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The First Legislation on Nature Protection in the Polish Lands¹

1. Introduction; 2. The Beginnings of Nature Protection; 3. Scientific Concepts of Nature Conservation in Galicia; 4. Nature Protection in the Kingdom of Poland; 5. Conclusion.

1

The ongoing and deepening ecological crisis, which has affected the entire globe, is one of the greatest threats facing the modern world. The fight against this crisis will determine the future of humanity in the coming years. The protection of natural resources, particularly nature conservation, is not a new concern.

The origins of nature protection law in Poland should be examined in the context of the emerging ecological awareness at the turn of the 19th and 20th centuries, as well as the socio-economic changes that influenced how human relations with nature were perceived. The first legislation was fragmented in nature, primarily aimed at protecting selected natural resources in order to ensure their sustainability and economic utility. Nevertheless, even at this early stage, attempts were made to incorporate aesthetic, scientific, and environmental values, laying the foundation for later, more comprehensive legislative solutions.

¹ This study is a modified version of the Polish language chapter *Pierwsze regulacje prawne z zakresu ochrony przyrody na ziemiach polskich* published in the book J. Malec, *Studia z dziejów administracji nowożytnej*, Krakowska Szkoła Wyższa im. A.F. Modrzewskiego, Kraków 2003, pp. 127–134.

Groundbreaking legal acts, such as the Nature Protection Act of 1934², introduced a more systematic approach to environmental conservation, covering both individual natural landmarks and selected ecosystems. Although this legislation initially focused on species protection and the preservation of natural monuments, they marked the first step towards the institutionalization of environmental protection in Poland. It is worth noting that their genesis and development were closely linked to the needs of biological sciences and advancements in research on the environment, which significantly shaped nature conservation policies of that time.

Understanding the historical legal foundations of environmental protection allows us to see how the perception of human-nature relationships has evolved over the decades. The shift from protecting resources for economic purposes to comprehensive actions aimed at preserving biodiversity and ecosystem integrity reflects changing social and scientific priorities. Analyzing these processes is crucial not only for a better understanding of the evolution of nature conservation law in Poland, but also for reflecting on its potential future development in response to contemporary societal and environmental challenges.

2

Nature conservation law is one of the more recent branches of administrative law, emerging in the second half of the 19th century. While the protection of natural treasures was reflected in legislation as early as the Middle Ages, it was primarily incidental and driven by utilitarian rather than scientific considerations.

In Poland, the first legislation concerning nature conservation dates back to the reign of Bolesław the Brave, who, at the beginning of the 11th century, issued a ban on the extermination of beavers and mandated the protection of their lodges. Similarly, the Wiślica Statute of 1347 imposed relatively severe penalties for offences such as the theft of wood from forests, the cutting down of trees that housed bee colonies³, and damage to fields, meadows, rivers, and ponds. In 1423, King Władysław Jagiełło issued a decree that introduced specific seasons for hunting game, imposed strict penalties for cutting down trees in sparsely forested areas and setting forests on fire, and protected yew and other valuable tree species.

The First Lithuanian Statute of 1529 once again referenced the protection of beavers, while a decree issued by Sigismund III in 1597 completely prohibited hunting aurochs in the Jaktorów Forest near Sochaczew, establishing a special guard for this purpose. However, despite these efforts, the species became extinct

² Ustawa z dnia 10 marca 1934 r. o ochronie przyrody, Dz.U. z 1934 r. nr 31, poz. 274.

³ Statuty wiślickie, art. 86. *Kodeks Dzikowski* [w:] *Archiwum Komisji Prawniczej*, t. 3, wydał F. Piekosiński, Akademia Umiejętności, Kraków 1895, pp. 22–62.

in 1627.⁴ The idea of proper nature conservation, pursued in the name of scientific principles, did not crystallize until the 19th century.⁵

3

The development of natural sciences in the second half of the 19th century served as a significant catalyst for the advancement of nature conservation worldwide, including in the Polish territories. The first domestic initiative in this regard, which resulted in the enactment of a law dedicated to nature protection based purely on scientific principles, originated in Galicia, specifically in Kraków.⁶ At that time, the prevailing concept emphasized the preservation of nature for its intrinsic values, including moral and scientific considerations. This idea was realized through the passage of pioneering conservation laws by the Galician National Sejm in Lviv.

