



**MARCIN KAZIMIERCZUK**

University of Warmia and Mazury  
in Olsztyn, Poland

[marcin.kazimierczuk@uwm.edu.pl](mailto:marcin.kazimierczuk@uwm.edu.pl)

ORCID: 0000-0002-0295-5113

**EDYTA SOKALSKA**

University of Warmia and Mazury  
in Olsztyn, Poland

[edyta.sokalska@uwm.edu.pl](mailto:edyta.sokalska@uwm.edu.pl)

ORCID: 0000-0003-0903-7726

## EUROPEAN UNION SUPPORT FOR NATURA 2000 SITES UNDER THE RURAL DEVELOPMENT PROGRAMME 2014-2020

### ABSTRACT

#### **Purpose of the study:**

The purpose of this paper is to present aid tools available under the Rural Development Programme 2014-2020 addressed to Polish agricultural producers operating in Natura 2000 areas. The main questions the present study strives to answer are: What are the main purposes of the Rural Development Programme 2014-2020? How did agri-environmental schemes influence Polish agricultural activities in order to achieve the Natura 2000 objectives in agricultural areas? How can we evaluate the financial instruments included in the Rural Development Programme 2014-2020, particularly the financial support under the “Investments in farms located in Natura 2000 areas”?

#### **Research methods:**

In this particular study, methods and techniques developed within the framework of legal science were applied to approach the raised questions and to formulate conclusions. Therefore, the basic method of the research was the formal-dogmatic method, in particular, legal linguistic interpretation, in order to analyze and assess the subject

related legislation. To some extent, the legal comparative method has been also applied to approach to the European Union's solutions. The theoretical legal method has been treated as an auxiliary measure to determine the significance of Natura 2000 procedures. In the article, there are also presented some statistical data acquired through access to public information in January 2021, reported to the Analysis and Reporting Department of the Agency for Restructuring and Modernization of Agriculture.

### **Results:**

Since Natura 2000 has been established to enable sustainable and effective protection of ecosystems within the European Union, agricultural activities are undoubtedly more problematic, as they entail additional responsibilities. However, the assumption is that Natura 2000 compensates for these disadvantages through the possibility of obtaining EU funding. Polish farmers may receive compensation or other forms of co-financing from the Rural Development Programme 2014-2020 if restrictions on farming activities have been introduced. Polish local self-government actively participates in ecological and agri-environmental policy. It supports Natura 2000 programme.

### **Discussion:**

Agri-environmental schemes are considered to be one of the most important mechanisms for achieving the Natura 2000 objectives in agricultural areas, which may be complemented by the new investment action under the Rural Development Programme 2014-2020, i.e. "Investments in farms located in Natura 2000 areas".

**KEYWORDS:** *Natura 2000, EU subsidies, the Habitats Directive, the Birds Directive, agri-environmental schemes*

## **INTRODUCTION**

The European Ecological Network Natura 2000 was created in response to the need to protect unique areas in these times of far-reaching industrial expansion and urbanization. Natura 2000 sites are one of the forms of nature conservation, i.e. a legal institution consisting of separating a specific area, recognizing it as protected by a generally binding normative act and subjecting it to a specific legal regime in which prohibitions of behaviour threatening this object play an essential role. Thus, these sites form a special institution in Polish legislation, which constitutes the implementation of comprehensive protection for the

survival of plant and animal species and natural habitats that are characteristic and typical of European areas (Rakoczy and Wierzbowski, 2008, p. 65).

It is significant that Polish local self-government actively participates in ecological and agri-environmental policy. It supports Natura 2000 programme because environmental protection is not just a constitutional obligation of a state or local self-governmental bodies but it should be the duty of every reasonable citizen. The activity of local self-government in this respect is particularly valuable.

The purpose of this paper is to present aid tools available under the Rural Development Programme 2014-2020 addressed to Polish agricultural producers operating in Natura 2000 areas. Since Natura 2000 has been established to enable sustainable and effective protection of ecosystems within the European Union, agricultural activities are undoubtedly more problematic, as they entail additional responsibilities. However, the assumption is that Natura 2000 compensates for these disadvantages through the possibility of obtaining EU funding. The main questions the present study strives to answer are: What are the main purposes of the Rural Development Programme 2014-2020? How did agri-environmental schemes influence Polish agricultural activities in order to achieve the Natura 2000 objectives in agricultural areas? How can we evaluate the financial instruments included in the Rural Development Programme 2014-2020, particularly the financial support under the “Investments in farms located in Natura 2000 areas”?

The European literature concerning the European Ecological Network Natura 2000 is as impressive as the phenomenon it describes. Natura 2000 is examined in a variety of contexts: ecological (e. g. Kubacka and Smaga, 2019, pp. 2079-2088; Hermoso, Morán-Ordóñez, Canessa and Brotons, 2019, pp. 1-3; Rodríguez-Rodríguez and Martínez-Vega, 2018, pp. 2483-2494; Trochet and Schmeller, 2013, pp. 35-53), agri-environmental, legal (e.g. Möckel, 2017a, pp. 1-29; Möckel, 2017b, pp. 87-116; Niewiadomski, 2020, pp. 151-161), political, and social (e.g. ten Brink et al., 2017). Viorel D. Popescu, Laurentiu Rozyłowicz, Julian M. Niculae, Adina L. Cucu and Tibor Hartel (2014, pp. 1-22) present a comprehensive evaluation of published Natura 2000 research (scientific articles and conference proceedings). They are of the opinion that there is lack of a coherent vision for the future of this network (Popescu et al., 2014, p. 1).

The choice of applicable legal instruments affecting the biosphere in Natura 2000 sites is left to the European Union member states. Therefore, some national regulations determine the legal instruments to be taken to achieve the intended protection objectives. The EU countries have applied a variety of measures in this regard. Local self-government may also perform some tasks related to the European Ecological Network Natura 2000. In the perception of Adam Niewiadomski, some European countries like Germany, The Czech Republic, or Slovakia, have adopted some liberal solutions (Niewiadomski, 2020, p. 153).

