea waters. Common use of water involves satisfying individual, household or farm needs without using special technical devices for leisure, tourism, water sports, and amateur fishing.

Environmental use that exceeds common use under Article 4 (2) and (3) of EPA may require obtaining a permit that establishes a specific scope and conditions, issued by the competent environmental protection authority (ordinary and special use). Ordinary use of the environment extends beyond its common use, with respect to which no permit is required. Ordinary water use is also regulated by the Water Law. According to Article 33, a land owner is entitled to ordinary use of the waters and groundwaters on their property. However, the right to ordinary land use does not entitle one to construct water devices without obtaining a water law permit. Ordinary water use is intended to meet the needs of one's household and farm.

²⁹ Garlicki, L., *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Vol. 3, Warszawa, 2003, p. 3.

³⁰ Ciechanowicz, J., *Międzynarodowe prawo ochrony...*, op. cit., pp. 46–47; see also: Zębek, E., 'Bezpieczeństwo ekologiczne w zakresie zapewnienia obywatelom odpowiedniej jakości zasobów wody pitnej', in: Grabińska, T., Spustek, H. (eds), *Bezpieczeństwo personalne a bezpieczeństwo strukturalne państwa. Wolność i bezpieczeństwo obywatela*, Wrocław, 2013, pp. 115–128; Zębek, E., 'Bezpieczeństwo ekologiczne jako podstawowa potrzeba społeczeństwa wobec współczesnych zagrożeń środowiska', in: Ura, E., Sitek, B. and Graca, T. (eds), *Potrzeby jako współczesny determinant treści praw człowieka*, Józefów, 2017, pp. 241–262.

³¹ Krajewski, P., in: Chodak, P. (ed.), *Leksykon bezpieczeństwa. Wybrane pojęcia*, Józefów, 2015, p. 64; see also: Trzcińska, D., Kierzkowska, J., *Bezpieczeństwo ekologiczne w realizacji zadań publicznych*, Warszawa, 2020.

³² Water Law of 20 July 2017 (consolidated text: Journal of Laws of 2022, item 2625, as amended), hereinafter referred to as 'the WLA'.

Special water use is the third type of water use. It extends beyond ordinary and common use and requires a water law permit. Special use of water is designated for business activities.³³

OBLIGATIONS OF PUBLIC AUTHORITIES AND CITIZENS TOWARDS THE ENVIRONMENT

Obligations of public authorities are extensively addressed in the Constitution of the Republic of Poland, especially in Article 68(4), which mandates that public authorities combat epidemic diseases and prevent harmful effects of environmental degradation on human health. A catalogue of these obligations is also outlined in Article 74(1), (2), and (4) of the Constitution. According to this article, public authorities are required to implement policies that ensure ecological security for present and future generations. Environmental protection is thus a fundamental duty of public authorities, who are also expected to support citizens' initiatives aimed at protecting and enhancing environmental quality. The inclusion of obligations related to environmental protection and ecological security in the Constitution is justified by Article 1, which declares that the Republic of Poland is the common wealth of all its citizens. This provision underpins the notion of environmental protection as a communal asset safeguarded by public authority.³⁴ This is because environmental protection is an integral part of sustainable development as stipulated in Article 5 of the Constitution and now a fundamental principle of international law, thereby binding all legal subjects to these norms and obligations. As such, public authorities are compelled to prevent any entity from undertaking actions that negatively impact the environment and to take preventive actions. At the same time, the state administration should take actions aimed at counteracting or preventing an adverse impact on the environment in order to improve its status. Hence, it is the state's responsibility to ensure that the environment – its communal asset – is used rationally to prevent potential ecological damage and address any resultant environmental harm.³⁵ Moreover, Article 74(1) of the Constitution of the Republic of Poland serves as programmatic norms, making it challenging to delineate specific individual rights, especially in the context of potential claims against the state. Article 68 may indicate the necessity, underpinned by legal claim, for actions to mitigate the environmental impacts on the individual's health.³⁶

When considering the citizens' obligations towards the environment, attention should be directed to Article 86 of the Constitution, which states that everyone

³³ See more: Szymańska, U., Zębek, E., *Ochrona środowiska naturalnego jako interdyscyplinarna dziedzina wiedzy*, Olsztyn, 2014, p. 120 et seq.

³⁴ Ciechanowicz-McLean, J., *Prawo i polityka ochrony środowiska*, Warszawa, 2009, pp. 20–21.

