

ANNA ŁABNO¹

On the Need to Amend the 1997 Constitution of the Republic of Poland. Part I²

Submitted: 21.05.2023. Accepted: 23.05.2023

Abstract

The issue of constitutional protection of natural resources does not arouse the interest of lawyers, including constitutionalists, in Poland. In none of the drafts of the new Constitution of the Republic of Poland presented after 1989 was this issue regulated. After the new Constitution of the Republic of Poland came into force in 1997, no draft amendment to this act dealing with natural resources was submitted either. The constitutional surveys conducted in 2011 and 2017 did not explicitly call for a complete or even very extensive amendment of the Constitution. Most often, they indicated the need for punctual amendments or concerning certain areas of constitutional regulation. In light of the experience with forest management, it would be advisable to extend constitutional protection to all strategic natural resources.

Keywords: Constitution of the Republic of Poland, amendments to the Constitution of the Republic of Poland, constitutional surveys, constitutional protection of state forests, constitutional protection of natural resources.

¹ Prof. Anna Łabno – Faculty of Law and Administration, University of Silesia (Poland); e-mail: anna.labno@us.edu.pl; ORCID: 0000-0002-2669-2733.

² The research in this article has not been supported financially by any institution.

In this short paper, I would like to draw the general attention to a problem that has not yet been analysed to a broader extent in the study of constitutional law. We seem to have assumed that political transformation is a process that so many European countries have successfully gone through and that perhaps this means that a new system is easy to construct, and the constitution is its pinnacle, its typical culmination. However, the coming of the new system to being proved to be a very challenging, painful process. Even more so when it happened after almost half a century of subordination to the USSR – and a 5-year world war prior to that.

The turning point in Polish political thought is, as it clearly appears today, a break in the ideological continuity whose essential – i.e. fundamental to the concept of the Polish State – elements are the independence and sovereignty of Poland.³ The said period in the history of the Republic of Poland has left a strong mark on the Polish nation's ability to see the importance of the aforementioned values, which translates into a necessary concern for their preservation. From the perspective of these two ideas, so closely related to the preservation of Polish identity, and, at the same time, considering the continuity of the age-old national tradition, the main goal is to protect this Polish national identity in the face of the emerging threats to the state's sovereignty. The search for solutions to counteract this trend shall start from making it clear that a threat to the national character of the Republic of Poland and its independence as a state is the transformation of the European Union into – formally – a federation, which is in reality a bureaucratic superstate. Regardless of the formal category of the EU, the trend of centralisation – which has been very noticeable for many years now – and the related process of consolidation of the intergovernmental method result in a real increase in the powers of powerful countries, mainly Germany. The outcome is a deepening of the process of peripheralisation of weaker countries, and the prospect of one of the

³ It is not my intention to discuss the concept of sovereignty in this paper – neither as a principle nor as a state of affairs that determines the position of a state in international relations. My initial position is that a modern nation-state not only can – but should – exist as a realistically distinct, autonomous entity of international relations. Membership in international organisations should take place on the basis and within the limits of international agreements concluded. I am not aware of any objective implications that should force the abolition of nation-states, especially in the name of an advance towards the further development of modernity. A. Łabno, *Polityczność Unii Europejskiej i jej konsekwencje dla ustrojów państw członkowskich. Analiza na przykładzie ustroju Rzeczypospolitej Polskiej. Zarys problemu*, [in:] Ł. Gołąb, B. Szmulik (eds.), *Unia Europejska wobec wyzwań współczesności*, Warszawa 2022 and the literature cited therein.

aforementioned concepts of the European Union becoming reality can only exacerbate this phenomenon.

