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BODY OF CASE LAW pertaining to the nature conservation law

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MASZ PRAWO DO OCHRONY PRZYRODY

One of the key issues of concern related to nature conservation is failure of the law enforcement authorities to refer the cases to judicial authorities, followed by issuing light sentences and frequent dismissals.

This exposes the Polish nature to losses caused by committed environmental crimes and offences.

During implementation of the LIFE 15 GIE/PL/000758 project “You have right to effective protection of nature”, we attempted to monitor the sentences issued by the Polish courts in the area of nature protection. This body of case law presents the cases, in which the collected evidence allowed punishing for environmental crimes and offences.

We are aware of the vital role of social awareness in environmental protection and hope that the presented sentences will result in increasing the level of knowledge in the field of legal protection of nature.



No.	Case no.	Date of sentence	Infringed provision of substantive law	Type of damage and protected area	Size of damage	Result
1	II W 1145/16	13.02.2017	Article 131, section 14 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880); § 6, section 1, clause 6 of the Ordinance of the Minister of Environment of 6 October 2014 on the protection of fauna species (Journal of Laws of 2014, item 1348)	Keeping captive and holding of protected birds without permission	5 goldfinches, 2 serins, 2 siskins, 2 linnets, 3 crossbreeds (mix-breeds)	Fine of PLN 500.
2	IV SA/Po 1244/18	17.04.2019	Article 83, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	6 trees removed without permission	6 trees	Administrative penalty payment
3	II OSK 419/17	07.03.2019	Article 83, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Trees (trembling poplar, great willow, weeping birch, Scotch pine) removed without permission	1 trembling poplar, 7 great willows, 46 weeping birches, 1063 Scotch pines	Administrative penalty payment in the amount of PLN 14 216 019.91
4	II SA/Gd 652/18	06.03.2019	Article 83, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Trees (willow) removed without permission	2 trees	Administrative penalty payment in the amount of PLN 10 173.60
5	IV SA/Po 1160/18	06.03.2019	Article 83, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Trees (poplar) removed without permission	15 trees	Administrative penalty payment
6	II SA/Kr 1571/18	15.02.2019	Article 88, section 1, clause 3 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Tree damage (Norway spruce, white cedar)	1 Norway spruce, 1 white cedar	Administrative penalty payment
7	VII Ka 186/19	05.04.2019	Article 475 of the Act of 20 July 2017 - Water Law (Journal of Laws of 2017, item 1566)	Damage to lake coastline and semi-aquatic surroundings covering natural appearance and topography of land, flora, aerobic and anaerobic fauna is irreversible	undeterminable	Fine of PLN 500
8	V K 180/18	11.12.2018	Article 475 of the Act of 20 July 2017 - Water Law (Journal of Laws of 2017, item 1566) Article 181, § 1 and 2 of the Act of 6 June 1997 - Penal Code (Journal of Laws of 1997 No. 88, item 553)	Significant damage to fauna and flora habitats by commissioning of earthworks with the use of heavy duty equipment	undeterminable	Fine in the amount of 300 day-fine units, provided that the amount of one day-fine unit is equal to PLN 30
9	II W 339/18	09.11.2018	Article 127, section 1(d) of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92 poz 880)	Infringement of tree removal prohibition at the area of a plot located within the protected landscape area	no data	Fine in the amount of PLN 1000
10	VW 4138/17	27.02.2018	Article 144, § 1 of the Act of 20 May 1971 Code of Petty Offences (Journal of Laws of 1971 No. 12, item 114)	Infringement of plant damage prohibition in public areas	no data	Fine in the amount of PLN 200
11	II SA/GI 729/18	26.11.2018	Article 87a, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Damaged trees	9 trees	Administrative penalty payment in the amount of PLN 29 450.
12	VI K 116/16	06.09.2016	Article 83c and Article 86, section 1, clauses 2, 5 and 9 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880) Article 181, § 2 and Article 231, § 1 of the Act of 6 June 1007 - Penal Code (Journal of Laws of 1997 No. 88, item 553)	Inaccurate evidentiary proceeding which caused significant damage to the area of landscape park	no data	Fine in the amount of 50 day-fine units, provided that the amount of one day-fine unit is equal to PLN 20
13	II OSK 2444/16	10.10.2017	§ 3, section 1, clause 7 of the Resolution no. 147/VII/11 of the Local Government Assembly of the Pomeranian Voivodeship of 27 April 2011	Tricity Landscape Park	not applicable	Refusal to agree a draft decision on terms and conditions of development
14	II SA/tđ 674/17	14.12.2017	Article 84, section 3 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Failure to perform substitute tree planting	not applicable	Payment of fees in the amount of PLN 77 664.59 zł calculated for removal of two trees