The enactment of these laws was largely driven by the efforts of three distinguished naturalists, namely, Ludwik Zejszner, Maksymilian Siła-Nowicki, and Eugeniusz Janota, who garnered support from institutions such as the Physiographic Commission of the Kraków Learned Society, the Tatra Society, and later, the Mikołaj Kopernik Society of Naturalists.⁷

This legislative initiative coincided with a growing scientific interest in the natural environment of the Tatra Mountains' and a desire to protect rare mountain species, particularly wild goats (chamois) and marmots.⁸ The first proposal in this area was made by Zejszner in 1851, and in subsequent years his efforts were continued by Siła-Nowicki of the Jagiellonian University and Janota of

⁴ J.J. Nowak, *Prawo i organizacja ochrony przyrody w Polsce*, Wydawnictwo Prawnicze, Warszawa 1967, p. 21; *Studia z dziejów ochrony przyrody w Polsce*, eds. J. Babicz, W. Grębecka, Z. Wójcik, Zakład Narodowy im. Ossolińskich, Wrocław 1985, pp. 117–118; *Rozwój idei ochrony przyrody oraz kształtowania i ochrony środowiska*, ed. D. Tyrawska, Warszawa 1989, p. 38.

⁵ See also A. Skowroński, *Wydarzenia i ludzie początków prawnej ochrony przyrody w Polsce*, "Studia Ecologiae et Bioethicae" 2005, vol. 3, no 1, pp. 355–368, <https://doi.org/10.21697/seb.2005.3.1.23>; P.M. Usiądek, *Przyczynek do historii polskiego prawa ochrony środowiska – wybrane zagadnienia (do 1918 r.)* [in:] *Terroryzm wobec środowiska potencjalnym zagrożeniem współczesnych czasów – wybrane zagadnienia*, eds. E. Zębek, N. Kulbacka-Burakiewicz, Kortowski Przegląd Prawniczy, Olsztyn 2017, pp. 21–27; *100 lat ochrony środowiska w Polsce*, ed. W. Szymalski, Instytut Naukowo-Wydawniczy "Spatium", Radom 2020, pp. 11–15.

⁶ J.J. Nowak, *op. cit.*, p. 22.

⁷ *Rozwój idei ochrony przyrody...*, *op. cit.*, pp. 39–40.

⁸ An anonymous brochure was published on the initiative of the Physiographic Commission of the Kraków Learned Society as early as September 1865, *Upomnienie Zakopianów i wszystkich Podhalańców, aby nie tępilli świstaków i kóz*, probably authored by E. Janota. A. Leńkowa, *Zaczęło się od świętego gaju*, Krajowa Agencja Wydawnicza, Warszawa 1981, p. 104.

Lviv University. Eventually, their work culminated in a draft law prepared by the Physiographic Commission⁹, which was presented for deliberation in the Galician National Sejm in Lviv.¹⁰

On 5 October 1868, the Sejm adopted a groundbreaking law on the prohibition of capturing, exterminating, and selling alpine animals specific to the Tatras, namely the marmot, and the wild goat. This legislation received imperial sanction on 19 July 1869 and came into force on that date.¹¹

Recognized as pioneering on an international scale¹², this law introduced a ban on hunting and selling protected animals. The penalty for violating the ban ranged from a fine of 5 to 100 gulden or, in cases where payment was not possible, imprisonment for one to twenty days, along with the return of the captured animal. Live animals were required to be released back into the wild. The responsibility for conducting investigations and imposing penalties was assigned to district authorities, with the Governorate in Lviv acting as the appellate body. The fines collected were to be allocated to the national cultural fund. Local authorities, the gendarmerie and forest guards were entrusted with overseeing compliance with the law, while its implementation fell under the jurisdiction of the Minister of Internal Affairs.

Originally intended to be in force for only ten years, the law was extended until 13 July 1909, due to the insufficient recovery of the chamois and marmot populations.¹³ Eventually, it was replaced by a new hunting law that introduced permanent protection for these species.