The threat to the sovereign position of the Republic of Poland and, at the same time, the country's development within the structures of the European Union requires both political engagement within the Community and appropriate measures to be taken locally, in Poland. These measures should involve not only focusing on relevant political goals, but also arriving at the right meaning of the 1997 Constitution of the Republic of Poland. In practice, this could mean recognising the 1997 Constitution as a legal act that not only serves legal and stabilising purposes,⁴ but, as Bogusław Banaszak argues, "plays [...] the role of a guarantor of social peace, securing and protecting the system of political, economic, and social relations defined therein."⁵ The Constitution viewed in this way should be a tool to protect the interests of a sovereign Republic of Poland by counteracting the progressive subordination to the policies of Germany, which acts as a dominant political and economic force in the European Union. One recent example of this phenomenon is the problem of the abolition of unanimous voting in the EU in the field of foreign and security policies and making forest management not a national – local – competence, but a shared competence under Article 4 of the TFEU.

I would like to use the latter area as an example in an analysis of the broader problem of natural resource conservation in Poland. This is because it is not only about the relations within the European Union, but also about the proper regulation of the protection of goods of special importance in Poland's internal relations in general.

The issue of constitutional protection of natural resources seems to be of little interest to lawyers – including constitutionalists – in Poland. No draft of the new constitution of the Republic of Poland presented after 1989 regulated this issue. Likewise, after the new Constitution of the Republic of Poland came into force in 1997,⁶ no draft amendment to this act that followed addressed it. Yet, a draft aiming to establish constitutional protection for state forests was presented in 2014, but it ultimately did not receive the required support. This issue will be discussed further.

⁴ More extensively on the functions of the constitution: B. Banaszak, *Prawo konstytucyjne*, 7th ed., Warszawa 2015, pp. 62 et seq.

⁵ Ibidem. Cf. also, especially in the context of Poland's membership in the European Union: J. Jaskiernia, *Funkcje Konstytucji RP w dobie integracji europejskiej i radykalnych przemian politycznych*, Toruń 2020, pp. 582 et seq; A. Łabno, *Zasada nadrzędności Konstytucji a ochrona jej podstawowych zasad. Wybrane zagadnienia*, "Przeгляд Legislacyjny" 2022, 2, pp. 39 et seq.

⁶ Constitution of the Republic of Poland of 2 April 1997, Journal of Laws of the Republic of Poland, item 483, 2001, item 319, 2006, item 1471, 2009, item 946.

After the enactment of the 1997 Constitution – over the 26 years of it being in force, there have been two amendments thereto so far, which were specific in that they involved improving or supplementing the existing regulations.⁷ These were amendments to Article 55 and Article 99. In the first case, the legislator regulated the possibility of extradition of a Polish citizen in strictly defined situations, which stemmed from the establishment of the European Arrest Warrant.⁸ In the second case, the legislator prevented electing persons sentenced by a final judgement to imprisonment for an intentional crime prosecuted ex officio as members of the Sejm or the Senate.⁹

It can therefore be argued that the amendments to the Constitution made so far have been incidental. But this does not mean that there had been no interest in amending the Constitution before.¹⁰ There have been many more drafts intending to amend the Constitution, as dozens of them have appeared during its being in force. This includes both formal proposals, i.e. those that meet the relevant procedural requirements and have been submitted to the Sejm for consideration, as well as those that have remained in the realm of political or scientific discussion – and as such have not made it any further in the legislative process.

Two draft amendments to the Polish Constitution have been during the United Right rule. In both cases, these are proposals submitted of MPs from the Law and Justice party. One is closely related to Poland's political situation shaped by the Ukrainian-Russian war triggered by Russia's armed attack launched in February 2022, and concerns two constitutional matters. It would involve changing the method of calculating the state public debt would in a way that its value would not include loans, guarantees, and financial warranties used to finance the defence needs of the Republic of Poland (Article 216 section 5 of the Constitution), and incorporating a new chapter XIa – titled "Threat to State Security" (Article 234a).¹¹ According to this provision, it would be permissible to seize the property of non-Polish citizens, legal entities, and other entities, found in the territory of the Republic of Poland in the event of an armed attack by a foreign state on the territory

⁷ It is also fair to mention the correction made to the wording of Article 31 section 3 of the Constitution by way of the announcement of 26 March 2001, Journal of Laws of the Republic of Poland No. 28, item 319.

