

SUPERVISION OF THE DISTRICT GOVERNOR OVER FOREST MANAGEMENT IN FORESTS NOT OWNED BY THE STATE TREASURY IN POLAND

Sławomir Jerzy Snarski✉

ORCID: 0000-0002-9562-2608

Institute of Forest Sciences of the Białystok University of Technology
Wiejska Street 45E, 15-351 Białystok, Poland

ABSTRACT

Motives: Due to the gradual increase in the area of privately owned forests in Poland, the system of supervision of forest management requires strengthening.

Aim: The purpose of this paper is to present selected problems related to the functioning of the forest management supervision system in forests not owned by the State Treasury in Poland.

Results: The significant fragmentation of privately owned forest plots and their dispersion require incentives from the state administration to create entities associating their owners and fuse forest land into larger complexes. The measures taken could consist in ensuring the possibility of such entities applying for co-financing of forest management from European Union funds or the state budget. The result of such an approach would be to increase the forest area in Poland and to facilitate the necessary tree breeding and protection works in forests not owned by the State Treasury. However, this cannot be achieved without the necessary legislative changes and parallel measures to increase the knowledge on how to conduct sustainable forest management among private forest owners.

Keywords: private forests, supervision system, district governor, forest management, legal aspects

INTRODUCTION

Forest ecosystems, due to their diversified structure, are among the most important components of the natural environment. Hence, forest management and supervision over the way it is conducted in Poland are matters regulated by the provisions of generally applicable law. The provisions of the Forest Act of September 28, 1991 (Journal of Laws 2020, item 1463, as amended) are of key importance in this respect. In order to ensure the universal protection of forests, the provisions of this act impose a number of

obligations on forest owners related to increasing the natural resistance of stands by, among others, performing preventive and protective treatments to prevent the occurrence and spread of fires, combating harmful organisms and protecting soil and forest waters. Supervision is the legal instrument to enforce the obligations imposed on forest owners (Ziemblicki, 2015). In accordance with Article 5 of the Forest Act, the locally competent district governor (the second level local government administrative body in Poland) is responsible for supervising forest management in forests not owned by the State Treasury. This is all

✉ s.snarski@pb.edu.pl

the more important since forests in Poland provide three essential functions: environmental (protective), production (economic) and social, shaping the health and recreational conditions of the society and enriching the labour market (State Forests National Forest Holding, 2020; Kwiatkowski, 2014; Nowacka, 2012).

Poland is one of the six member states of the European Union with the largest forest areas, next to Sweden, Finland, Spain, France and Germany (Supreme Audit Office, 2021). Forest areas in Poland include, among others, such unique forest complexes as Białowieża Forest (designated a UNESCO World Heritage Site), the Bory Krajeńskie area, Tuchola Forest and Carpathian Forest. The ownership structure of forests in Poland is dominated by public forests. Nevertheless, in the years 1995–2019 the share of publicly owned forests decreased from 82.9% to 80.7%. The share of private forests in total forest area increased proportionately (from 17.1% to 19.3%) (Statistics Poland, 2020).

Therefore, the purpose of this paper is to present selected problems related to the functioning of the forest management supervision system in privately owned forests in Poland. First of all, it concerns the indication of the basic legal instruments at the disposal of the locally competent district governors and the practical problems of an economic and organizational nature related to their implementation. The main body of the paper is divided into three parts. The first part presents the characteristics of the legal supervision of forests not owned by the State Treasury. In the second part of the paper, the organizational and economic conditions of the supervision system of non-state forests are analysed. The third part identifies practical problems resulting from the normative, economic and organizational regulations in force in Poland.

MATERIALS AND METHOD

The study used non-reactive research methods by analysing the content of existing documents and legal acts. They were based on secondary data from the State Forests National Forest Holding, official data of the Central Statistical Office and literature on legal, economic and social aspects of supervision

over forest management in forests not owned by the State Treasury in Poland. The theoretical studies were conducted on the basis of the available literature on the subject and applicable legal regulations. The legal research carried out in this article was based on the use of the formal-dogmatic method. It made it possible to analyse and evaluate the normative acts that make up the system of sources of forest law in Poland.

RESULTS

Characteristics of the legal aspects of supervision of forests not owned by the State Treasury

The provision of Article 3 of the Forest Act defined a forest as land with a compact area of at least 0.10 ha, covered with forest vegetation (forest crops) – trees, shrubs and undergrowth – or temporarily devoid of it, intended for forestry production or constituting a nature reserve or part of a national park, or entered in the register of monuments, as well as land used for forestry purposes (e.g. occupied for buildings and structures, used for forest car parks and tourist facilities). As mentioned in the introduction, the authority supervising forest management in non-state forests is a district governor. Pursuant to Article 5(3) of the Forest Act, district governors may, by agreement, entrust the carrying out of supervision on their behalf, including issuing administrative decisions in the first instance, to local head foresters (Niczyporuk, 2015). The local head forester conducts the matters entrusted by the district governor after the entrusting entity provides funds for these purposes.