In the field of Polish science, e.g. Monika A. Król (2017, pp. 227-254; 2013, pp. 147-170) Aneta Kaźmierska-Patrzyzna (Kaźmierska-Patrzyzna and Król, 2015, pp. 189-208), Urszula Szymańska (Szymańska and Zębek, 2010), Elżbieta Zębek (Zębek and Truszkowski, 2015, pp. 353-356), Dorota Strus (2011, pp. 302-322; 2016), Wojciech Radecki (2011; 2010, 2008), Bartosz Rakoczy and Błażej Wierzbowski (2010), Janina Ciechanowicz-McLean (2006), Marek Górski (2009), Krzysztof Gruszecki (2010) research the topic of legal aspects of the European Ecological Network Natura 2000. The functions of Polish agri-environmental schemes are present in the publications of Monika A. Król (2012) and Anna Klisowska (2001). It should be taken into consideration that there is lack of professional legal studies in Polish literature that discuss the matter of aid tools available under the Rural Development Programme 2014-2020 addressed to Polish agricultural producers operating in Natura 2000 areas. For this reason, undertaking research in this area should be considered necessary and reasonable.

The paper consists of five parts. At first, the origins of Natura 2000 network are presented. The second part of the article is devoted to the legal basis for the establishment and implementation of the Natura 2000 network within the European Union. Then, Polish Rural Development Programme 2014-2020 and agri-environmental schemes are taken into closer consideration. At the end, financial investments under the support instrument “Investments in farms located in Natura 2000 areas” are evaluated. It should be pointed out that in this particular study, classical methods and techniques developed within the framework of legal science were applied to approach the raised questions and to formulate conclusions. Therefore, the basic method of the research was the formal dogmatic method, in particular, legal linguistic interpretation, in order

to analyze and assess the subject related legislation. To some extent, the legal comparative method has been also applied to approach to the European Union's solutions. The theoretical legal method has been treated as an auxiliary measure to determine the significance of Natura 2000 procedures. In the article, there are also presented some statistical data acquired through access to public information in January 2021, reported to the Analysis and Reporting Department of the Agency for Restructuring and Modernization of Agriculture.

## THE ORIGINS OF NATURA 2000 NETWORK

Europe's natural environment is constantly changing as a result of civilization development. As a result, the natural balance is disturbed, which results in, among other things, a decrease in biodiversity and the disappearance of individual species. The dangers posed by the development of civilisation resulted in the creation of the concept of legal protection of nature and its resources. The beginnings of the idea of Europe-wide environmental protection can be traced back to the 1970s, when international cooperation for nature conservation began (Makomska-Juchiewicz and Tworek, 2003, pp. 15-16). Some international conventions were valuable contribution to the development of the European ecological politics, e.g.: the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat, 2 February 1971 (Journal of Laws of the Republic of Poland 1978, no. 7, pos. 24); the Convention Concerning the Protection of the World Cultural and Natural Heritage, 16 October 1972 (Journal of Laws of the Republic of Poland 1976, no. 32, pos. 190); the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington Convention), 3 March 1973 (Journal of Laws of the Republic of Poland 1991, no 27, pos. 112); the Convention on the Conservation of Migratory Species of Wild Animals (CMS), 23 June 1979 (Journal of Laws of the Republic of Poland 2003, no 2, pos. 17); the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), 19 September 1979 (Journal of Laws of the Republic of Poland 1996, no. 58, pos. 263); the Convention on Biological

Diversity (CBD), 5 June 1992 (Journal of Laws of the Republic of Poland 2002, no. 184, pos. 1532). It should be taken into consideration that last two conventions have inspired regulations of Natura 2000 network. The legal framework for nature conservation in Europe was established in the Convention on the Conservation of European Wildlife and Natural Habitats. This international agreement considers it necessary to undertake international cooperation in order to protect nature. It also obliges countries to take appropriate and necessary legal and administrative measures to ensure the protection of wild flora and fauna habitats, in particular, endangered natural habitats and species of flora and fauna (Cichocki, Dobiesz, Hajto and Kuśmierz, 2013, p. 22).

## **THE LEGAL BASIS AND PURPOSES OF NATURA 2000**

The legal basis for the establishment and implementation of the Natura 2000 network within the European Union is mainly based on the provisions of two legislative acts, which focus, among other things, on the sustainable use of environmental resources and the protection of biodiversity. To achieve these objectives within the existing European Community, the so-called Birds Directive (Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds OJ L 103 as amended, 25.4.1979, pp. 1–18, replaced in 2009 by the consolidated Birds Directive) was adopted in 1979 as a legal act closely linked to and developing a vision for action on birds. In 1992, the so-called Habitats Directive was adopted (Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora OJ L 206 as amended, 22.7.1992, pp. 7–50), which required the Member States of the European Union to introduce a legal basis for the development of a network of sites to protect plant and animals species as well as habitat types endangered at the European level. The above mentioned Directives provide the legal basis for the operation of the Natura 2000 European Ecological Network (it is significant that the members of the European Union are bound by the directives, and there is obligation to transform them into the national law, cf. Herdegen, 2006, p. 130). This network is intended to enable the implementation of a coherent policy for the conservation of natural resources in the European Union

(Radecki, 2010, pp. 235-236). A coherent policy in this field includes the creation of special areas of conservation for birds (so-called "SACs"), and special habitat protection areas (so-called "SPAs") (Ciechanowicz-McLean, 2006, p. 54). Both SACs and SPAs form the Natura 2000 network. The name of this protection concept derives from the originally planned completion date of the designation of the network, which was to fall in 2000. Poland, like other countries joining the European Union, has committed itself to designating Natura 2000 sites.