On the same day as the passage of this law, the Sejm also adopted a second nature conservation law, on the protection of beneficial birds and other animals. This bill was also drafted by the Physiographic Commission of the Kraków Learned Society, which later became the Academy of Learning.¹⁴ The law prohibited the capture, shooting, sale and removal of the nests of several bird species. It provided similar penalties as the previous law and additionally stipulated the confiscation of equipment used to capture birds. The same enforcement bodies were designat-

⁹ *Ibidem*, p. 108.

¹⁰ W. Szafer, *Z dziejów ochrony przyrody* [in:] *Skarby przyrody i ich ochrona*, ed. *idem*, Państwowa Rada Ochrony Przyrody, Warszawa 1932, p. 23.

¹¹ Ustawa z dnia 19 lipca 1869 r. względem zakazu łapania, wyłęgania i sprzedawania zwierząt alpejskich, właściwych Tatrom, świstaka i dzikich kóz, *Dziennik Ustaw i Rozporządzeń Krajowych dla Królestwa Galicji i Lodomerii wraz z Wielkim Księstwem Krakowskim z 1869 r.*, cz. 11, nr 26.

¹² B. Ferens, *Przeszłość i przyszłość ochrony gatunkowej zwierząt w Polsce* [in:] *Studia z dziejów ochrony przyrody...*, *op. cit.*, p. 120.

¹³ A. Leńkowa, *op. cit.*, p. 109.

¹⁴ W. Szafer, *op. cit.*, p. 24.

ed to prosecute and penalize violations, while financial penalties were directed to municipal funds, earmarked for supporting impoverished residents of the municipality where the offender was caught.

However, this law faced opposition from the imperial authorities in Vienna and ultimately did not receive imperial sanction despite being supported by several influential bodies, including the Congress of Polish Physicians and Naturalists: on 17 September 1868, the National Department: on 30 September 1869, and the National Agricultural Society: on 9 October 1869.

Władysław Szafer, one of the leading interwar architects of modern nature conservation policies, incorrectly asserted that the imperial refusal of the sanction was final, leading to the claim that the law never came into effect, to the great detriment of the country and science.¹⁵ Later studies continued to repeat this erroneous claim.¹⁶ However, the situation changed a few years later. On 21 December 1874, the emperor, acting on a resolution of the National Sejm for the Kingdom of Galicia and Lodomeria, signed into law an act on the protection of certain animals beneficial to agriculture.¹⁷ Although its provisions differed in some details from the earlier proposal, it was undoubtedly closely related to it.¹⁸ The following month, this law was supplemented by another Galician act, on the prohibition of hunting animals during certain periods, which received imperial sanction on 30 January 1875.¹⁹ Both laws, which expanded the legal framework for nature conservation, have remained largely overlooked in scholarly literature.

Two additional legislative initiatives concerning nature protection also merit mention. The first was a national fisheries law, drafted by Siła-Nowicki in collaboration with Kraków-based legal experts. It was adopted by the Galician Sejm in 1881, but four years later was replaced by a general Austrian framework law, which authorized the National Sejm (Sejm Krajowy) to regulate local fisheries through specific legislation. This new national law, also authored by Siła-Nowicki, was

¹⁵ *Ibidem*, pp. 24–25.

¹⁶ A. Leńkowa, *op. cit.*, pp. 110–111.

¹⁷ *Dziennik Ustaw i Rozporządzeń Krajowych dla Królestwa Galicji i Lodomerii wraz z Wielkim Księstwem Krakowskim z 1875 r.*, cz. 111, nr 10, pp. 11–14. See also: *Zbiór ustaw i rozporządzeń administracyjnych w Królestwie Galicji i Lodomerii z Wielkim Księstwem Krakowskim obowiązujących z wyciągiem orzeczeń c.k. Trybunału administracyjnego. Podręcznik dla organów c.k. Władz rządowych i Władz autonomicznych*, t. 1, ułożył i wyd. J.R. Kasperek, Nakładem Wydawcy, Lwów 1884, pp. 374–380; *ibidem*, t. 3, Lwów 1885, p. 2470–2473.

¹⁸ *Ibidem*.