According to Article 5(1) supervision in private forests is objective in nature, as it refers only to forest management (economic activities undertaken on particular forest land), and not the owner of the forest or forest area. Thus, supervision of forest management in private forests can be defined as the right to interfere with the activities of forest owners in order to fulfil their obligations under the law (Wysocka-Fijorek, 2014). It is worth emphasizing that supervision is a legal act performed on the basis of and within the limits of the law, the essence of

which is the possibility of exercising control over the activities of forest owners, inherently related to the right to correct this activity by means of specific supervision measures (Danecka & Radecki, 2021). As a consequence, supervisory activities entail legal effects specified by law. In practice, the most frequently used supervisory legal instrument is an administrative decision issued pursuant to Article 24 of the Forest Act, i.e. concerning the order of the district governor for specific duties and protective tasks to be performed by forest owners. The district governor or an authorized local head forester issues an administrative decision in cases where there is a need to ensure the implementation of statutory rights or to enforce the performance of specific obligations by owners of private forests. The supervisory body is not authorized to replace private forest owners in the performance of their assigned duties. It can only correct the forest management of forest owners using institutionalized instruments of administrative coercion (Geszyrych, 2009).

Provisions of the Forest Act and corresponding normative regulations contained in the District Government Act of June 5, 1998 (Journal of Laws 2020, item 920) constitute the basis for distinguishing between the tasks of the district governor in the field of government administration and the district governor's own tasks. The most important competences of district governors in the field of government administration with regard to privately owned forests are:

- issuing, after obtaining the opinion of a local head forester, a decision on the allocation of funds to cover the costs of damage to forests resulting from the impact of industrial gases and dust, as well as in the case of fires or other natural disasters caused by biotic or abiotic factors, threatening the sustainability of forests, management and protection costs related to the renewal or reconstruction of the stand, if it is impossible to determine the perpetrator of the damage (Article 12(2)(2) of the Forest Act);
- issuing decisions on changing the forest to agricultural use in cases of particularly justified needs of forest owners (Article 13(2) in connection with Article 13(3)(2) of the Forest Act);

- issuing, after consulting the municipal council, a decision on the recognition of a forest as protective or depriving it of its character (Article 16(1a) of the Forest Act);
- approving, after obtaining the opinion of the territorially competent local head forester, simplified forest management plans (Article 22(2) of the Forest Act).

In turn, the most important competences of district governors in the field of supervision of forests not owned by the State Treasury as part of their own tasks are:

- determining, by means of a decision, the tasks of forest owners in the case of non-fulfilment of their obligations to ensure forest protection (Article 9(2) of the Forest Act);
- ordering the implementation of combative and protective measures in endangered forests (Article 10(1)(2) of the Forest Act);
- timber hallmarking and issuing a document confirming the legality of timber harvesting to the forest owner (Article 14a(3) of the Forest Act);
- defining tasks in the field of forest management for fragmented forests with an area of less than 10 ha (Article 19(3) of the Forest Act);
- commissioning the preparation of simplified forest management plans for forests belonging to natural persons and land communities (Article 21(1)(2) of the Forest Act);
- commissioning an inventory of fragmented forests with an area of less than 10 ha (Article 21(2) of the Forest Act);
- supervising the implementation of the approved simplified forest management plans (Article 22(5) of the Forest Act);
- issuing decisions on timber harvesting contrary to the simplified forest management plan or a decision issued on the basis of an inventory of the state of forests for fragmented forests with an area of less than 10 ha (Article 23(4) of the Forest Act) (Ziemlicki, 2015; Danecka & Radecki, 2021).

Proper and effective implementation of the above statutory tasks requires an appropriate organizational framework and adequate financial outlays.

Organizational and economic conditions of the system of supervision of non-state forests

The total area of forests in Poland, as of 31 December 2019, is 9,463 thous. ha, placing forest cover at 29.6% (State Forests National Forest Holding, 2020). Forest

areas in Poland as well as the share of forests not owned by the State Treasury in total forest area by provinces in 2019 are shown respectively in Figures 1 and 2.

The ownership structure of forests in Poland is dominated by public forests – 80.7%, of which forests managed by the State Forests National Forest Holding constitute 76.9% of the total forest area of the country.