The Birds Directive requires the EU Member States to take actions to ensure the sustainable existence of wild European avifauna species (all birds that inhabit a given area, environment, or live in any particular region or epoch). Annex I to the Directive provides for an obligation to protect 180 bird species that are becoming extinct or threatened with extinction, mainly as a result of adverse changes in their typical habitats. This is intended to ensure their survival and reproduction in the area of their occurrence (Art. 4.1 and Art. 4.2 of the Birds Directive; Kaźmierska-Patrzyzna, 2013, p. 114). The second piece of legislation, the Habitats Directive, obliges the EU countries to protect the natural habitat types of plant and animal species as an essential measure to preserve populations in their natural environment. Annex I to the Directive specifies the number of habitats, including priority habitats, whose protection requires the designation of SACs due to their rarity and endangerment. In addition, Annex II lists species of fauna and flora covered by SACs, including priority species. In accordance with the provisions of the Habitats Directive, each Member State should contribute to the creation of Natura 2000 in proportion to the occurrence in its territory of natural habitat types and species habitats, by designating sites constituting SACs (Art. 4 and 5 of the Habitats Directive). In addition, Natura 2000 is a specific system comprised of the most valuable natural areas interconnected by ecological corridors, which does not replace the existing national protected area systems but complements them, providing a basis for preserving the natural heritage on a continental scale.

Natura 2000, as a new area form of nature conservation, was introduced into Polish regulation under the Nature Conservation Act (NCA) of 16 April 2004 (Ustawa z dnia 16 kwietnia 2004 r. o ochronie przyrody) (Journal of Laws of the Republic of Poland 2004, no. 92, pos. 880, as amended, Journal

of Laws of the Republic of Poland 2014, pos. 1101). In accordance with Art. 5.2.b, Natura 2000 site is a special bird conservation area, a special habitat conservation area, or an area of Community importance established to protect the population of wild birds or natural habitats or species of Community interest (Makomska-Juchiewicz and Tworek, 2003, p. 3). The definition is repeated in Art. 25.1, according to which the Natura 2000 network encompasses: special areas of conservation for birds (SACs), i.e. the areas designated, in accordance with the provisions of European Union law, to protect the population of wild birds of one or more species, within the boundaries of which the birds have favorable living conditions (Art. 5.3.3 NCA); special habitat protection areas (SPAs), i.e. the areas designated in accordance with the provisions of European Union law in order to establish permanent protection of natural habitats or populations of endangered species of plants or animals, or to restore the proper conservation status of natural habitats or species (Art. 5.19 NCA); areas of Community importance, i.e. some special areas of habitat protection approved by the decision of the European Commission, which significantly contribute to the preservation or restoration of the biogeographic region (Art. 5.2c NCA).

The procedure for designating Natura 2000 sites consists of several stages. In Poland, in accordance with the provisions of the Nature Conservation Act, the authority competent for activities in this field is the minister in charge of the environment. In particular, the minister determines, through a regulation, the type of natural habitats and plant and animal species in need of protection, as well as the criteria for the selection of areas eligible for designation as sites of Community importance and for designation as special areas of habitat conservation, as well as areas eligible for designation as special bird protection areas, with a view to preserving particular valuable or endangered components of biodiversity (Górski, 2009, p. 527). Moreover, the minister is required to submit to the European Commission, after approval by the Council of Ministers, a list of proposed sites of Community Importance and Special Protection Areas (SPAs), in addition to providing an estimate of EU co-financing of protection (Ciechanowicz-McLean, 2006, p. 55). Special habitat conservation sites are designated by the minister upon agreement with the European Commission. Designation of new SPAs and SACs, as well as



modifications or liquidation of already existing protection areas, requires the agreement of the minister in charge of the environment with the minister in charge of agriculture, the minister in charge of rural development, the minister in charge of fisheries and the minister in charge of water management. When issuing a regulation on this issue, the minister for the environment is obliged to specify the name, administrative location, area and map of the site, the objective and the subject of protection.

The primary aim of the Natura 2000 network is to ensure consistent and effective protection of ecosystems by ensuring biological heterogeneity, halting the destruction of natural habitats and ensuring large-scale protection of wild animals and plants (Szymańska and Zębek, 2010, p. 182). Natura 2000 obliges EU Member States to preserve the diversity of both species and habitats identified as a priority for Europe for future generations. The primary objective of the Natura 2000 network was therefore to protect Europe's natural heritage and to pursue the idea of sustainable development across the European Union (Symonides, 2003, pp. 3-4).

## **RURAL DEVELOPMENT PROGRAMME 2014-2020**

The Rural Development Programme 2014-2020 (RDP 2014-2020) ([www.minrol.gov.pl](http://www.minrol.gov.pl)) was based on European Union regulations, in particular, Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EU) No 1698/2005, and on delegated and implementing acts of the European Commission. Pursuant to the European Union regulations, the Programme is integrated into the overall system of the country's development policy, in particular, through the Partnership Agreement mechanism. This agreement sets out a strategy for the use of EU funds in pursuit of the common EU objectives set out in the EU growth strategy "Europe 2020 – A strategy for smart, sustainable and inclusive growth", with due regard for the development needs of the Member State concerned. There should be also mentioned here Polish subject related acts, e.g. the Announcement of the Minister

of Agriculture and Rural Development of 21 May 2015 on the approval by the European Commission of the Rural Development Program 2014–2020 [Komunikat Ministra Rolnictwa i Rozwoju Wsi z dnia 21 maja 2015 r. o zatwierdzeniu przez Komisję Europejską Programu Rozwoju Obszarów Wiejskich na lata 2014–2020], Official Gazette of the Republic of Poland 2015, pos. 541. The document informs that pursuant to Art. 14kd.2 of the Act of December 6, 2006 on the principles of development policy [ustawa z dnia 6 grudnia 2006 r. o zasadach prowadzenia polityki rozwoju], Journal of Laws of the Republic of Poland 2014, pos. 1649 and 2015, pos. 349), the Minister announces that on December 12, 2014, the European Commission reached the implementing decision no. C (2014) 9783 approving the rural development program for Poland for the purposes of support under the European Agricultural Fund for Rural Development.