⁸ Act of 8 September 2006, Journal of Laws of the Republic of Poland No. 200, item 1471.

⁹ Act of 7 May 2009, Journal of Laws of the Republic of Poland No. 114, item 946.

¹⁰ Broadly and critically on the legitimacy of this draft: R. Chruściak, *Projekty zmian w Konstytucji RP*, [in:] S. Bożyk (ed.), *Aktualne problemy reform konstytucyjnych*, Białystok 2013, p. 41; An extensive discussion of the issue of amendment of the constitution is offered from an approving perspective by M. Bernaczyk, K. Wygoda, *Znaczenie i skutki nowelizacji art. 99 Konstytucji RP*, [in:] B. Banaszak, M. Jabłoński (eds.), *Konieczne i pożądane zmiany Konstytucji RP z 2 kwietnia 1997 roku*, Wrocław 2010, pp. 111 et seq.

¹¹ Sejm paper no. 2263, 9th term.

of the Republic of Poland or if it causes a direct threat to Poland's internal security. The assets seized would be used to support those affected by the war.

The draft amendment presented is clearly occasional, motivated by the existing circumstances, albeit less so when it comes to the first issue in question.

The other of the proposed drafts calls for the abolition of formal immunity for both MPs and senators – as well as judges.¹² This would satisfy the demands that have been voiced for many years by various political parties.

To conclude, regardless of the potential value and advantages of the submitted draft amendments to the Constitution, they are, as Ryszard Chruściak aptly put it, incidental and narrow.¹³ However, this should not mean that the changes made should be disapproved of. The Constitution is a legal act with very specific features and functions. It is also a political act, and it is therefore particularly difficult to amend it. Even the mere initiation of the amendment procedure can lead to an imbalance in the existing political power. This can occur especially if the amendment were to address issues of particular political or axiological significance. In this context, it is necessary to recognise the importance of the formal conditions for enacting the amendment. They serve to protect the state system from the threat of disruption of political stability. But at the same time, they limit the possibility of adopting an amendment even when it could be, in fact, beneficial. This may sound like a paradox, but it should be borne in mind that this concerns a matter that is not only reviewed from a legal point of view, but is also politically determined.¹⁴ This also applies to the way it is interpreted. A good example here is the situation in Poland after the 2015 elections, when the government decided to read the Polish Constitution in a republican spirit, and thus in many aspects different from what had been happening in the whole preceding period of application of this act.¹⁵

The need to amend the Constitution has been commented on by various professionals dealing with legal sciences – mainly with constitutional law, presenting their views in three surveys developed for this purpose. Chronologically, the first such survey, developed by Bogusław Banaszak and Jarosław Zbieranek in 2011¹⁶

¹² Sejm paper no. 2797, 9th term. There has already been a second attempt to abolish formal immunity.

¹³ R. Chruściak, op. cit., p. 41.

¹⁴ This can be seen very clearly in the analysis carried out by J. Jaskiernia, op. cit., pp. 583 et seq.

¹⁵ Cf.: A. Łabno, *Wolność i solidarność – antynomia czy dopełnienie w aksjologii współczesnego konstytucjonalizmu?*, [in:] eadem (ed.), *Konstytucja Rzeczypospolitej Polskiej po 20 latach obowiązywania*, Warszawa 2020, pp. 67 et seq.; W. Ciszewski, *Republikańskie odczytanie Konstytucji Rzeczypospolitej Polskiej*, "Przegląd Konstytucyjny" 2017, 4, pp. 5 et seq.; A. Młynarska-Sobaczewska, *Republikańska ewolucja – kilka uwag o zmianach Konstytucji*, "Rzeczy Wspólne" 2016, 22, pp. 6 et seq.; P. Skuczyński, *Společne odczytanie Konstytucji RP a aksjologia konstytucyjna i konstytucyjna ontologia*, "Společne Archiwum Filozofii Prawa i Filozofii Społecznej" 2022, 1, pp. 102–103.