¹⁹ *Dziennik Ustaw i Rozporządzeń Krajowych dla Królestwa Galicji i Lodomerii wraz z Wielkim Księstwem Krakowskim z 1875 r.*, cz. 111, nr 16, pp. 23–25.

regarded for many years as one of the best fisheries regulations in Europe. Passed by the National Sejm in 1887, it had to wait three years for imperial sanction.²⁰

The second initiative was led by Julian Brunicki, a well-known naturalist and butterfly fauna researcher, who was also a member of the National Sejm. On 15 November 1910, he proposed the creation of legal regulations for nature reserves. He also submitted a draft law to the National Department, on the protection of edelweiss, Swiss pine, yew, and other endangered plants.²¹ Unfortunately, these initiatives were left without further action.

Also worth mentioning is the attempt to establish the National Conservation Council initiated in Galicia in 1913, which was intended to serve as an advisory body to the National Department on matters concerning the protection of cultural and natural heritage. However, this initiative did not come to fruition either.²²

Despite this, the legislative activity of the Galician Sejm in the field of nature protection law deserves high praise. Although some critics sarcastically remarked that Poles and Ruthenians in Galicia, having gained legislative power, failed to make proper use of it and instead issued laws protecting crayfish, chamois, marmots, and songbirds²³, this opinion is undoubtedly unfair. The efforts undertaken at that time to preserve specific rare species of fauna and flora were pioneering solutions on an international scale. Their continuation was to take place during the interwar period.

4

In the Kingdom of Poland, significantly less importance was attached to the protection of the national natural environment. Similarly to Russia, where the nature conservation movement was only beginning to emerge, forests and animal resources were exploited in a predatory manner. It was not until the very end of the 19th century that the Russian law of 4/16 April 1888, on forest protection, was extended to the Kingdom of Poland. By a decision of the State Council on 8/20 June 1898, this law, with appropriate modifications and additions, came into effect in the Kingdom. The law, consisting of 48 articles divided into three chapters, was supplemented by provisions introduced into the law on penalties imposed by Justices of the Peace of 1864 and the Criminal Code, specifying penalties and fines for

²⁰ A. Leńkowa, *op. cit.*, pp. 115–116.

²¹ W. Szafer, *op. cit.*, pp. 31–31.

²² *Rozwój idei ochrony przyrody...*, *op. cit.*, p. 41.

²³ Quoted after W. Feldman, *Stronnictwa i programy polityczne w Galicji 1846–1906*, t. 1, Spółka Nakładowa “Książka”, Kraków 1907, p. 190.

violating its provisions. Notably, the Forest Protection Act has been largely overlooked in the existing Polish literature on nature conservation.²⁴

This law extended forest protection provisions to all forests: government-owned, communal, institutional, and private. At the same time, it designated forests considered essential for preservation, particularly those protecting the origins and sources of rivers and their tributaries, as well as those preventing shifting sands, as so-called “protective forests”. These forests were subject to special conservation regulations, prohibiting tree felling unless approved under a certified forest management plan. In other forests, tree felling required notification to the relevant protection committee, stating the reasons for logging. The committees were granted a lengthy six-month period to issue a decision, after which, in the absence of a refusal, the forest owner could proceed with logging. Non-compliance with these regulations imposed an obligation on the owner, manager, or legal representative to undertake artificial reforestation of the cleared areas. At the same time, both protective forests and artificially afforested areas (though not as a result of logging) were exempted from land tax – protective forests indefinitely, and artificially afforested areas for a period of 30 years.

Supervision of the implementation of the provisions of the law was entrusted to the Forestry Department of the Ministry of State Assets, while in the field it was carried out by forest protection committees, which performed their duties with the assistance of officials from the state forest administration, the police, and district peasant affairs administrations. The forest protection committees, operating under the leadership of the governor, were responsible for recognizing forests as protected areas and approving management plans for both protected and other forests, issuing permits for converting forested areas for other uses, restricting logging that threatened forest destruction, determining deadlines for artificial reforestation, supervising forests, and holding violators of conservation regulations to account.

A significant element of the legislation for forest protection in the Kingdom of Poland was the differentiation in forest usage, stemming from the peasant servitudes that encumbered many forested areas. These lands were subject to the law’s restrictions to a limited extent.