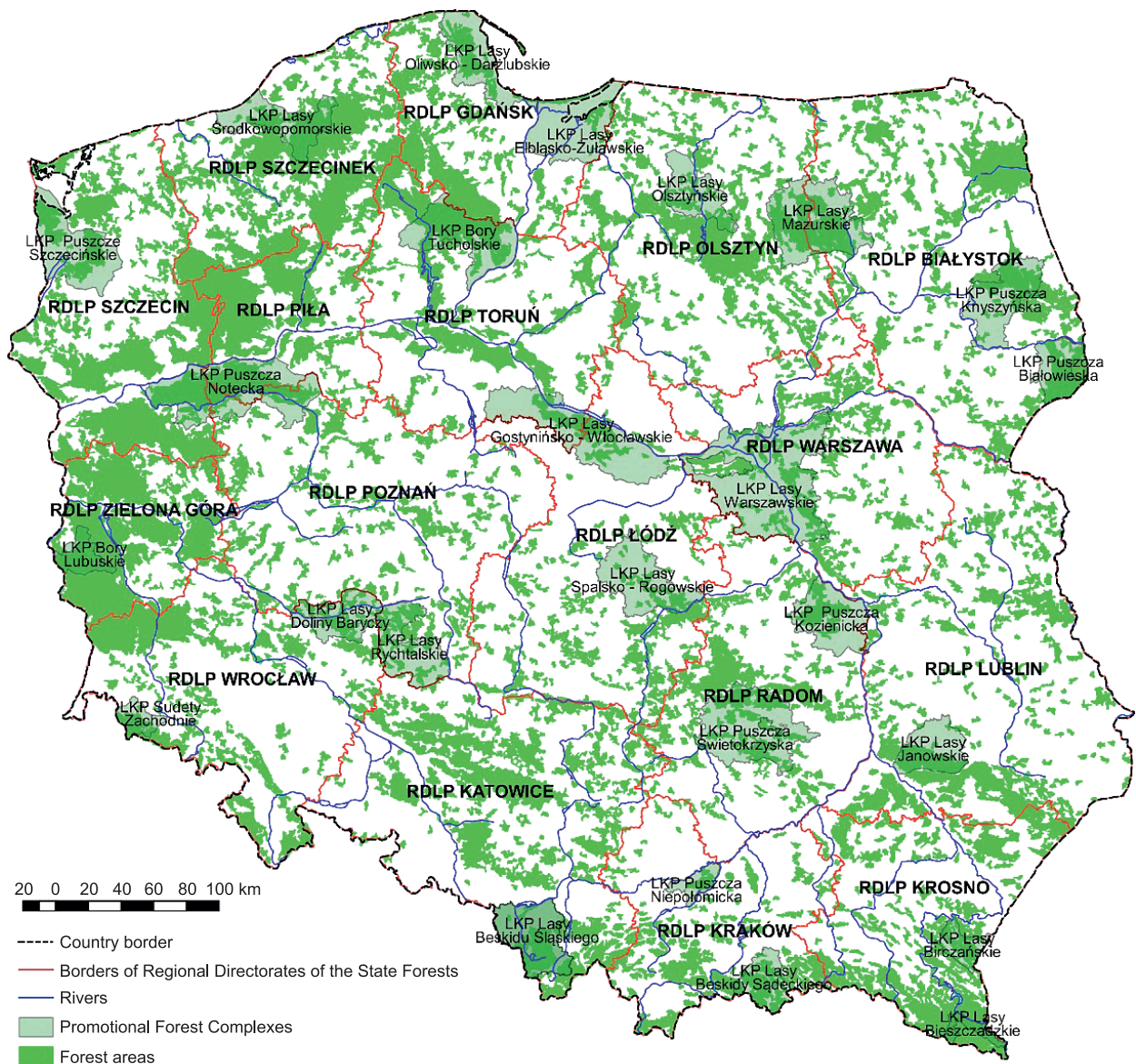


Fig. 1. Forest areas in Poland as of 31 December 2019
Source: State Forests National Forest Holding (2020).