¹⁶ B. Banaszak, J. Zbieranek (eds.), *Ankieta konstytucyjna*, Warszawa 2011.

and the next one, organised in 2017 by Monika Florczak-Wątor, Piotr Radzewicz, and Michał M. Wiszowaty,¹⁷ developed on the initiative of the scientific community of constitutionalists, did not result in any effort to amend the Constitution, but made it possible – which is the purpose of such type of normative analysis – to present the standpoint of specialists and thus guide the professional discussion in the right direction. It needs to be stressed that these surveys did not contain any explicit demands recognising the need for a complete – or even very extensive – amendment of the Constitution that should follow. Most often, they indicated the need for local changes, or for modifications of certain areas of constitutional regulation. The underlying conviction was that there was no so-called constitutional moment, i.e. sufficient political conditions to make a formal effort to amend the Constitution, especially in a comprehensive manner. The proposals put forward concerned most often adopting a new chapter regulating the normalisation of Poland's membership in the European Union, focusing in particular on such issues as the rank of European law in the overall system of sources of law, the procedure of withdrawal from the EU, and, in addition, the issue of reforming the systemic position of the National Bank of Poland and the liquidation of the Monetary Policy Council if Poland joins the Eurozone.¹⁸ The demands for a reform of the Constitution also included strengthening the position of the Council of Ministers and making it an entity fashioned after a chancellor system rather than after a presidential one, limiting the institution of formal immunity, and changing the system of appointment of Constitutional Court judges.¹⁹

The other – second – constitutional survey tends to offer the same views and positions on many issues as already expressed in the previous survey.²⁰ This is understandable in that it was distributed also among members of the constitutional community – without being limited to the heads of constitutional law departments at selected universities at the time, as had been the case previously. It is therefore difficult to compare the findings of the two surveys,²¹ but it seems that the conc-

¹⁷ M. Florczak-Wątor, P. Radzewicz, M.M. Wiszowaty, *Ankieta o Konstytucji Rzeczypospolitej Polskiej. Wyniki badań przeprowadzonych wśród przedstawicieli nauki prawa konstytucyjnego w 2017 r.*, „Państwo i Prawo” 2018, 6.

¹⁸ M. Kruk, *Propozycje zmian Konstytucji RP z 1997 r. Próba klasyfikacji*, [in:] *Problemy zmiany Konstytucji*, Warszawa 2017, pp. 84–85; J. Marszałek-Kawa (review), J. Zbieranek, B. Banaszak, *Ankieta konstytucyjna*, Institute of Public Affairs, Warszawa 2011, „Athenaeum. Polskie Studia Politologiczne” 2012, 33, pp. 283–286.

¹⁹ M. Kruk, op. cit., p. 85.

²⁰ An extensive discussion of the design and results of the survey is offered by M. Florczak-Wątor, P. Radzewicz, M.M. Wiszowaty (eds.), op. cit., pp. 32 et seq.

²¹ It needs to be pointed out that the second survey discussed consisted of two parts: a closed one, where the questions included a set of suggested answers to choose from, and an open one, where the questions had to be answered in a descriptive manner.

clusions that can be drawn from each are largely congruent with each other. There was no demand whatsoever for a comprehensive amendment of the Constitution, but rather for smaller – local – amendments consisting in many cases of refining or even specifying existing provisions, as the prevailing view was that a correct interpretation of the provisions would suffice.²² Most of the responses revealed a conviction that it was necessary to weaken the power of the president and make the government model evolve towards a chancellor model. Like before, the provisions governing the system of appointment of Constitutional Court judges were questioned. Many responses also called for strengthening and expanding the institutions of direct democracy.