The main objective of the RDP 2014-2020 is to improve the competitiveness of agriculture, sustainable management of natural resources and climate action, and sustainable territorial development of rural areas. The total public funding allocated to its implementation amounts to more than EUR 13.6 billion, of which more than EUR 8.6 billion is from the European Union budget, and more than EUR 4 billion from national contributions. The programme implements all six priorities set for the EU rural development policy for the period 2014-2020, namely: facilitating knowledge transfer and innovation in agriculture, forestry and rural areas; improving the competitiveness of all types of agriculture and enhancing farm viability; improving the organization of the food chain and promoting risk management in agriculture; restoring, protecting and strengthening ecosystems dependent on agriculture and forestry; supporting resource efficiency and the transition to a low-carbon and climate-resistant economy in the agricultural, food and forestry sectors, increasing social inclusion, reducing poverty, and promoting economic development in rural areas.

## AGRI-ENVIRONMENTAL SCHEMES

Agri-environmental schemes have been introduced in all EU member states, playing a key role in the implementation of nature conservation plans. They are designed to help to implement the European Ecological Network Natura 2000. In the legislation of the European Communities, agri-environmental schemes appeared for the first time in 1985 – Green Paper, a document setting out the policy objectives for a new phase of environmentally sensitive structural policy in agriculture (Perspectives for the Common Agricultural Policy – Green Paper COM (85) 333, 15 July 1985; Klisowska, 2001, p. 74). Agri-environmental schemes primarily perform an ecological function consisting in the promotion of agricultural production systems conducted in a manner consistent with the requirements of biodiversity protection, water protection or counteracting soil erosion (Król, 2013, p. 155). The main positive ecological effects of agri-environmental schemes concern: adaptation of the scope of protection to valuable natural habitats and species of plants and animals protected under the Habitats Directive and the Birds Directive; better identification of such habitats in the country and ensuring their monitoring; gradual natural restitution of habitats in unsatisfactory condition; adapting agricultural activities to environmentally valuable areas of national parks or Natura 2000 areas (Król, 2012, pp. 167-92).

In Poland, farmers can use funds for agri-environment payments quite freely. Teams of agri-environmental advisors have been created to advise farmers on biodiversity conservation. Farmers themselves recognize the benefits of adapting agricultural production to the requirements of preserving the value of living nature (Głogowska, Wrana and Chmielewski, 2014, p. 78). The European Union's Common Agricultural Policy 2014-2020 consistently continues some support measures to motivate farmers to conduct agricultural activities in a way that benefits the environment and nature. Agri-environmental schemes vary in nature but are always based on a voluntary model. Following the conclusion of an agri-environmental commitment, the landowning party provides certain benefits in return for payments under the scheme. Payments are calculated to compensate the holder of agricultural land for the loss caused by the environmentally friendly use of the agricultural land, to offset the

costs incurred, and to encourage participation in other support schemes (Głogowska, Wrana and Chmielewski, 2014, p. 78).

The Rural Development Programme 2014-2020 includes “Agri-Environment Climate Measure”, under which agricultural producers and natural area managers (who have been assigned an identification number under the provisions of the national system of producers’ records) can receive support for activities carried out in Natura 2000 areas if they make a five-year commitment under Package 4 “Valuable habitats and endangered bird species in Natura 2000 areas”. The objective of this measure is to improve the living conditions of endangered bird species whose breeding habitats are linked to permanent grassland in special bird protection areas (SPAs), by adapting the use to the requirements of species nesting in meadows and pastures, and by extensification of operations in SPAs. The above-mentioned package is aimed at the extensification of farming, the use of appropriate quantities, and timing of swaths or grazing intensity on valuable natural habitats or habitats of endangered bird species located in Natura 2000 areas, which all have a positive impact on biodiversity. The payment is granted for permanent grassland or areas of non-agricultural land with natural habitat types or bird breeding habitats – the so-called “nature areas”.

In accordance with the Regulation of the Minister of Agriculture and Rural Development of 18 March 2015 on the detailed conditions and procedures for granting financial assistance under the agri-environmental and climate measure covered by the Rural Development Programme for 2014-2020 (Journal of Laws of the Republic of Poland 2015, pos. 415 as amended) the requirements to be met under Package 4 include: the obligation to have an agri-environment plan; the obligation to have natural documentation prepared by a natural expert (with the exception for extensive use in SPAs) and the obligation to maintain all permanent grassland and landscape elements not used for agricultural purposes.

Payment under this package will be granted to farmers if they own agricultural land or natural areas situated within the territory of the Republic of Poland with an area of not less than 1 ha or, in the case of managers, if they own natural areas with an area of not less than 1 ha. The amount of payments in a given year is determined as the product of the payment rates (as defined in

the Regulation) per hectare of land and the area of land to which the payment applies. The payments granted are subject to a degressive scale depending on the area declared for payment: 100% of the basic rate – for an area of between 0.10 ha and 50 ha; 75% of the basic rate – for an area above 50 ha up to 100 ha; 60% of the basic rate – for an area exceeding 100 hectares. Moreover, when applying for the first agri-environment-climate payment, the beneficiary is entitled to compensation for transaction costs incurred for drawing up natural documentation for natural habitats or bird breeding habitats if the conditions for granting a payment are satisfied (the amount of the reimbursement of transaction costs shall be determined in accordance with paragraph 1 of Annex 7 to the agri-environment-climate regulation, however, it may not exceed 20% of the amount of the first agri-environment-climate payment, the condition of which is the possession of natural environment documentation).