Complaints against decisions made by forest protection committees had to be submitted within two months of their announcement to the Minister of State Assets, who reviewed them in consultation with the Minister of Internal Affairs and, if necessary, other relevant ministers.

²⁴ H. Oberfeld, *Zbiór praw i przepisów o ochronie lasów z dnia 4/16 kwietnia 1888 wraz ze zmianami i uzupełnieniami dla Królestwa Polskiego według Najwyższej zatwierdzonego zdania Rady Państwa z dnia 8/20 czerwca 1898 roku*, Gebethner i Wolff, Warszawa 1899.

In addition to their purely executive functions, forest supervision officials were granted the right, with the authorization of the forest protection committee, to initiate proceedings against individuals who violated the law's provisions and to prosecute them in court.²⁵ The Russian Code of Criminal Procedure of 1864 stipulated that legal proceedings had to be initiated within one year (for illegal logging and felling) or within six months (for unauthorized secondary use of forest resources), calculated from the time the offence was committed (Art. 1216).

The catalogue of penalties for violations of forest protection regulations, as outlined in the law on penalties imposed by Justices of the Peace, included fines and the confiscation of illegally harvested timber. Funds obtained in this manner were allocated to the forestry administration's budget.²⁶ At the same time, the Criminal Code provided for official liability for treasury administration officials overseeing forests in the majorats of the Kingdom of Poland if they failed to prevent violations of the law.²⁷

The Forest Protection Act was merely the first – though undoubtedly an appropriate – step towards establishing a legal framework for nature conservation in the Kingdom of Poland. However, it was essentially a modified version of the earlier Russian law. By the time Russia established a legal system for the protection of natural and landscape monuments in 1916, the former territories²⁸ of the Kingdom of Poland were already under German occupation. Soon, however, the moment would come for the newly independent Poland to develop its own legal regulations.

5

As early as 1919, the Provisional State Commission for Nature Protection was established under the Ministry of Religious Denominations and Public Enlightenment, with the distinguished scholar Professor Szafer²⁹ as its head. The commission oversaw the creation of collegial Nature Protection Curatorships in major cities. In 1925, the Office of the Delegate of the Ministry of Religious Denominations and Public Enlightenment for Nature Protection Affairs was established, followed

²⁵ *Ibidem*, pp. 1–16.

²⁶ *Ibidem*, pp. 37–41.

²⁷ *Ibidem*, pp. 41–42.

²⁸ *Rozwój idei ochrony przyrody...*, *op. cit.*, p. 35.

²⁹ W. Kulczyńska, *Organizacja ochrony przyrody w Polsce niepodległej* [in:] *Skarby przyrody...*, *op. cit.*, pp. 258–260.

by the creation of the State Council for Nature Protection in January 1926, which served as an advisory and consultative body for administrative authorities.³⁰

After abandoning the attempts made in 1919 to establish statutory regulations on nature protection – considered premature at the time – the first Polish nature conservation act³¹ was passed by the Sejm of the Republic of Poland on 10 March 1934. This legislation, drawing on earlier concepts, particularly those developed in autonomous Galicia, represented a modern legal act by international standards. It was distinguished not only by its advanced legislative techniques but also by its clear, logical structure and precise legal formulations. The enactment of this law marked the beginning of a new era in the history of nature conservation in Poland.³²

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Kodeks Dzikowski [w:] *Archiwum Komisji Prawniczej*, t. 3, wydał F. Piekosiński, Akademia Umiejętności, Kraków 1895, pp. 3–172.

³⁰ Pursuant to the Regulation of the Council of Ministers of 10 June 1925. Rozporządzenie Rady Ministrów z 10 czerwca 1925 r. o trybie załatwiania spraw ochrony przyrody wchodzących w zakres działania Ministerstwa Wyznań Religijnych i Oświecenia Publicznego, M.P. z 1925 r. nr 141, poz. 269.

³¹ Ustawa z dnia 10 marca 1934 r. o ochronie przyrody, Dz.U. z 1934 r., nr 31, poz. 274.