A survey organised by Law and Justice in 2017 became an opportunity to address the most important issues regulated by the Constitution, including – in particular – the constitutional principles and the economic system, the rights of an individual, Poland’s membership in the European Union, the system of government, and the model of the judiciary.²³ The respondents stressed the importance of the principle of sovereignty – along with the need to standardise it to a greater extent, as well as the need to expand the use of the institutions of direct democracy and extend the principles governing the national of system of law. In addition, they opted for extending the principle of solidarity to a greater extent, the manifestation of which was to be the reinforcement of the principle of sustainable development. This principle should not be limited to environmental protection, but should apply to all state policy objectives.²⁴ The relevance of the constitutional protection of property was also questioned.²⁵ This concerned mostly efforts to preserve Polish ownership of agricultural properties and thus protect Polish economic interests.²⁶ The need to protect other assets of general interest was also a matter raised by many.²⁷

There was also a demand for a chancellor model of government and for a limitation of the power of the president.

Summarising the above considerations, it is easy to see that the period of the 1997 Constitution being in force was a period of stabilisation of the Polish Basic Law. During this time, only two amendments were made – to a very limited extent

²² M. Florczak-Wątor, P. Radziejewicz, M.M. Wiszowaty (eds.), op. cit., pp. 32 et seq.

²³ A. Łabno, B. Banaszak, B. Szmulik (eds.), *Ankieta konstytucyjna 2017 rozpisana przez Prawo i Sprawiedliwość w dwudziestolecie uchwalenia Konstytucji RP*, Warszawa 2018, pp. 5. et seq.

²⁴ J. Ciechanowicz-McLean, P. Dembicki, [in:] A. Łabno, B. Banaszak, B. Szmulik (eds.), op. cit., Warszawa 2018, pp. 69 et seq.

²⁵ A. Łabno [in:] A. Łabno, B. Banaszak, B. Szmulik (eds.), op. cit., pp. 151–152.

²⁶ Ibidem.

²⁷ Ibidem.

and of limited systemic and political significance. While it is possible to identify and name some general trends, such as the desire to curb the powers of the president to a greater extent than in the current Constitution compared to the 1992 constitutional law, to strengthen the position of the Council of Ministers through the adoption of a chancellor model, and to reform the system of appointment of Constitutional Court judges, there was no call for a major, extensive amendment – nor for the enactment of an entirely new Basic Law. It is not the purpose of this paper to analyse the reasons for this state of affairs, nor to make judgements from the point of view of the legitimacy of the proposed changes. The idea is rather to point out what systemic institutions have not been proposed at all in this discussion on the amendment of the current Polish Constitution. Thus, it is fair to conclude, as peculiar as it seems, that it is more a matter of covering what has so far not been addressed at all – or what has been addressed only in very few cases.

In the discussion of the amendment of the Constitution to date, which involved mainly surveys, but also monographs on the subject in question,²⁸ the main arguments raised have concerned the need for changes in the field of the exercise of power, of the structure of the Constitution, and of the regulation of the protection of human rights in terms of expanding the possibility to make use of the constitutional complaint. There have also been proposals concerning constitutional axiology, albeit limited and rare.²⁹ It can be therefore concluded that the majority of the proposals intending to amend the Constitution dealt with similar aspects, although there were some new trends too. They were noticeable mainly in the survey conducted by A. Łabno, B. Banaszak, and B. Szmulik. The survey revealed the need for a republican orientation in interpreting the Constitution, as mentioned earlier, and for changes in the area of protecting the ownership of assets of special economic importance.

The draft amendments to the Constitution that have been proposed so far, as well as the organised constitutional surveys³⁰ with few exceptions, have not included proposals to incorporate several highly important issues into the Basic Law. First, it would be the introduction of a system of protection of natural resources.³¹ The

²⁸ The most noteworthy of them include B. Banaszak, M. Jabłoński (eds.), *Konieczne i pożądane zmiany Konstytucji RP z 2 kwietnia 1997 roku*, Wrocław 2010, p. 433; S. Bożyk (ed.), *Aktualne problemy reform konstytucyjnych*, Białystok 2013, p. 651.