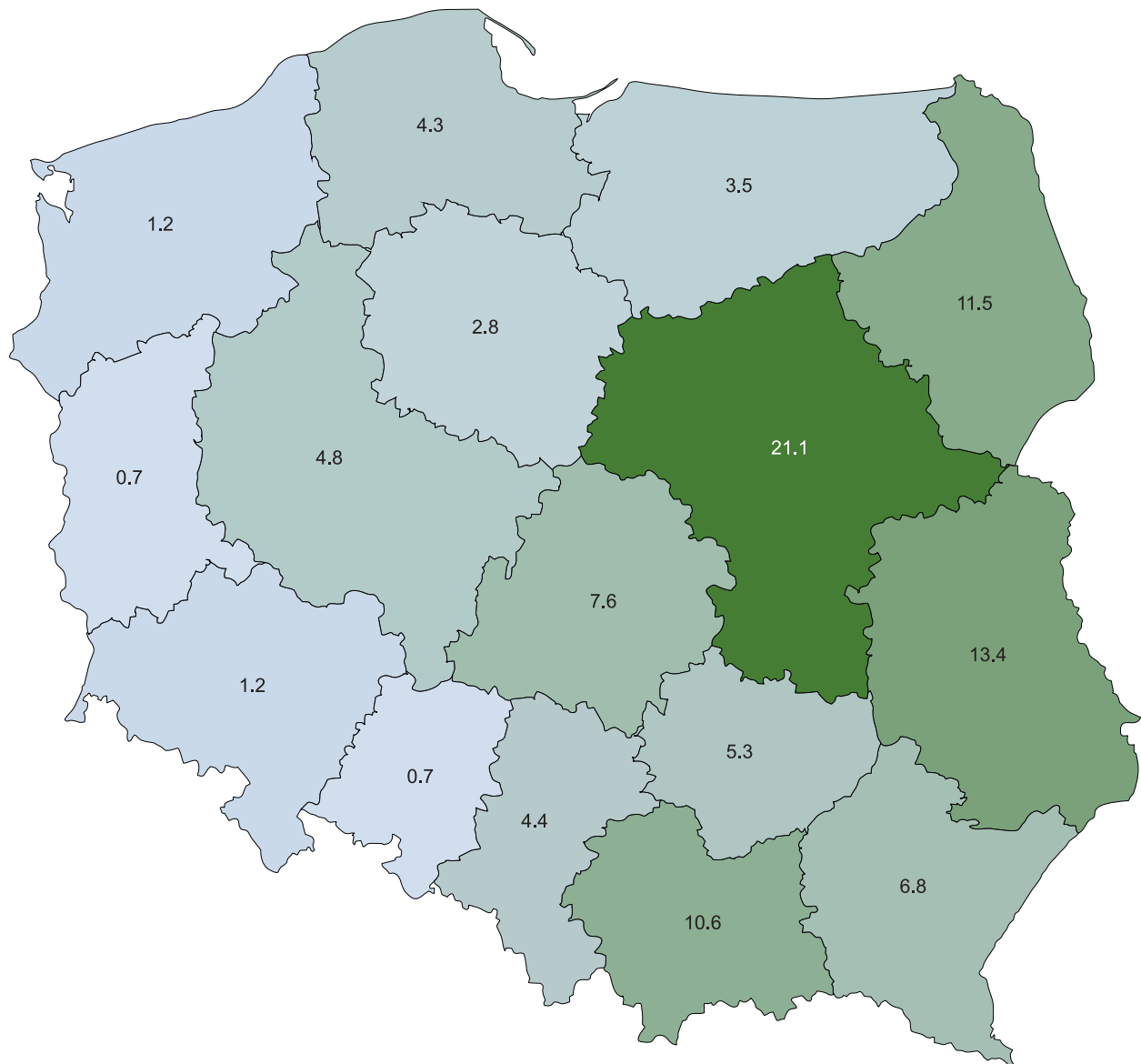


Fig. 2. Share of forests not owned by the State Treasury in total forest area by provinces in 2019 (%)

Source: author's own study based on data from Statistics Poland (as of 31 December 2019).

Non-state forests, which in particular include forests owned by natural persons, land communities and cooperatives, cover an area of over 1,787 thous. ha. Their share in the total forest area constitutes 19.3% (Statistics Poland, 2020). The ownership structure of forests in Poland is presented in Figure 3 and Table 1.

On a national scale, the distribution of private forests is highly spatially diversified (Adamczyk et al., 2015). Almost 71% of their area (i.e. 1,268.2 thous. ha)

is located in six provinces of central, southern and eastern Poland. The provinces with the highest share of forests not owned by the State Treasury are: mazowieckie – 377.1 thous. ha (21.1% of the total area of non-state forests in Poland), lubelskie – 239.4 thous. ha (13.4%), podlaskie – 205.0 thous. ha (11.5%), małopolskie – 189.5 thous. ha (10.6%), łódzkie – 135.7 thous. ha (7.6%) and podkarpackie – 121.5 thous. ha (6.8%) (Statistics Poland, 2020).