## **INVESTMENTS IN FARMS LOCATED IN NATURA 2000 AREAS**

The Ministry of Agriculture and Rural Development prepared a draft regulation of 5 December 2016 on detailed conditions and procedures for granting and disbursing financial assistance for “Investments in farms located in Natura 2000 areas” under the sub-measure “Support for investment in agricultural holdings” covered by the Rural Development Programme 2014–2020. This act executes the authorisation contained in Article 45.1.1 of the Act of 20 February 2015 on supporting rural development with the funds of the European Agricultural Fund for Rural Development (EAFRD) under RDP 2014–2020 (Journal of Laws of the Republic of Poland 2015, pos. 349 as amended). This legal act specifies the instruments included in the RDP 2014–2020, implemented on the territory of the Republic of Poland, and the general conditions and procedure for granting and payment of financial aid to the extent not specified in the provisions of the European Union. The nature of this draft regulation is largely determined by the Community regulations in this area, primarily Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support

for rural development by the EAFRD and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, pp. 487–548).

According to the provisions of RDP 2014-2020, under the support instrument “Investments in farms located in Natura 2000 areas”, operations related to agricultural use of meadows and pastures and animal production, in terms of grassland animals, may be implemented. Aid under this type of operation is targeted at farmers in Natura 2000 sites and is intended to make it easier for agricultural producers to carry out their farming activities in compliance with the higher environmental standards applicable in these valuable natural areas. According to the provisions, a farmer who owns a holding where at least 1 hectare of permanent pasture is situated in the Natura 2000 site within the meaning of Article 5.2 b of the Nature Conservation Act of 16 April 2004 may apply for aid under this support instrument (Journal of Laws of the Republic of Poland 2016, pos. 2134, 2249, 2260).

Aid is granted for an operation consisting of an investment which will contribute to the maintenance and use of permanent grassland located in a Natura 2000 site, provided that the investment will not have a negative impact on the protection objectives of the Natura 2000 site, and it will not be contrary to mandatory measures laid down in plans of protection tasks or protection plans for the Natura 2000 site. In order to protect Natura 2000 sites, planning instruments are used, which include the above-mentioned plans of protection tasks and protection plans. In accordance with Article 31 of the Nature Conservation Act, a project of a plan of protection tasks for the Natura 2000 site will be drawn up by a managing body, i.e. the Regional Director of Environmental Protection (RDEP), for a period of 10 years. The legislator imposed an obligation on the RDEP to prepare and submit an evaluation of the implementation of the conservation of the area to the General Director of Environmental Protection every six years for the special habitat protection area and every three years for the special bird protection area (some detailed requirements in the context of preparation of a plan of protective tasks for Natura 2000 areas were included in the Regulation of the Minister of the Environment of February 17, 2010 on the preparation of a draft plan of protective tasks for the Natura 2000 area, Journal of Laws of the Republic of Poland 2010, no. 34, pos. 186 as amended). The plans for protection tasks are therefore temporary, as indicated in Article 28.12 of the

Nature Conservation Act, according to which the RDEP regulation on the establishment of the plans of protection tasks for the Natura 2000 site is no longer valid if a protection plan is established for this area (Radecki, 2011, p. 150). On the other hand, the establishment of protection plans for Natura 2000 sites results from the need to maintain and restore the natural habitats, plant and animal species for which the area has been designated (the Regulation of the Minister of the Environment of 30 March 2010 on the preparation of a draft protection plan for the Natura 2000 area, Journal of Laws of the Republic of Poland 2010, no. 64, pos. 401 as amended). The protection plan project for the Natura 2000 site or part thereof is drawn up by the RDEP supervising the area (Zębek and Truszkowski, 2015, p. 357). Protection plans are established by the Minister of the Environment by way of a regulation for a period of 20 years, and they require public participation under the principles set out in Section III of Chapter 3 of the Act of 3 October 2008 on the provision of information on the environment and its protection, public participation in environmental protection, and on environmental impact assessments (Journal of Laws of the Republic of Poland 2008, pos. 1227 as amended).

According to the draft regulation under discussion regarding “Investments in farms located in Natura 2000 areas”, preference for funding will be given to farms with a large area of permanent grassland located in Natura 2000 sites (it also concerns environmentally valuable permanent grassland, referred to in the Regulation of the Minister of Agriculture and Rural Development of 9 March 2015 on the designation of environmentally valuable permanent grassland, Journal of Laws of the Republic of Poland 2015, pos. 348), and to operations including investments closely linked to the requirements that result for the farm from the plan of protection tasks or the Natura 2000 area protection plan. The catalogue of eligible costs to be reimbursed, as proposed in the draft regulation, covers the costs related to agricultural activities both in the field of plant and animal production. These costs include, among others, the purchase of machinery, plant and equipment used on permanent grassland and the construction (conversion, renovation with modernization) of livestock buildings or structures used for the production of grass-eating animals, together with the purchase of technical installations and equipment. During the period of implementation of the RDP 2014-2020,

the aid limit is PLN 500,000 per beneficiary and per farm, except that in the case of operations not involving investments related to the construction or modernization of livestock buildings, or the adaptation of other existing buildings on the farm to livestock buildings, the limit is PLN 200,000. The level of reimbursement of eligible costs is 50 %, and in the case of operations carried out by young farmers the level is 60 %.

The analyzed support of a strictly investment nature contributes to the improvement of profitability of agricultural holdings, their competitiveness and the sustainability of their management. The analysis of data obtained through access to public information acquired in January 2021 from the Analysis and Reporting Department of the Agency for Restructuring and Modernisation of Agriculture (ARMA) indicates significant interest in this measure, especially in Podlaskie, Warmińsko-Mazurskie, Wielkopolskie and Mazowieckie voivodeships (Polish provinces). The reason for this was, among others, the existence of Natura 2000 sites and developed agricultural activity in these voivodships. However, it should be noted that the first call for financial assistance, which took place in 2017, enjoyed the greatest interest, while subsequent calls show a decrease in applications submitted to the ARMA.

In all calls for applications held in 2017, 2019, and 2020, a total of more than 4,600 beneficiaries applied for aid across Poland for an amount exceeding PLN 554 million. The high level of reimbursement of eligible costs (up to 60%) undoubtedly has an impact on the great interest in this form of aid. The analyzed form of support significantly influences the modernization of a farmer's workplace. Detailed characteristics are presented in Table 1 and Table 2.