²⁹ It would be reasonable to refer in particular to the concept presented by K. Complak, *Rewizja (gruntowna) rozdziału I Konstytucji RP z 1997 r.* [in:] B. Banaszak, M. Jabłoński (eds.), *Konieczne i pożądane zmiany Konstytucji RP z 2 kwietnia 1997 r.*, Wrocław 2010, pp. 153 et seq.

³⁰ Although the third of the surveys from this group was distributed not only among constitutional law specialists, they participated in it in small numbers and did not make any claim regarding state forests.

³¹ Cf. A. Łabno [in:] A. Łabno, B. Banaszak, B. Szmulik (eds.), op. cit., Warszawa 2018, pp. 151–152.

issue has been garnering attention lately because of the dispute between Poland and the European Union over forest management and because of the vote in the European Parliament to transfer the local competence for forest management to the domain of the European Union's shared competences.

In March 2023, Poland lost its case before the CJEU, which ruled that Poland was obliged to legally regulate NGOs' access to judicial review of forest management, as well as to apply the Habitats Directive and the Birds Directive. This is the second case Poland has lost before the CJEU in the area of forest management.³² In both cases, the subject of the dispute is, in fact, how forests are managed. The decisions made and the requirements they imposed should be best left to experts on the matter to comment on, but there is surely a problem of the scope of the Republic of Poland's competence to manage its state forest areas.³³ The issue has recently become particularly important because Poland will lose its rights to manage an area that comprises almost 30% of the country. The matter is all the more crucial from the point of view of the need to protect the interests of the state. And this does not mean only its economic interests. It means challenging its sovereignty, and this is a problem that has to do with the protection of strategic interests.

Countering EU reforms is only possible through political means by winning allies, but this is not easy in practice.³⁴ Political inefficiency not only makes the inhabitants of economically weaker EU countries become poorer faster, but also deprives these countries of their political independence at a rapid rate. This topic, although of great significance, will not be elaborated on in this paper as the focus is on the issue of conservation of forests and – in broader terms – of natural resources.

As I mentioned above, Poland has long been aware of the threats to the protection of its forests – especially state forests. These threats arise both from domestic relations – which means a dispute over the privatisation of state forests – as well as from policies pursued and imposed by the European Union in the field of environmental protection. To address the first of the problems identified, the Polish People's Party submitted a proposal to amend the Constitution in 2014, proposing that state forests be recognised as a common good and as such be subject to special protection.³⁵ The solution would primarily consist in excluding the possibility of ownership

³² The first case was the the Białowieża Forest case (C-441/17), which closed with the CJEU judgement of 17.04.2018. The second case is case C-432/21, closed with the judgement of 2.03.2023.

³³ An important fact to mention here is that forests in Poland cover 29.6% of the total surface area of the country, and the vast majority thereof – i.e. about 80% – are state forests. Since 1945, the forestation rate in Poland has increased by almost half. Source: lasy.gov.pl (access: 5.05.2023).

³⁴ I am referring to the results of the recent vote on reducing greenhouse gas emissions by at least 55% by 2030 relative to 1990 levels.

³⁵ The draft was supported by the Civic Platform, the Polish People's Party, the Democratic Left Alliance, and Palikot's Movement.

changes except in cases provided for by the law in force.³⁶ However, the draft amendment ultimately failed to gain support and was rejected in the third reading.

In light of the lost dispute with the European Union in 2023, another idea has emerged – also originated by the Polish People’s Party – to establish a system of constitutional protection for state forests. Details have not yet been presented, but judging from the party’s leader’s public statements, it may be based on the same ideas that laid the foundation for the draft amendment submitted in 2014 – namely, on the idea to recognise forests as a common good and consider them state property.