³⁵ Bukowski, Z., *Prawo międzynarodowe a ochrona środowiska*, Toruń, 2005, pp. 17–18.

³⁶ Dąbrowski, M., 'Ochrona środowiska i bezpieczeństwo ekologiczne', in: Chmaj, M. (ed.), *Wolności i prawa człowieka w Konstytucji Rzeczypospolitej Polskiej*, Warszawa, 2016, p. 230. See also: Babula, M., 'Konstytucyjne gwarancje w zakresie czystego środowiska a pozycja jednostki', *Dyskurs Prawniczy i Administracyjny*, 2019, No. 1.

is obligated to maintain the environmental status and is accountable for any degradation they cause.³⁷ The principles of such responsibility are specified in the law. Consequently, environmental protection is considered a shared value, obligating everyone within the Republic of Poland to be vigilant about environmental conditions. This obligation extends to all individuals as well as legal and other entities. The duty to refrain from actions that harm the environment is tied to the responsibility to manage any negative consequences of such actions.³⁸ Thus, it is incumbent upon everyone to protect environmental elements in line with the principles established in international and domestic law, with sustainable development as the overarching principle.

LEGAL PROTECTION OF THE ENVIRONMENT IN ACCORDANCE WITH THE SUSTAINABLE DEVELOPMENT PRINCIPLE

The concept of sustainable development is believed to date back to 1983 when the World Commission on Environment and Development was established. The term 'sustainable development' was first used by the United Nations in its 1987 report, *Our Common Future* (Brundtland Report). Sustainable development was defined as a type of development that meets the needs of the present without compromising the ability of future generations to meet their own needs, ensuring stable development while taking into account changes in resource exploitation, investment directions, technological progress, and institutional adjustments, all aimed at fulfilling the needs and aspirations of both current and future generations.³⁹ The Declaration of Stockholm on the environment,⁴⁰ adopted on 16 June 1972, was of fundamental importance for environmental protection in accordance with the sustainable development principle on an international scale. Key principles from this document include:

Principle 1: Man bears a solemn responsibility to protect and improve the environment for present and future generations; Principle 2: The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate; Principle 3: The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved; Principle 5: The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that

³⁷ Karski, L., 'Prawa człowieka...', op. cit., pp. 323–324.

³⁸ Szwed, K., 'Konstytucyjny obowiązek prowadzenia polityki zapewniającej bezpieczeństwo ekologiczne współczesnemu i przyszłym pokoleniom', *Przegląd Prawa Konstytucyjnego*, 2022, No. 3(67), p. 69, doi: 10.15804/ppk.2022.03.05.

³⁹ See Bukowski, Z., *Zrównoważony rozwój w systemie prawa*, Toruń, 2012, pp. 23–24; Olejarczyk, E., 'Zasada zrównoważonego rozwoju w systemie prawa polskiego – wybrane zagadnienia', *Przegląd Prawa Ochrony Środowiska*, 2015, No. 2, pp. 122–123, doi: 10.12775/PPOS.2016.013.

⁴⁰ Stockholm Declaration, Resolution of the Stockholm Conference of 14.6.1972, concerning the natural human environment, https://dfaeurope.eu/wordpress/wp-content/uploads/2014/05/stockholm-declaration_english.pdf [accessed on 5 April 2024].

benefits from such employment are shared by all mankind; Principle 8: Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

The 2nd Earth Summit – the UN Conference on Environment and Development, themed ‘Environment and Development’, was another significant milestone in the development of environmental protection law.⁴¹ The Conference adopted two fundamental documents that set the direction for civilisational development in the 21st century while considering the protection of environmental resources. These were the Rio de Janeiro Declaration on Environment and Development of 14 June 1992, which includes a set of 27 principles of sustainable development, and Agenda 21 – a comprehensive programme of actions aimed at achieving sustainable development, with over 2,500 recommendations.⁴² The Declaration of Rio de Janeiro extensively addresses sustainable development in a broad sense. Its preamble emphasised the need to take an integrated approach to environment and development issues within a global partnership system. Key issues addressed in the Declaration included, for example, the right to life in harmony with nature (principle 1), intergenerational justice (principle 3), international cooperation (principle 7, 27), information on the environment (principle 10, 18, 19), and resources (2, 23). The Declaration asserts that harmonisation of development should be based on the following assumptions: environmental protection is an integral part of the development process (principle 4); eradicating poverty is an indispensable requirement for development (principle 5); it is necessary to provide aid to environmentally vulnerable countries (principle 6); to achieve sustainable development, it is necessary to eliminate the unsustainable patterns of production and consumption (principle 8); it is necessary to introduce environmental standards (principle 11) and undertake an environmental impact assessment (principle 17).⁴³