**Table 1.** Financial support under “Investments in farms located in Natura 2000 areas” in 2017

Voivodeships (provinces)	2017	
	Number of applications	Sum total [PLN]
Dolnośląskie	80	14 140 771,50
Kujawsko-Pomorskie	118	16 473 202,60
Lubelskie	74	12 060 860,00
Lubuskie	122	23 550 056,70
Łódzkie	93	14 568 736,50
Małopolskie	30	3 225 114,80
Mazowieckie	285	42 615 610,91
Opolskie	30	4 404 453,90
Podkarpackie	85	10 993 447,00
Podlaskie	514	88 320 930,50
Pomorskie	164	27 763 908,30
Śląskie	17	3 896 425,00
Świętokrzyskie	38	6 436 708,25
Warmińsko-Mazurskie	183	30 626 558,50
Wielkopolskie	248	40 369 786,30
Zachodniopomorskie	113	21 164 564,50
<b>Sum total</b>	<b>2194</b>	<b>272 290 204,76</b>

**Source:** own research based on the data received from the Department of Analysis and Reporting of the Agency for Restructuring and Modernization of Agriculture

**Table 2.** Financial support under “Investments in farms located in Natura 2000 areas” in 2019 and 2020

Voivodeships (provinces)	2019		2020	
	Number of applications	Sum total [PLN]	Number of applications	Sum total [PLN]
Dolnośląskie	56	9 530 951,00	37	7 462 855,00
Kujawsko-Pomorskie	56	8 102 147,10	18	2 563 630,40
Lubelskie	71	16 863 677,00	56	12 251 080,12
Lubuskie	102	18 896 265,70	51	8 641 240,30
Łódzkie	67	10 158 986,90	46	8 311 913,00
Małopolskie	24	2 951 510,00	13	1 913 405,00
Mazowieckie	188	34 021 009,40	157	30 651 914,36
Opolskie	2	256 143,00	4	800 000,00
Podkarpackie	34	5 406 078,80	26	4 381 271,25
Podlaskie	377	69 055 370,00	231	50 114 404,30
Pomorskie	116	19 421 798,50	51	8 425 397,50
Śląskie	12	2 698 894,00	2	222 619,00
Świętokrzyskie	33	5 645 742,50	16	2 593 883,00
Warmińsko- Mazurskie	149	28 442 451,20	87	20 415 823,10
Wielkopolskie	159	28 188 669,10	86	14 417 584,50
Zachodniopomorskie	112	20 098 387,00	59	11 920 076,00
<b>Sum total [PLN]</b>	<b>1558</b>	<b>182 240 260,00</b>	<b>940</b>	<b>100 734 528,77</b>

Source: own research based on the data received from the Department of Analysis and Reporting of the Agency for Restructuring and Modernization of Agriculture

## CONCLUSIONS

The requirements of Natura 2000 sites do not entail the requirement to cease agricultural activities, given that in Poland, the cultivation method and structure of farms are crucial for maintaining high biodiversity. In addition, farmers may receive compensation or other forms of co-financing from the Rural Development Programme 2014–2020 if restrictions on farming activities have been introduced. Agri-environmental schemes are considered to be one of the most important mechanisms for achieving the Natura 2000 objectives in agricultural areas, which may be complemented by the new investment action under the RDP 2014–2020, i.e. “Investments in farms located in Natura 2000 areas”. The European Environmental Network Natura 2000 is one of the most important forms of implementing sustainable development policy in the European Union. Consequently, the purpose of establishing protection areas is not to stop economic development in these areas, but to establish rules which ensure that the most valuable natural habitats are preserved despite the economic activities undertaken.

A practical aspect, within the framework of *de lege ferenda* postulates raised by the representatives of the legal doctrine, is the question of the degree of specificity in the legal regulation of the implementing regulations of individual instruments of support of RDP 2014–2020. It should be remembered that the regulation of the Minister of Agriculture and Rural Development is the third level in the hierarchy of sources of law. According to the principles of good legislation, the provisions of national law should not repeat the provisions of European law, and the provisions of the implementing regulations should not duplicate statutory provisions. According to pragmatic considerations (in particular the difficulty concerning the access to European law of the addressees of these norms – farmers), the basic prerequisites for granting support and the legal constructions for its implementation should be also incorporated in the national law. Taking into account rather poor awareness of legal culture of farmers-beneficiaries of the support, it is advisable that the implementing regulations should regulate the obligations of authorities and the rights of farmers-beneficiaries of the support in a detailed and elaborate manner. It should be also noted that the degree of specificity of legal regulation

should vary depending on the legal mechanism applied in granting support. It is significant that the aid is granted under the various measures either by an administrative decision or on the basis of a contract with the beneficiary. It seems that it is possible to express the view that the legal regulation of those measures in which support is granted on the basis of a contract should give a wider margin of freedom to regulate mutual obligations under the principle of freedom of contract as a guiding principle of civil law.