The amendment to the Constitution proposed in both 2014 and 2023 is narrow and occasional, which does not mean it is unnecessary. First, however, it would be advisable to analyse the implications of this solution on both the political sphere and the forest management system if the EU’s plans to assume jurisdiction over this area of state governance are implemented. Taking into account Poland’s experiences with the issue of forest management, but also looking from a broader perspective, it may also seem reasonable to consider extending the mechanism of constitutional protection to encompass all strategic natural resources.³⁷ Opponents of such a regulation could use the argument that this duplicates the arrangements made under the Constitution of the People’s Republic of Poland, whose Article 12 stipulated that “the all-national property, especially mineral deposits, primary sources of energy, State-owned land, waters. State forests, mines, State industrial, farming and commercial enterprises. State-owned public utilities, banks, State stock of housing, roads. State-owned means of transport and communications, radio, television and film, State welfare, educational, scientific, and cultural institutions – shall be an object of special care and protection by the State and by all citizens.”³⁸ It must be made clear and beyond any doubt that recognition of natural resources as a common good not only involves the use of different terminology, but, above all, stems from a doctrinally different view of a certain category of goods. It bears no relation to the underlying assumptions of the Marxist concept of ownership and role of the state. If the discussion is to continue, it may not be relevant why the protection of natural resources did not become regulated in the new Constitution of the Republic of Poland, but it may be reasonable to consider the concept of ownership adopted therein. Viewed from the liberal perspective in the first

³⁶ Sejm paper no. 2374, 7th term. Cf.: A. Szmyt, *Projekt ustawy o zmianie Konstytucji RP w zakresie ochrony lasów państwowych*, “The Sejm Review” 2015, 3, p. 9 et seq.

³⁷ More on the concept of natural resources: A. Haładyj, J. Trzewik, *Komentarz do ustawy z dnia 6 lipca 2001 r. o zachowaniu narodowego charakteru strategicznych zasobów naturalnych* [legislation in force as at 15 May 2020], Lublin 2020, p. 18 et seq.

³⁸ Constitution of the Polish People’s Republic of 22.07.1952, uniform text announced by the Chairman of the Council of State’s announcement of 16.02.1976, Journal of Laws of the Republic of Poland, No. 7, item 36.

place. The liberal spirit of the Polish Basic Law is evident in the way ownership is regulated. The source of the adopted regulations may also be traced in the resentment caused by the impact of the reality of the Polish People's Republic, as well as in the attempt to enact a constitution that regulates what seems most important in the modern world. And after the era of the Polish People's Republic, the ideas that fell within the concept of common goods receded into the background.

Constitutional protection of natural resources, whether considered in its general sense or applied selectively to specifically designated assets – such as the protection of forests, agricultural land, or minerals, as well as waters – is found in a range of modern basic laws. Examples include Greece, Lithuania, Bulgaria, or Switzerland, whose regulations are very different from the point of view of the legal status of these assets and, as such, can become interesting models for Polish reforms to follow.

In Poland, the protection of natural resources is regulated by the Act of 6 July 2001 on the Preservation of the National Character of the Strategic Natural Resources of the Country.³⁹ The name of this legislation clearly suggests that its subject matter is a priority, and can therefore be potentially regulated by a constitutional mechanism. The issue will be analysed further and in more detail in the second part of this article.

Bibliography

- Banaszak B., *Prawo konstytucyjne*, ed. 7th, Warszawa 2015.
- Banaszak B., Jabłoński M. (eds.), *Konieczne i pożądane zmiany Konstytucji RP z 2 kwietnia 1997 roku*, Wrocław 2010.
- Banaszak B., Zbieranek J. (eds.), *Ankieta konstytucyjna*, Warszawa 2011.
- Bernaczyk M., Wygoda K., *Znaczenie i skutki nowelizacji art. 99 Konstytucji RP*, [in:] B. Banaszak, M. Jabłoński (eds.), *Konieczne i pożądane zmiany Konstytucji RP z 2 kwietnia 1997 roku*, Wrocław 2010.
- Bożyk S. (ed.), *Aktualne problemy reform konstytucyjnych*, Białystok 2013.
- Chruściak R., *Projekty zmian w Konstytucji RP*, [in:] S. Bożyk (ed.), *Aktualne problemy reform konstytucyjnych*, Białystok 2013.
- Ciechanowicz-McLean J., Dembicki P., [in:] A. Łabno, B. Banaszak, B. Szmulik (eds.), *Ankieta konstytucyjna 2017 rozpisana przez Prawo i Sprawiedliwość w dwudziestolecie uchwalenia Konstytucji RP*, Warszawa 2018.
- Ciszewski W., *Republikańskie odczytanie Konstytucji Rzeczypospolitej Polskiej*, „Przegląd Konstytucyjny” 2017, 4.