The sustainable development principle was analysed using a holistic approach, i.e., without limiting it merely to the environmental protection aspects. This approach was presented during the Global Summit on Sustainable Development (RIO+10), held in Johannesburg in 2002, and during the Global Summit RIO+20 in Rio de Janeiro on 20–22 June 2012. These meetings resulted in the adoption of a declaration titled ‘Future that we want’, and actions were initiated aimed at developing a new set of Sustainable Development Goals (SDGs). It was emphasised that there was a need to intensify institutional actions on an international scale, highlighting the necessity for the development of environment management as part of the international institutional structure and promoting sustainable economic and social

⁴¹ Latoszek, E., ‘Koncepcja zrównoważonego rozwoju w teorii i praktyce ONZ’, in: Latoszek, E., Proczek, M., Krukowska, M. (eds), *Zrównoważony rozwój a globalne dobra publiczne w teorii i praktyce organizacji międzynarodowych*, Warszawa, 2016, p. 27.

⁴² Kozaczyński, W., ‘Zrównoważony rozwój a bezpieczeństwo człowieka’, *Bezpieczeństwo Teoria i Praktyka*, 2012, No. 4(9), p. 77.

⁴³ Rosicki, R., ‘Międzynarodowe i europejskie koncepcje zrównoważonego rozwoju’, *Przeгляд Naukowo-Metodyczny*, 2010, No. 4, pp. 44–56; Kenig-Witkowska, M., *Międzynarodowe prawo środowiska. Wybrane zagadnienia systemowe*, LEX 2011.

integration as well as environmental protection and sustainable development.⁴⁴ Another significant event was the Summit of the Agenda for Sustainable Development 2030,⁴⁵ held on 25–27 September 2015 at the UN Headquarters in New York. During the Summit, a document entitled ‘Transforming our world: Agenda for Sustainable Development – 2030’ was adopted, defining 17 main sustainable development goals.⁴⁶ The sustainable development principle was also considered in the European Union’s primary and secondary law, especially in Article 11 of the Treaty on the Functioning of the European Union (TFEU),⁴⁷ where sustainable development forms the basis for integrating environmental protection with sectoral policies. Notably, Article 191 defines the objectives of Union policy on the environment as follows: (a) preserving, protecting and improving the quality of the environment; (b) protecting human health; (c) prudent and rational utilisation of natural resources; and (d) promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.⁴⁸ In January 2019, the Commission presented a document titled ‘Towards a sustainable Europe by 2030’, which opened the debate on the goals of sustainable development,⁴⁹ promoting the implementation of environment and climate-friendly practices. These practices are currently pursued in programs such as the European

⁴⁴ Lipiński, A., *Prawne podstawy ochrony środowiska*, Warszawa, 2010, pp. 17–18; Olejarczyk, E., ‘Zasada...’, op. cit., pp. 124–126.

⁴⁵ United Nations, Resolution adopted by the General Assembly on 25 September 2015. 70/1 Transforming our world: 2030 Agenda for Sustainable Development, A/RES/70/1.

⁴⁶ Sustainable Development Goals: Goal 1. End poverty in all its forms everywhere; Goal 2. End hunger, achieve food security and improved nutrition, and promote sustainable agriculture; Goal 3. Ensure healthy lives and promote well-being for all at all ages; Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all; Goal 5. Achieve gender equality and empower women and girls; Goal 6. Ensure availability and sustainable management of water and sanitation for all; Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all; Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all; Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation; Goal 10. Reduce inequality within and among countries; Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable; Goal 12. Ensure sustainable consumption and production patterns; Goal 13. Take urgent action to combat climate change and its impacts; Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development; Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss; Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels; and Goal 17. Strengthen the means of implementation and revitalize the global partnership for sustainable development.

⁴⁷ Journal of Laws of 2004, No. 90, item 864/2 as amended.

⁴⁸ Consolidated version of the Treaty on the Functioning of the European Union, Part Three – Internal Policies and Actions of the Union. Title XX – Environment, Article 191 (former Article 174 TEC), OJ EU C 202, 7.6.2016, pp. 132–133.