## REFERENCES

- Boć, J., Nowacki, K. and Samborska-Boć, E. (2008). *Ochrona środowiska*. Wrocław: Kolonia Limited.
- Bołtromiuk, A. and Kłodziński, M. (eds.) (2011). *Natura 2000 jako czynnik zrównoważonego rozwoju obszarów wiejskich regionu Zielonych Płuc Polski*. Warszawa: IRWiR PAN.
- Bołtromiuk, A. (2011). *Uwarunkowania zrównoważonego rozwoju gmin objętych siecią Natura 2000 w świetle badań empirycznych*. Warszawa: IRWiR PAN.
- Cichocki, Z., Dobiesz, J., Hajto, M., and Kuśmierz A. (2013). *Prawne i społeczno-gospodarcze uwarunkowania ochrony przyrody na obszarach Natura 2000*. Warszawa: SGGW.
- Ciechanowicz-McLean, J. et al. (2006), *Polskie prawo ochrony przyrody*. Warszawa: Difin.
- Głogowska, M., Wrana, K. and Chmielewski W. (2014). *Rozwój gmin z obszarami Natura 2000. Partnerstwo-Równoważenie-Innowacje*. Warszawa: Instytut Ochrony Środowiska – Państwowy Instytut Badawczy.
- Górski, M. (ed.) (2009). *Prawo ochrony środowiska*. Warszawa: Wolters Kluwer Polska.
- Gruszecki, K. (2010). *Ustawa o ochronie przyrody. Komentarz*. Warszawa: LEX a Wolters Kluwer biznes.
- Herdegen, M. (2006). *Prawo europejskie*. Warszawa: C.H. Beck.
- Hermoso, V., Morán-Ordóñez, A., Canessa, S. and Brotons, L. (2019). *Realizing the potential of Natura 2000 to achieve EU conservation goals as 2020 approaches*. Nature Research Scientific Reports 9(16087), pp. 1-3, <https://doi.org/10.1038/s41598-019-52625-4>.
- Każmierska-Patrzyzna, A. and Król, M. A. (2015). *Prawne instrumenty ochrony krajobrazu wiejskiego w ramach systemów wsparcia bezpośredniego do gruntów rolnych oraz rozwoju obszarów wiejskich na lata 2014-2020*. Acta Universitatis Carolinae-Iuridica 2, pp. 189-208.
- Każmierska-Patrzyzna, A. (2013). *Obszary Natura 2000 jako instytucja prawnej ochrony różnorodności biologicznej*. in: M. Górski and J. Miłkowska-Rębowska (eds.), *Prawo ochrony różnorodności biologicznej* (pp. 113-127). Warszawa: Wolters Kluwer Polska.
- Klisowska, A. (2001). *Miejsce programów rolnośrodowiskowych w polityce rolnej po integracji Polski z Unią Europejską*. Wieś i Rolnictwo 3(112), pp. 74-92.
- Król, M. A. (2012). *Rola programów rolnośrodowiskowych w ochronie obszarów cennych pod względem przyrodniczym*. Studia Prawno-Ekonomiczne 86, pp. 67-91.
- Król, M. A. (2013). *Użytkowa ochrona różnorodności biologicznej w rolnictwie, rybołówstwie i rybactwie*. in: M. Górski and J. Miłkowska-Rębowska (eds.), *Prawo ochrony różnorodności biologicznej* (pp. 147-170). Warszawa: Wolters Kluwer Polska.
- Król, M. A. (2017). *Ocena modelu prawnej ochrony środowiska we Wspólnej Polityce Rolnej*. Studia Iuridica Lublinensia 26(1), pp. 227-254, <https://doi.org/10.17951/sil.2017.26.1.227>.

- Kubacka, M. and Smaga, Ł. (2019). *Effectiveness of Natura 2000 areas for environmental protection in 21 European countries*. *Regional Environmental Change* 19, pp. 2079-2088, <https://doi.org/10.1007/s10113-019-01543-2>.
- Makomska-Juchiewicz, M. and Tworek, S. (2003). *Miejsce Sieci Natura 2000 w europejskiej ochronie przyrody*. in: M. Makomska-Juchiewicz and S. Tworek (eds.), *Ekologiczna sieć Natura 2000. Problem czy szansa* (pp. 9-21). Kraków: Instytut Ochrony Przyrody Polskiej Akademii Nauk.
- Makomska-Juchiewicz, M. and Tworek, S. (2003). *Natura 2000. Projektowana sieć Natura 2000 w Polsce a krajowy system obszarów chronionych*. *Parki Narodowe* 4, pp. 2-9.
- Möckel, S. (2017a). *The European ecological network "Natura 2000" and the appropriate assessment for projects and plans under Article 6(3) of the Habitats Directive*. *Nature Conservation* 23, pp. 1-29, <https://doi.org/10.3897/natureconservation.23.13599>.
- Möckel, S. (2017b). *The European ecological network "Natura 2000" and its derogation procedure to ensure compatibility with competing public interests*. *Nature Conservation* 23, pp. 87-116, <https://doi.org/10.3897/natureconservation.23.13603>.
- Niewiadomski, A. (2020). *Protection of the Biosphere in Natura 2000 Sites*. *Studia Iuridica Lublinensia* 29(2), pp. 151-161, <https://doi.org/10.17951/sil.2020.29.2.151-161>.
- Popescu, V. D. et al. (2014). *Species, Habitats, Society: An Evaluation of Research Supporting EU's Natura 2000 Network*. *Plos One* 9(11), pp. 1-22, <https://doi.org/10.1371/journal.pone.0113648>.
- Radecki, W. (2011). *Ochrona walorów turystycznych w prawie polskim*. Warszawa: LEX a Wolters Kluwer biznes.
- Radecki, W. (2008). *Ustawa o ochronie przyrody. Komentarz*. Warszawa: Difin.
- Radecki, W. (2010). *Prawna ochrona przyrody w Polsce, Czechach i Słowacji. Studium prawnoporównawcze*. Warszawa: Wolters Kluwer Polska.
- Rakoczy, B. and Wierzbowski, B. (2010). *Prawo ochrony środowiska. Zagadnienia podstawowe*. Warszawa: Wolters Kluwer Polska.
- Rodríguez-Rodríguez, D. and Martínez-Vega, J. (2018). *Effect of legal protection and management of protected areas at preventing land development: a Spanish case study*. *Regional Environmental Change* 18, pp. 1483-2494, <https://doi.org/10.1007/s10113-018-1369-8>.
- Simonides, E. (2003). *NATURA 2000 – koncepcja i podstawy prawne*. *Parki Narodowe* 1, pp. 3-4.
- Strus, D. (2011). *Funkcjonowanie obszarów Natura 2000 na podstawie przepisów prawa polskiego*. in: A. Haładyj, M. Rudnicki and K. Sobieraj, *Europeizacja prawa ochrony środowiska* (pp. 302-322). Lublin: KUL.
- Strus, D. (2016). *Polityka ekologiczna Polski po akcesji do Unii Europejskiej*. Warszawa: Oficyna Wydawnicza ASPRA-JR.