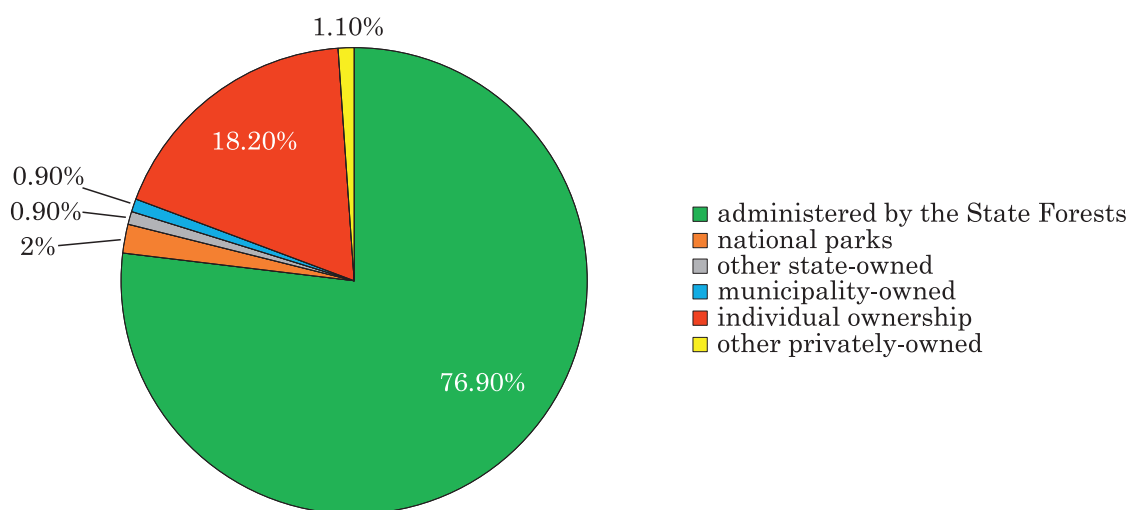


Fig. 3. Ownership structure of forests in Poland (%)

Source: author's own study based on data from Statistics Poland (as of 31 December 2019).

Table 1. Ownership structure of forests in Poland (%)

Form of forest ownership	Share in the total forest area (%)
1. Administered by the State Forests	76.9
2. National parks	2
3. Other state-owned	0.9
4. Municipality-owned	0.9
5. Individual ownership	18.2
6. Other privately-owned	1.1

Source: author's own study based on data from Statistics Poland (as of 31 December 2019).

This allows to conclude that, at least in the case of these provinces, the ability to fulfill social and protective functions is strongly dependent on private forests (Krauzowicz & Rostek, 2020). Data on the area of private forests broken down by province are presented in Figure 4.

Private forests, especially those owned by natural persons, are highly fragmented in terms of the forms of their ownership – the average private forest area per owner constitutes just over 1 ha (Adamczyk et al., 2015; Ziemblicki, 2015; Gołos & Gil, 2020). Furthermore, in accordance with the provision of Article 6(1)(3) of the Forest Act, a forest owner is defined as any natural person or legal entity who is the owner or perpetual user of a forest and an autonomous

holder, user, manager or tenant of a forest. This state of affairs significantly impedes the conduct of sustainable forest management and its supervision by public administration bodies (Geszczych, 2009). As a result, in practice the majority of district governors exercise the power to entrust the supervision of private forests in their administrative area to local head foresters (Ziemblicki, 2015; Supreme Audit Office, 2021).

Practical problems in the field of supervision of forests not owned by the State Treasury

In accordance with Article 19 of the Forest Act, forest management in forests not owned by the State Treasury is carried out on the basis of simplified forest management plans (for forests with an area of more than 10 ha) or a decision of the district governor issued on the basis of the inventory of forest condition (for forests with an area of less than 10 ha) (Kropiewnicka & Ostrowiecki, 2014). In practice, the main and most common problem in the proper and effective supervision of forest management is the obsolescence or lack of relevant documents (Supreme Audit Office, 2021). This state of affairs constitutes a significant impediment to rational forest management and in cases where it is necessary to enforce the perfor-