⁴⁹ European Commission, Opening document of the debate Towards a Sustainable Europe by 2030, <https://op.europa.eu/en/publication-detail/-/publication/3b096b37-300a-11e9-8d04-01aa75ed71a1/language-en/format-PDF> [accessed on 5 April 2024].

Green Deal,⁵⁰ circular economy,⁵¹ 'Ready for 55',⁵² and the 'From Field to Table' strategy.⁵³ The goal of these programs is to achieve climate neutrality by 2030 by limiting greenhouse gas emissions, increasing the share of energy generated from renewable sources, enhancing the protection of water and soil, and biodiversity, for example, by planting forests and creating legally protected areas, such as Natura 2000 sites, effectively using raw materials, thus minimising the amount of waste produced, and promoting sustainable production and consumption of healthy food.

In Polish law, the need to protect the environment in accordance with the sustainable development principle is enshrined in Article 5 of the Constitution. It is accepted in legal doctrine that sustainable development is both a constitutional and directive principle, particularly concerning the obligation to protect the environment. This stems largely from the provision placement in the first chapter of the Constitution.⁵⁴ Therefore, the sustainable development principle is regarded as integral to the state's function of environmental protection,⁵⁵ with specific obligations outlined for public authority organs. This principle is central to the most significant act concerning environmental protection – EPA. Article 1 of the EPA sets out its objective: to establish environmental protection principles and conditions for using its resources, considering sustainable development principles. Article 3 (50) of the EPA defines it as socio-economic development that integrates political, economic, and social actions while preserving the natural balance and sustainability of basic natural processes, ensuring the satisfaction of community or citizen needs, both now and for future generations.

According to literature on the subject, the concept of sustainable development arose from the need to address environmental concerns threatened by excessive economic growth and the extensive exploitation of resources. Sustainable development is understood to denote economic growth that considers the requirements of environmental protection, societal needs, and the conservation of environmental resources for future generations. Consequently, sustainable development assumes an interdependence and balance of economic growth, the status of the natural environment, and societal development.⁵⁶ Thus, sustainable

⁵⁰ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM(2019) 640 final.

⁵¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM(2020) 98 final.

⁵² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Fit for 55': delivering the EU's 2030 Climate Target on the way to climate neutrality, COM(2021) 550 final.

⁵³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, COM(2020) 381 final.

⁵⁴ Kielin-Maziarz, J., 'Zasada zrównoważonego rozwoju – uwagi na tle jej miejsca w Konstytucji RP', *Krytyka Prawa*, 2020, Vol. 12, No. 1, pp. 206–228.

⁵⁵ Ciechanowicz, J., Mering, L., 'Ochrona środowiska w Konstytucji RP', in: Mik, C. (ed.), *Konstytucja Rzeczypospolitej Polskiej z 1997 roku a członkostwo w Unii Europejskiej*, Toruń, 1999.

⁵⁶ See more: Zabłocki, G., *Rozwój zrównoważony idee, efekty, kontrowersje*, Toruń, 2002, p. 42; Gruszecki, K., *Prawo ochrony środowiska. Komentarz*, 6th ed., LEX WKP, 2022.

development is a three-component concept comprising economic, social, and ecological aspects. It includes not only nature conservation and the development of spatial order but also considerations for proper social and civilizational development. The sustainable development principle considers constitutional values, proposing an economic model that consciously shapes the relationship between economic growth, environmental protection, and quality of life, corresponding to the interpretation of natural balance provided by the law. This term is defined as a state of balance in the mutual impacts exerted by humans, components of animate nature, and a system of habitat conditions created by components of inanimate nature (Article 5(32) of EPA).⁵⁷