15	II OSK 438/17	05.12.2017	Article 83, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Removed trees at private property	33 trees	Administrative penalty payment in the amount of PLN 401 165.50
16	II OSK 3230/14	04.10.2016	Article 33, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Natura 2000 Sites: Puszcza Knyszyńska (Knyszyńska Forest) (PLB200003), Ostoja Knyszyńska (Knyszyńska Nature Refuge) (PLH200006)	not applicable	Refusal to agree the terms and conditions of development of the planned investment
17	II OSK 2648/14	06.07.2016	Article 34, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Removed coastline flora at the Natura 2000 Site	undeterminable	Order of earthworks suspension
18	II SA/rz 1210/17	31.01.2018	Article 33, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Natura 2000 Site: Bieszczady (Bieszczady Mountains) (PLC180001)	not applicable	Refusal to agree the terms and conditions of development
19	II SA/Bd 642/17	09.01.2018	Article 83, section 1 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Not applicable	not applicable	Refusal to issue a permission for trees and shrubs removal
20	II W 657/17	2017.09.11	§ 5, section 1, clauses 3 and 7 of the Resolution no. XX/470/16 of the Local Government Assembly of the Warmian and Mazurian Voivodeship of 27 September 2016 on the Olsztyńskie Lakeland Protected Landscape Area Article 127, clause 1(d) of the Act on nature conservation	Liquidation of natural water reservoirs and tree stands at the area of the Olsztyńskie Lakeland Protected Landscape Area	20-30 trees	Conviction and fine
21	II K 509/16	14.06.2018	Article 131, clause 14 of the Act on nature conservation, § 6, section 1-3 of the Ordinance on the protection of flora species, § 6, section 1, clause 1 of the Ordinance on the protection of fauna species, Article 191 of the Water Law Act, Article 181 § 2, § 3 and Article 187, § 1 of the Penal Code	Damage to protected species and habitats, transportation of soil onto the "Kobyła Biel" peat bog (Natura 200 Site: Puszcza Augustowska i Ostoja Augustowska (Augustowska Forest and Nature Refuge)	damage covers peat bog belt, code 7230, of area of approx. 0.5 ha and a part of lake coastline	Conviction and fine
22	II K 551/18	19.09.2018	Article 27c, section 1, clause 2 of the Act of 18 April 1985 on inland fisheries	illegal fishing in the Biebrza River	not applicable	conviction, fine equal to 30 day-fine units and forfeiture of fishing boat and gear for State Treasury
23	II K 387/18	16.08.2018	Article 27c, section 1, clause 2 of the Act of 18 April 1985 on inland fisheries	illegal fishing in the Biebrza River	not applicable	conviction, fine equal to 80 day-fine units and forfeiture of fishing boat and gear for State Treasury
24	IV SA/WA 145/18	17.04.2018	Article. 56, section 2, clause 2 and section 4 of the Act of 16 April 2004 on nature conservation	Habitats of birds under strict species protection	not applicable	The court dismissed the appeal and thus sustained the decision of the General Director of Environmental Protection refusing the permission for mechanical damage of habitats of birds under strict species protection by transforming forest into arable land