³² The Act of 1934, as well as its draft developed by the Codification Commission, were the subject of numerous studies: J.G. Pawlikowski, *Rozbudowa prawnych podstaw ochrony przyrody w Polsce*, "Ochrona Przyrody" 1934, vol. 14, pp. 1–8; D. Malec, *Prawo ochrony przyrody w Drugiej Rzeczypospolitej. Z prac nad ustawą z dnia 10 marca 1934 roku* [in:] *Parlamentaryzm i prawodawstwo przez wieki*, eds. J. Malec, W. Uruszczak, Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków 1999, pp. 231–244; *eadem*, *Pojęcie interesu publicznego w polskiej ustawie o ochronie przyrody z dnia 10 marca 1934 r.* [in:] *Przez tysiąclecia: państwo – prawo – jednostka. Materiały ogólnopolskiej konferencji historyków prawa, Ustroń 17–20 września 2000 r.*, t. 2, eds. A. Lityński, M. Mikołajczyk, Wydawnictwo Uniwersytetu Śląskiego, Katowice 2001, pp. 161–171; *eadem*, *Prawne środki ochrony przyrody w projekcie ustawy Komisji Kodyfikacyjnej z 1928 r.* [in:] *Ustrój i prawo w przeszłości dalszej i bliższej. Studia historyczne o prawie dedykowane Profesorowi Stanisławowi Grodzkiemu w pięćdziesiątą rocznicę pracy naukowej*, eds. J. Malec, W. Uruszczak, Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków 2001, pp. 515–525.

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The First Legislation on Nature Protection in the Polish Lands

Nature protection law is one of the more recent branches of administrative law, emerging in the second half of the 19th century. Although the protection of natural resources had been reflected in legislation since the Middle Ages, it was mainly incidental and driven by utilitarian rather than scientific motives. The first scientific regulations on nature protection appeared in Galicia, leading to the enactment of pioneering legislation in this field. The first law that came into force was the act on the protection of certain animals beneficial to agriculture, issued by the Emperor on 21 December 1874.

In the Kingdom of Poland, it was not until the very end of the 19th century that the Russian law of 4/16 April 1888 on forest protection was extended to apply to the Kingdom. After Poland regained independence, attempts to introduce statutory legislation on nature protection in 1919 were abandoned as premature. It was only on 10 March 1934, that the first Polish nature conservation act was passed by the Sejm of the Republic of Poland. This act, drawing on earlier concepts, particularly those developed in autonomous Galicia, represented a modern legal framework by international standards. It marked the beginning of a new era in the history of nature protection in Poland.

Keywords: nature protection, environmental law, Galicia, Kingdom of Poland

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Pierwsze regulacje prawne z zakresu ochrony przyrody na ziemiach polskich

Prawo ochrony przyrody stanowi jeden z nowszych działów prawa administracyjnego, powstały w drugiej połowie XIX w., bo choć chronienie skarbów przyrody było uwzględniane w ustawodawstwie już w średniowieczu, to jednak incydentalnie i głównie ze względów utylitarnych, nie zaś naukowych. Pierwsze naukowe regulacje z zakresu ochrony przyrody opracowano w Galicji. Doprowadzono wówczas do uchwalenia pionierskich ustaw. Pierwsza weszła w życie ustawa o ochronie niektórych zwierząt dla uprawy ziemi pożytecznych, nadana przez cesarza 21 grudnia 1874 r.

Dopiero pod sam koniec XIX w. w Królestwie Polskim zaczęła obowiązywać rosyjska ustawa z 4/16 kwietnia 1888 r. o ochronie lasów. Po odzyskaniu niepodległości z powodu rezygnacji z podejmowanych w 1919 r. prób stworzenia ustawowej regulacji prawa ochrony przyrody, uznanych wówczas za przedwczesne, dopiero 10 marca 1934 r. została uchwalona przez Sejm Rzeczypospolitej Polskiej pierwsza polska ustawa o ochronie przyrody, która nawiązując do wcześniejszych koncepcji, szczególnie tych zrodzonych w autonomicznej Galicji, była nowoczesnym na skalę międzynarodową aktem prawnym. Rozpoczęła ona nowy okres w dziejach ochrony polskiej przyrody.

Słowa kluczowe: ochrona przyrody, prawo ochrony przyrody, Galicja, Królestwo Polskie