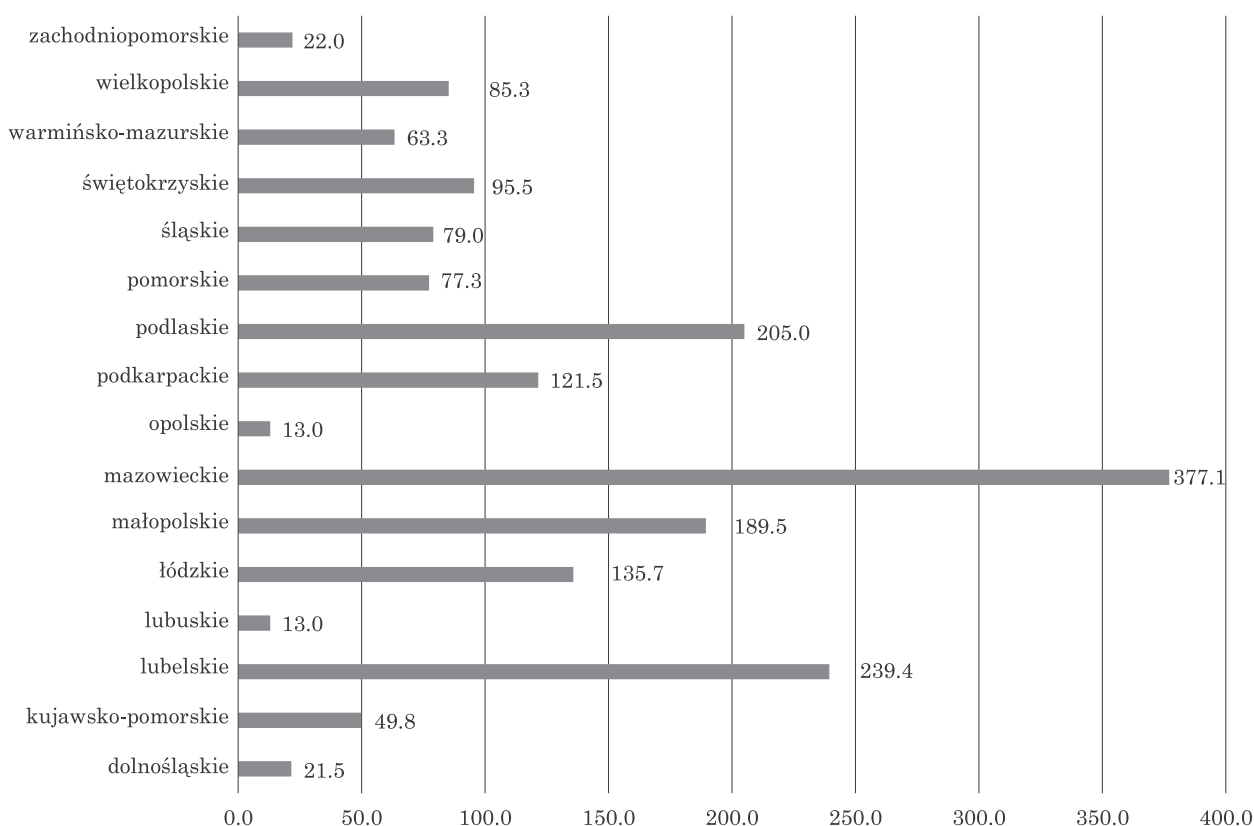


Fig. 4. Area of private forests by province (in thous. ha)
Source: author's own study based on data from Statistics Poland (as of 31 December 2019).

mance of duties and tasks by owners of private forests or to apply for financial assistance (Geszprych, 2009). Moreover, the provision of Article 21(1)(2) of the Forest Act provides that simplified forest management plans for privately owned forests are prepared at the request of the district governor. Contrary to the analogous regulation of Art. 21(1)(1) of the same Act in respect to State Forests, the binding legal provisions do not indicate who is obliged to fund the cost of the aforementioned documents (Geszprych, 2014). As a result, there are cases of Regional Accounts Chambers questioning the legitimacy of district governors bearing the costs of the development of appropriate documentation (Ziemblicki, 2015).

The imprecision of the legal provisions also causes problems with the return procedure, pursuant to Article 12(2)(2) of the Forest Act, of costs incurred by owners of private forests for the renewal

or reconstruction of stands damaged as a result of a natural disaster. Owners of private forests are entitled to reimbursement of these costs from the state budget after completion of the renovation works and submission to the territorially competent district governor of relevant receipts confirming the performance of these works, together with the opinion of the local head forester. The district governor, which is the authority competent to issue decisions on granting public funds to cover the costs in question, was not equipped by the legislator with an instrument allowing for verification of whether the incurred costs were not overstated. There are no legal provisions in this respect that would allow for an objective verification, and possible questioning, of the amount of expenses incurred by private forest owners for the renewal or reconstruction of tree stands. In this situation, a more appropriate solution seems

to be the introduction of a mechanism allowing for the transfer of appropriate funds to the forest owner in the form of an advance payment, after the supervisory authority determines the amount of funds needed according to the rates applicable in this respect directly from the provisions of law.

Another important problem results from the shortage of funds in the budgets of districts for supervising forest management in private forests. In practice, this does not allow for the full scope and level of supervision by district governors using their own services and human resources. In the case of entrusting, by agreement, the matters related to supervision to local head foresters there is a situation in which the foresters receive insufficient funds that do not allow for full supervision (Ziemblicki, 2015). It should be noted that the Forest Act, as well as the District Government Act, have granted the bodies of local government units at the district level a number of powers and obligations in the field of forestry. Pursuant to the provision of Article 4(1)(14) of the District Government Act, the district performs supra-communal public tasks in the field of forestry, as defined by statutes. However, according to Article 6(1) of the Forest Tax Act of October 30, 2002 (Journal

of Laws 2019, item 888, as amended), the tax authority competent in matters of forest tax is the head of a municipality (the mayor or a president of a city). This causes a situation in which, despite the lack of funds in the budgets of districts for ensuring the proper functioning of the private forest supervision system, revenues from forest tax go to the budgets of municipalities or cities with district status (Figure 5) and are spent on tasks not related to forest management.