These considerations provide the basis for concluding that every entity is obliged to care for the status of environmental elements in accordance with the sustainable development principle and other derived environmental protection principles. All actions concerning the use of environmental resources should comply with the rules defined in environmental protection law. An analysis of these rules should start with the principle of comprehensiveness expressed in Article 5 of EPA, which states that one or several natural elements should be protected while considering the protection of other elements. This means it is unacceptable to protect one element of the environment at the expense of others; the environment should be protected as a whole. The next rule of prevention is defined in Article 6(1) of EPA, which obliges every entity starting activities with a potential negative impact on the environment to prevent such impacts. The precautionary principle, an extension of the prevention principle, is stated in Article 6(2) of EPA: 'Whoever starts an activity whose negative environmental impact is not fully explored is obliged, being guided by caution, to take every possible preventive measure.' Therefore, steps should be taken to prevent pollution and degradation of environmental elements even when any negative effects of one's actions cannot be predicted. It is also important to mention the 'polluter pays' principle, expressed in Article 7(1) and (2) of EPA, understood in a dual way: firstly, obligating every environmental polluter to bear the cost of removing pollution effects; secondly, requiring every potential polluter to bear the cost of preventing pollution. The third principle involves integrating environmental protection law into the state's strategic and planning documents. According to Article 8 of EPA, policies, strategies, plans, or programmes concerning, in particular, industry, power industry, transport, telecommunication, water management, waste management, spatial management, forestry, agriculture, fishery, tourism, and land use should take into account environmental protection and sustainable development principles.⁵⁸

The policy and programmes of environmental protection are regulated in Polish law under the EPA, specifically in Section III of the same name. According to Article 13 of this act, environmental protection policy consists of a group of measures aimed at creating conditions essential for environmental protection, in accordance with the sustainable development principle. Agenda 2030 is one of the latest programmes

⁵⁷ Krajewski, P., op. cit., p. 66; Dąbrowski, M., op. cit., p. 228; Zębek, E., 'Relacje człowiek – środowisko w aspekcie ekologicznym i prawnym', in: Górecki, R. (ed.), *Człowiek a środowisko*, Olsztyn, 2020, pp. 49–58.

⁵⁸ See also: Zębek, E., 'Relacje człowiek – środowisko...', op. cit., p. 57; Zębek, E., *Gospodarka odpadami w ujęciu prawnym i środowiskowym*, Olsztyn, 2018, p. 112 et seq.

that implement ecological policy compliance with this principle in the EU and Poland.⁵⁹ This document includes 17 goals of sustainable development and 169 tasks associated with them, addressing three dimensions of sustainable development: economic, social, and environmental. The most important goals pursued as part of Agenda 2030, taking into consideration each person's right to the environment and its protection in accordance with the sustainable development principle, include: Goal 6: Ensure availability and sustainable management of water and sanitation for all; Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all; Goal 13: Take urgent action to combat climate change and its impacts; Goal 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss; Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development.⁶⁰

In pursuit of these goals, especially Goal 6, Poland has committed to providing universal and equitable access to safe drinking water at an affordable price by 2030 as well as access to proper sanitary and hygienic conditions. Furthermore, by 2030, Poland aims to improve water quality by reducing pollution, eliminating dumpsites, limiting the use of harmful chemicals and other hazardous materials as well as halving the amount of raw wastewater and significantly increasing the rate of recycling and safe reuse of materials on a global scale. These tasks also include a considerable increase in the effectiveness of water use across all sectors and ensuring sustainable intake and resources of fresh water to address the water shortage issue. The goals also encompass implementation of integrated water resources management at all levels, including through appropriate cross-border cooperation as well as protecting and restoring water-dependent ecosystems, including mountainous areas, forests, wetlands, rivers, lakes, and aquifers. In pursuit of Goal 13, Poland should enhance its adaptability and resilience to climate threats and natural disasters, including integrating measures aimed at preventing climate change into policies, strategies, and plans as well as increasing the level of education, awareness, and human and institutional capacity to address, adapt to, and mitigate the effects of climate change, and implementing early warning systems. The pursuit of Goal 15 of Agenda 2030 should include providing protection, restoration, and sustainable use of land and inland freshwater ecosystems, particularly forests, wetlands, mountainous areas, and drylands, in line with international commitments. These measures should include promoting sustainable management of all forest types, containing the deforestation processes, restoring degraded forests, and significantly intensifying afforestation and reforestation on a global scale. Another goal in this area includes combating desertification and restoring degraded areas and soil, including lands affected by desertification, droughts, and floods. The protection of mountainous ecosystems, including their biodiversity, should be ensured to increase their capacity to provide benefits necessary for achieving sustainable development.⁶¹

⁵⁹ The 2030 Agenda.

⁶⁰ Climate and Sustainable Development Agenda, http://www.un.org/pl/files/170/Agenda2030PL_pl-5.pdf [accessed on 30 November 2022].

⁶¹ Ministry of Development and Technology, *Sustainable Development Goals*, <https://www.gov.pl/web/rozwoj-technologie/cele-zrownowazonego-rozwoju> [accessed on 30 November 2022].