- Szymańska, U. and Zębek, E. (2010). *Prawo i ochrona środowiska – prawne, ekonomiczne, ekologiczne i techniczne aspekty ochrony środowiska naturalnego. Przewodnik do ćwiczeń dla studentów kierunków prawa i administracji*. Olsztyn: Wydawnictwo Uniwersytetu Warmińsko-Mazurskiego w Olsztynie.
- ten Brink, P. et al. (2017). *Natura 2000 and Jobs: Scoping Study – Executive Summary* (Brussels: Institute for European Environmental Policy). Retrieved (01.05.2022) from [https://ec.europa.eu/environment/nature/natura2000/pdf/Natura\\_2000\\_and%20\\_jobs\\_executive\\_summary.pdf](https://ec.europa.eu/environment/nature/natura2000/pdf/Natura_2000_and%20_jobs_executive_summary.pdf).
- Trochet, A. and Schmeller, D.S. (2013). *Effectiveness of the Natura 2000 network to cover threatened species*. *Nature Conservation* 4, pp. 35-53, <https://doi.org/10.3897/natureconservation.4.3626>.
- Zębek, E. and Truszkowski, W. (2015). *Obszary Natura 2000 – geneza i wpływ na gospodarkę w północno-wschodniej Polsce*. *Studia Prawnoustrojowe* 28, pp. 353-366.

### **LEGAL ACTS AND PUBLIC DOCUMENTS**

- Act of 3 October 2008 on the provision of information on the environment and its protection, public participation in environmental protection and on environmental impact assessments [Ustawa z dnia 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko], *Journal of Laws of the Republic of Poland* 2008, pos. 1227 as amended.
- Act of 20 February 2015 on supporting rural development with the funds of the European Agricultural Fund for Rural Development under RDP 2014-2020 [Ustawa z dnia 20 lutego 2015 r. o wspieraniu rozwoju obszarów wiejskich z udziałem środków Europejskiego Funduszu Rolnego na rzecz Rozwoju Obszarów Wiejskich w ramach PROW 2014-2020], *Journal of Laws of the Republic of Poland* 2015, pos. 349 as amended.
- Announcement of the Minister of Agriculture and Rural Development of 21 May 2015 on the approval by the European Commission of the Rural Development Program 2014–2020 [Komunikat Ministra Rolnictwa i Rozwoju Wsi z dnia 21 maja 2015 r. o zatwierdzeniu przez Komisję Europejską Programu Rozwoju Obszarów Wiejskich na lata 2014–2020], *Official Gazette of the Republic of Poland* 2015, pos. 541.
- Convention Concerning the Protection of the World Cultural and Natural Heritage, 16 October 1972, *Journal of Laws of the Republic of Poland* 1976, no. 32, pos. 190.
- Convention on International Trade in Endangered Species of Wild Fauna and Flora, 3 March 1973, *Journal of Laws of the Republic of Poland* 1991, no. 27, pos. 112.
- Convention on the Conservation of European Wildlife and Natural Habitats, 19 September 1979, *Journal of Laws of the Republic of Poland* 1996, no. 58, pos. 263.

- Convention on the Conservation of Migratory Species of Wild Animals, 23 June 1979 (Journal of Laws of the Republic of Poland 2003, no 2, pos. 17).
- Convention on Wetlands of International Importance Especially as Waterfowl Habitat, 2 February 1971, Journal of Laws of the Republic of Poland 1978, no. 7, pos. 24.
- Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds OJ L 103 as amended, 25.4.1979, pp. 1–18.
- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora OJ L 206 as amended, 22.7.1992, pp. 7–50.
- Nature Conservation Act of 16 April 2004 [Ustawa z dnia 16 kwietnia 2004 r. o ochronie przyrody], Journal of Laws of the Republic of Poland 2004, no. 92, pos. 880, as amended, Journal of Laws of the Republic of Poland 2014, pos. 1101.
- Perspectives for the Common Agricultural Policy – Green Paper COM (85) 333, 15 July 1985.
- Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347, 20.12.2013, p. 487–548.
- Regulation of the Minister of Agriculture and Rural Development of 18 March 2015 on the detailed conditions and procedures for granting financial assistance under the agri-environmental and climate measure covered by the Rural Development Programme for 2014-2020 [Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 18 marca 2015 r. w sprawie szczegółowych warunków i trybu przyznawania pomocy finansowej w ramach “Działania rolno-środowiskowo-klimatycznego” objętego Programem Rozwoju Obszarów Wiejskich na lata 2014-2020], Journal of Laws of the Republic of Poland 2015, pos. 415 as amended.
- Regulation of the Minister of Agriculture and Rural Development of 9 March 2015 on the designation of environmentally valuable permanent grassland [Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z dnia 9 marca 2015 r. w sprawie wyznaczenia trwałych użytków zielonych wartościowych pod względem środowiskowym], Journal of Laws of the Republic of Poland 2015, pos. 348.
- Regulation of the Minister of the Environment of February 17, 2010 on the preparation of a draft plan of protective tasks for the Natura 2000 area [Rozporządzenie Ministra Środowiska z dnia 17 lutego 2010 r. w sprawie sporządzania projektu planu zadań ochronnych dla obszaru Natura 2000], Journal of Laws of the Republic of Poland 2010, no. 34, pos. 186 as amended.
- Regulation of the Minister of the Environment of 30 March 2010 on the preparation of a draft protection plan for the Natura 2000 area [Rozporządzenie Ministra Środowiska z dnia 30 marca 2010 r. w sprawie sporządzania projektu planu ochrony dla obszaru Natura 2000], Journal of Laws of the Republic of Poland 2010, no. 64, pos. 401 as amended.
- Rural Development Programme 2014-2020, available at [www.minrol.gov.pl](http://www.minrol.gov.pl) (10.04.2021).