An issue closely related to the financing of supervision of private forests is the existence of differences between the forest area indicated in the land and building register, kept by competent district governors on the basis of the Geodesic and Cartographic Law of May 17, 1989 (Journal of Laws 2020, item 2052, as amended), and the actual forest area. These discrepancies result mainly from the afforestation of wasteland and former farmland, and the notorious lack of updating by forest owners of data on taking up or ceasing forest use of land covered by the records within the time limits provided for by law. The differences in the forest area directly affect the financial settlements of district governors with local head foresters, resulting from the agreements

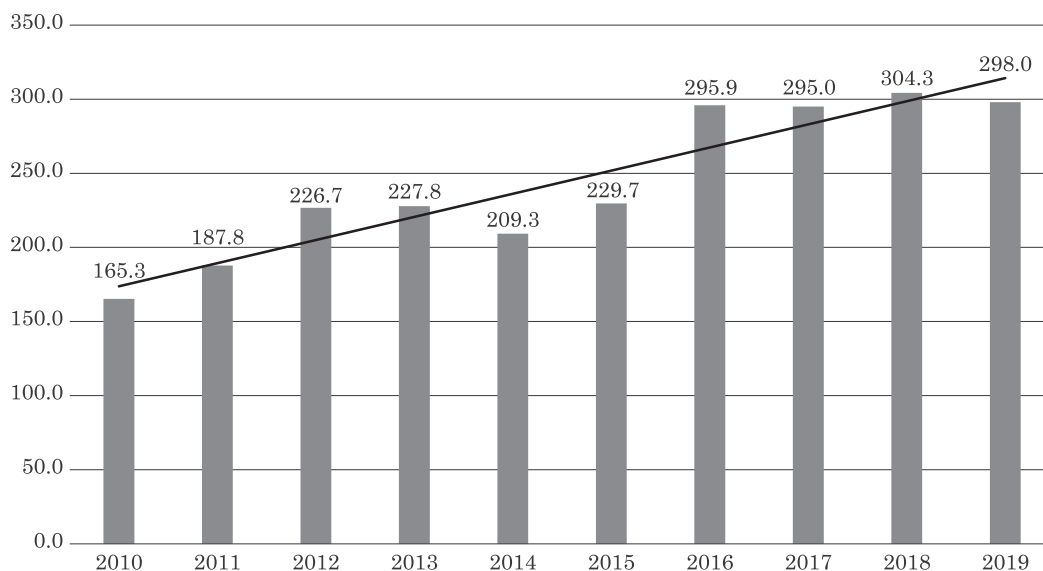


Fig. 5. Income of municipalities' budgets (including revenue of municipalities which are also cities with district status) from forest tax by province in the years 2010-2019 (in million PLN)

Source: author's own study based on data from Statistics Poland.

concluded in the field of supervision. The situation is additionally worsened by the unregulated legal status of many private forest properties and the often outdated data of their owners (Supreme Audit Office, 2021).

Enforcement of the obligations imposed by law on owners of private forests is often very difficult due to the significant fragmentation of forest plots and their dispersion. This is particularly important when it is necessary to carry out protective measures in the event of the occurrence of harmful organisms to a degree that threatens the sustainability of forests. Significant fragmentation of private forest complexes (Gołos, 2011) and their interpenetration with forest plots owned by the State Treasury largely affects the effectiveness of possible protective measures (Supreme Audit Office, 2021). In addition, the supervisory authorities have limited possibilities of applying administrative penalties for improper forest management, as most legal norms in the field of forest law are *lex imperfecta*, which means they are devoid of sanctions (Geszyrch, 2009).

DISCUSSION

Exercising proper supervision of forest management in forests not owned by the State Treasury in Poland is a complex process. It is determined both by the provisions of forest law and by the forestry financing system. It should be noted that although the provisions of the forest law, in many areas regulate the functioning of the supervision system correctly, in many places they require a thorough change. This is important because, in accordance with Article 2 of the Forest Act, its provisions apply to forests regardless of their form of ownership (Kropiewnicka & Ostrowiecki, 2014).

Undoubtedly, the rules of financing the supervision system are an example of inadequate legal regulation. Paradoxically, despite entrusting forest management supervision to district governors and, consequently, imposing a number of related obligations on them, the revenues from forest tax contribute to municipal budgets and are often spent on purposes completely

unrelated to forest management. The most appropriate solution in such a situation would be, above all, an amendment to the act on forest tax consisting in designating the district governor as the tax authority competent in matters of forest tax, and the payment of this tax by its taxpayers to the account of the budget of the district appropriate for the location of the forest plot. This change would correspond to the subjective competence in the scope of supervising forest management in forests not owned by the State Treasury. The provision of Article 21(1)(2) of the Forest Act also requires clarification in terms of the literal indication of the entity at whose expense the simplified forest management plans are prepared, along with the provision of financial resources for this purpose.

CONCLUSIONS

The significant fragmentation of privately owned forest plots and their dispersion require incentives from the state administration to create entities associating their owners and fuse forest land into larger complexes. The measures taken could consist in ensuring the possibility of such entities applying for co-financing of forest management from European Union funds or the state budget. The result of such an approach would be to increase the forest area in Poland and to facilitate the necessary tree breeding and protection works in forests not owned by the State Treasury. Due to the gradual increase in the area of private forests in Poland, the system of supervision of forest management undoubtedly requires strengthening. This cannot be achieved without the necessary legislative changes and parallel measures to increase the knowledge on how to conduct sustainable forest management among private forest owners. Education of forest owners in the field of forest management is an important task, because their forest knowledge is often incomplete and is usually based on the experience acquired while running a farm (Gołos et al., 2021). Considering the above, the curriculum in vocational technical high schools for agricultural studies should include subjects aimed at increasing the level of knowledge in the field of forest management.