CONCLUSIONS

This analysis demonstrates that the fundamental rights and obligations of citizens and public authorities concerning the environment are comprehensively regulated in the Constitution of the Republic of Poland and other legislative acts related to environmental protection. These regulations are grounded in the Universal Declaration of Human Rights, the Declaration of Rio de Janeiro as well as conventions, EU programmes, and directives that have been incorporated into Polish law. These rights form a group of subjective rights and entitlements tied to essential environmental elements, such as the right to clean water, soil, and air. Therefore, the right to a 'clean environment' is closely linked to the fundamental human right to life, as no life or socio-economic development can exist on Earth without environmental resources. These rights are guaranteed by the Constitution and are enacted by public authorities through the provision of ecological security and the protection of environmental resources in accordance with the sustainable development principle. As outlined in the Environmental Protection Act of 2001, these rights are exercised through the common use of the environment, which includes the use of public waters and forests, ordinary use by landowners, and special use by business entities. Additionally, every citizen has obligations towards the environment, as they must care for environmental resources and use them following environmental protection principles.

In light of the aspects discussed – human rights to a clean environment, obligations of citizens and public authorities towards the environment, and environmental protection following the sustainable development principle – it is clear that these elements are closely interconnected. There are three categories of relationships: (1) human-environment, (2) citizen-environment, and (3) public authorities-environment. The first category addresses the assurance of basic constitutional human rights to a 'clean environment', i.e., access to environmental resources essential for life and proper functioning. However, this is only feasible when environmental resources are adequate and of acceptable quality, and when, according to the sustainable development principle, they are maintained in a state of natural balance, allowing them to be regenerated for present and future generations. The principle of ecological justice dictates that environmental resources should be accessible equally across intragenerational and intergenerational dimensions. The citizen-environment relationship pertains to the use of environmental resources not only for daily needs (common and ordinary use) but also for business activities (special use). On one hand, a citizen has the right to utilize environmental resources for various purposes, including business activities, and on the other hand, when using these resources, they are obliged to protect them following the legal provisions for environmental protection (sustainable development, comprehensiveness, prevention, and precaution). If an activity negatively impacts the environment, the individual is also required to obtain the necessary administrative permissions for such activities regarding installations and emissions and to bear the costs of environmental pollution and its prevention, according to the 'polluter pays' principle. Without adequate and quality environmental resources, their use, even for

industrial purposes, becomes unfeasible. Therefore, environmental protection also has a practical aspect in this context. The relationship between public authorities and the environment concerns their obligations regarding environmental protection, not only set forth in the Constitution of the Republic of Poland but also in the relevant legal acts. These obligations are extensively treated in Polish law, beginning with ensuring ecological security, providing society with information on the status and protection of the environment, and involving them in developing environmental programmes, plans, and policies, to issuing administrative decisions permitting environmental use and overseeing the observance of environmental protection regulations. Thus, it is the responsibility of public authorities to meet societal needs by providing environmental resources of sufficient quality and quantity. This is achieved through the legal protection of environmental resources in accordance with the sustainable development principle, which aims to satisfy society's basic needs and those related to economic growth with minimal environmental impact. This must be accomplished in a manner that balances the human right to a 'clean environment' with the environmental right to the continuity and sustainability of resources (natural balance) while simultaneously ensuring economic growth.

The sustainable development concept in Poland and other EU Member States is currently implemented as part of Agenda 2030, whose main goals address two overlapping areas: access to drinking water and climate change, which contribute to the semi-desertification of land and water shortages. Thus, it is justified to link the pursuit of these goals with actions aimed at the sustainable management of ecosystems, particularly forests and wetlands, to mitigate water deficits. The goals of sustainable development are currently pursued through EU programmes such as the European Green Deal, the circular economy, 'Ready for 55', and the 'From Field to Table' strategy. These initiatives focus on achieving climate neutrality and adapting to climate change, protecting water and soil, preserving biodiversity, transforming into efficient raw material management, reducing waste production, and promoting sustainable production and consumption of healthy food. All these measures contribute to mitigating climate change and ensuring human rights to environmental resources of sufficient quality and quantity. Therefore, it can be asserted that the goals of sustainable development outlined in Agenda 2030 and EU programmes are closely linked to the protection of environmental resources essential for the sustenance and flourishing of humanity, i.e. guaranteeing the right to life and to a 'clean environment'.

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