25	II W 831/17	25.09.2017	Article 15, section 1, clause 6 ,9, 10, 15, 23 and 27 of the Act of 16 April 2004 on nature conservation (Journal of Laws of 2004 No. 92, item 880) Article 127, clause 1(b) of the Act on nature conservation (Journal of Laws of 2004 No. 92, item 880)	Use, willful damage, transformation of natural objects, areas and resources as well as resources, forms and elements of nature. Soil damage, use of lands preventing natural course of natural processes, including forest regeneration. Making fires, use of light sources with open flame. Pedestrian and ski traffic outside the dedicated paths. Disturbance of silence (animal dispersion), performing earthworks transforming the topography on permanent basis. Camping outside dedicated sites, organisation of recreation and sports event. Romanka Nature Reserve	undeterminable	Fine of PLN 500.
26	II OSK 2703/15	27.06.2017	§ 5, section 1, clause 8 of the Resolution no. XV/284/12 of the Local Government Assembly of the Warmian and Mazurian Voivodeship of 27 March 2012 on designation of the Napiwodzko-Ramucka Forest Protected Landscape Area (Official Journal of the Warmian and Mazurian Voivodeship of 2012, item 1450 as amended)	Napiwodzko-Ramucka Forest Protected Landscape Area	not applicable	Refusal to agree a draft decision on terms and conditions of development for construction of a single-family residential house
27	II OSK 749/17	05.12.2017	§ 3, section 1, clause 7 of the Ordinance no. 81/06 of the Voivode of the Lesser Poland Voivodeship of 17 October 2006 on the Bielańsko-Tyniecki Landscape Park (Official Journal of the Lesser Poland Voivodeship of 2006, item 3997)	Bielańsko-Tyniecki Landscape Park	not applicable	Dismissal of appeal to the Ordinance no. 81/06 of the Voivode of the Lesser Poland Voivodeship of 17 October 2006 on the Bielańsko-Tyniecki Landscape Park
28	II OSK 2581/14	05.07.2016	§ 3, section 1, clause 7 of the Ordinance no. 59/06 of the Voivode of the Pomeranian Voivodeship of 15 May 2006 on the Tucholski Landscape Park (Official Journal of the Pomeranian Voivodeship No. 58, item 1196)	Tucholski Landscape Park	not applicable	Refusal to agree the terms and conditions of development for the planned investment
29	II OSK 2841/14	21.07.2016	§ 2, section 1, clause 8 of the Resolution no. VI/106/11 of the Local Government Assembly of the Kuyavian and Pomeranian Voivodeship of 21 March 2012 on the protected landscape areas	Protected landscape area in the Kuyavian and Pomeranian Voivodeship	not applicable	Refusal to agree a draft decision on terms and conditions of development for the investment consisting in construction of a residential building
30	IV SA/Wa 3056/15	21.01.2016	§ 3, section 1, clause 5 of the Resolution no. XXXIX/783/13 of the Local Government Assembly of the Subcarpathian Voivodeship of 28 October 2013 on the Roztoczański Protected Landscape Area	Roztoczański Protected Landscape Area	not applicable	Refusal to agree a draft and amendment of the local spatial development plan for the area intended for natural aggregate extraction
31	II OSK 2811/14	14.07.2016	§ 5, section 1, clause 8 of the Resolution no. 1161/XLVII/10 of the Local Government Assembly of the Pomeranian Voivodeship of 28 April 2010 on the protected landscape areas	Bory Tucholskie Protected Landscape Areas	not applicable	Adoption of the local spatial development plan
32	II SA/Po 1156/18	29.05.2019	Article 40, section 3 of the Act on nature conservation (Journal of Laws of 2004 No. 92, item 880), §1 of the Ordinance of the Minister of Environment of 4 December 2017 on the criteria of recognition of formations of living and non-living nature as monuments of nature (Journal of Laws of 2017, item 2300)	A tree applied for removal, meeting the conditions of recognition as a monument of nature	not applicable	No consent for tree removal



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