REFERENCES

- Adamczyk, W., Jodłowski, K., & Socha, J. (2015). *Forest Land Ownership Change in Poland. COST Action FP1201 FACESMAP Country Report*. Vienna: European Forest Institute Central-East and South-East European Regional Office. Retrieved from: https://facesmap.boku.ac.at/library/FP1201_Country%20Report_POLAND.pdf (21.06.2021).
- Danecka, D., & Radecki, W. (2021). *Ustawa o lasach. Komentarz*. Warsaw: Wolters Kluwer Polska.
- Geszprych, M. (2009). Specific character and the sphere of values in forestry law. *Studia Lubuskie*, 5, 159–181.
- Geszprych, M. (2014). *Struktura zarządzania i nadzoru nad lasami w Polsce*. Materiały z konferencji „Wizja Leśnictwa w Polsce”, Sękocin Stary.
- Gołos, P. (2011). Private forests in Poland – the results of the questionnaire. surveys covering the network of test forest holdings. *Folia Forestalia Polonica*, 53(1), 25–42.
- Gołos, P., & Gil, W. (2020). *What do we know about private forests – public statistics and research results*. International Conference “Private forests – opportunities, problems, solutions”, Sękocin Stary.
- Gołos, P., Wysocka-Fijorek, E., Gil, W., & Wójcik, R. Orzechowski, M. (2021). Quality of forest management supervision in private forests and the knowledge of their owners in the field of forest management. *Sylwan*, 165(2), 91–100.
- Krauzowicz, W., & Rostek, K. (2020). *Supervision over forest management in private forests*. International Conference “Private forests – opportunities, problems, solutions”, Sękocin Stary.
- Kropiewnicka, M., & Ostrowiecki, D. (2014). Zmiany w Lasach Państwowych. Analiza modelu gospodarki leśnej w Polsce. In B. Rakoczy, M. Szalewska & K. Karpus (Eds.). *Prawne aspekty gospodarowania zasobami środowiska* (pp. 221–230). Toruń: Towarzystwo Naukowe Organizacji i Kierownictwa DOM ORGANIZATORA.
- Kwiatkowski, A. (2014). Istniejący model prawny gospodarki leśnej w kontekście zasady zrównoważonego rozwoju. In B. Rakoczy, M. Szalewska & K. Karpus (Eds.). *Prawne aspekty gospodarowania zasobami środowiska* (pp. 231–244). Toruń: Towarzystwo Naukowe Organizacji i Kierownictwa DOM ORGANIZATORA.
- Niczyporuk, J. (2015). Regulation competence of forest administration. *Białystok Legal Studies*, 18, 55–61.
- Nowacka, E. (2012). *Władza samorządu lokalnego*. Warsaw: LexisNexis.
- State Forests National Forest Holding. (2020). *Report on the State of Forests in Poland 2019*, Warsaw. Retrieved from: <https://www.lasy.gov.pl/pl/informacje/publikacje/informacje-statystyczne-i-raporty/raport-o-stanie-lasow/raport-o-stanie-lasow.pdf/view> (21.06.2021).
- Statistics Poland. (2020). *Statistical Yearbook of Forestry 2020*, Warsaw. Retrieved from: https://www.bdl.lasy.gov.pl/portal/Media/Default/Publikacje/GUS_lesnictwo_2020.pdf (21.06.2021).
- Supreme Audit Office. (2021). *Nadzór nad gospodarką leśną w lasach niestanowiących własności Skarbu Państwa*. Warsaw. Retrieved from: <https://www.nik.gov.pl/plik/id,23687,vp,26423.pdf> (21.06.2021).
- Ustawa z dnia 17 maja 1989 r. – Prawo geodezyjne i kartograficzne [Geodesic and Cartographic Law of May 17, 1989], *Journal of Laws* 2020, item 2052, as amended (Poland).
- Ustawa z dnia 28 września 1991 r. o lasach [Forest Act of September 28, 1991], *Journal of Laws* 2020, item 1463, as amended (Poland).
- Ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym [District Government Act of June 5, 1998], *Journal of Laws* 2020, item 920 (Poland).
- Ustawa z dnia 30 października 2002 r. o podatku leśnym [Forest Tax Act of October 30, 2002], *Journal of Laws* 2019, item 888, as amended (Poland).
- Wysocka-Fijorek, E. (2014). Social, Legal and Economic Aspects of Forest Management in Private Forests. *Zeszyty Naukowe SGGW w Warszawie – Problemy Rolnictwa Światowego*, 14(29), 216–225.
- Ziemblicki, M. (2015). Legal conditions of supervision over private forests, *Białystok Legal Studies*, 18, 297–305.