³⁹ Act of 6 July 2001 on the Preservation of the National Character of the Strategic Natural Resources of the Country, Journal of Laws of the Republic of Poland of 2018, item 1235.

- Complak K., *Rewizja (gruntowna) rozdziału I Konstytucji RP z 1997 r.*, [in:] B. Banaszak, M. Jabłoński (eds.), *Konieczne i pożądane zmiany Konstytucji RP z 2 kwietnia 1997 r.*, Wrocław 2010.
- Florczak-Wątor M., Radziejewicz P., Wiszowaty M.M., *Ankieta o Konstytucji Rzeczypospolitej Polskiej. Wyniki badań przeprowadzonych wśród przedstawicieli nauki prawa konstytucyjnego w 2017 r.*, „Państwo i Prawo” 2018, 6.
- Haładaj A., Trzewik J., *Komentarz do ustawy z dnia 6 lipca 2001 r. o zachowaniu narodowego charakteru strategicznych zasobów naturalnych*, legislation in force as at 15 May 2020, Lublin 2020.
- Jaskiernia J., *Funkcje Konstytucji RP w dobie integracji europejskiej i radykalnych przemian politycznych*, Toruń 2020.
- Kruk M., *Propozycje zmian Konstytucji RP z 1997 r. Próba klasyfikacji*, [in:] R. Chruściak (ed.), *Problemy zmiany Konstytucji*, Warszawa 2017.
- Łabno A., *Polityczność Unii Europejskiej i jej konsekwencje dla ustrojów państw członkowskich. Analiza na przykładzie ustroju Rzeczypospolitej Polskiej. Zarys problemu*, [in:] Ł. Gołąb, B. Szmulik (eds.), *Unia Europejska wobec wyzwań współczesności*, Warszawa 2022
- Łabno A., *Zasada nadrzędności Konstytucji a ochrona jej podstawowych zasad. Wybrane zagadnienia*, „Przegląd Legislacyjny” 2022, 2.
- Łabno A., *Wolność i solidarność – antynomia czy dopełnienie w aksjologii współczesnego konstytucjonalizmu?*, [in:] A. Łabno (ed.), *Konstytucja Rzeczypospolitej Polskiej po 20 latach obowiązywania*, Warszawa 2020.
- Łabno A., [in:] A. Łabno, B. Banaszak, B. Szmulik (eds.), *Ankieta konstytucyjna 2017 rozpisana przez Prawo i Sprawiedliwość w dwudziestolecie uchwalenia Konstytucji RP*, Warszawa 2018.
- Marszałek-Kawa J. (review), J. Zbieranek, B. Banaszak, *Ankieta konstytucyjna*, *Instytut Spraw Publicznych*, Warszawa 2011, „Athenaeum. Polskie Studia Politologiczne” 2012, 33.
- Młynarska-Sobaczewska A., *Republikańska ewolucja – kilka uwag o zmianach Konstytucji*, „Rzeczy Wspólne” 2016, 22.
- Skuczyński P., *Społeczne odczytanie Konstytucji RP a aksjologia konstytucyjna i konstytucyjna ontologia*, „Społeczne Archiwum Filozofii Prawa i Filozofii Społecznej” 2022, 1.
- Szmyt A., *Projekt ustawy o zmianie Konstytucji RP w zakresie ochrony lasów państwowych*, „Przegląd Sejmowy” 2015, 3.

Translation of that article into English was financed under Agreement Nr RCN/SN/0331/2021/11 with funds from the Ministry of Education and Science, allocated to the “Rozwój czasopism naukowych” programme.