

# Protection of the Bialowieza Forest as a Challenge to Cross-border Cooperation

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## Abstract

The Bialowieza Forest has – for various reasons – long aroused international interest. Following the Second World War the forest was divided by state borders, and its resources are now subject to the sovereign powers of Poland and Belarus. Both states provide protection to the Bialowieza Forest – each to its part and together to the entirety. From the perspective of international law researchers, the latter is particularly interesting, involving as it does both classical cross-border cooperation, including a wide range of entities (local and regional self-government, forest administration, etc.), as well as inter-state cooperation (in bilateral and multilateral forms, e.g. UNESCO). The analysis of these forms of individual cooperation permits a better understanding of the protection issues of the Bialowieza Forest and enhancement of international cooperation.

## Keywords

Bialowieza Forest – cross-border cooperation – nature protection – UNESCO heritage – Euroregion – European Grouping of Territorial Cooperation

## 1 Introduction

The border separating the present territory of Poland from the territory of the Republic of Belarus has shifted over the centuries. Consequently, the inhabitants of the border towns of both countries are often linked by family ties but also by a community of (not always pleasant) historical memories. Since the accession of Poland to the North Atlantic Treaty Organisation (NATO) in 1999, and even more since Poland joined the European Union (EU) in 2004 and the Schengen area in 2007, the Polish-Belarusian border has become more 'sealed up' and is a serious barrier to mutual contacts. The border also separates the invaluable natural property of the Białowieża Forest, the protection of which is, as a result, currently regulated by two internal legal orders: those of Belarus and Poland. Furthermore, the latter is subject to the necessity of adapting national legislation to EU regulations. From this situation various legal problems stem, as it is not easy to create and implement mutually acceptable rules in line with domestic law, not to mention effective enforcement. The question of the responsibility to establish, unify and enforce legislation also arises. To all these challenges, cross-border cooperation may be a viable answer.

## 2 The Microcosm of the Białowieża Forest

A lot has been written about the Białowieża Forest in various fields of science and journalism.<sup>1</sup> The Białowieża Forest, located in the Polish-Belarusian borderland, is a forest complex containing the last fragment of primary lowland and mixed lowland forests that once covered the area from the Atlantic Ocean to the Ural Mountains. For thousands of years, under the influence of human activity, these forests were gradually cleared – initially for the needs of agriculture only, and later for the advancing industry.<sup>2</sup> The contemporary uniqueness of the Białowieża Forest probably derives its genesis from the fact that until the beginning of the 20th century it remained in almost unchanged form.<sup>3</sup>

1 See: Hieorhij Kazulka, Stefan Jakimiuk, *Puszcza Białowieża. Chroniona – niechroniona* (2007) passim; Grzegorz Rąkowski, "Przyrodnicze i kulturowe walory Puszczy Białowieżskiej", 42 *Ochrona Środowiska i Zasobów Naturalnych* (2010) pp. 274–283; Marcin Koziół, "Ochrona walorów przyrodniczo-krajobrazowych na pograniczu polsko-białoruskim na przykładzie Puszczy Białowieżskiej", T. XXVI *Problemy Ekologii Krajobrazu* (2010) pp. 271–284; Tomasz Samojlik (eds.), *Ochrona i łowy: Puszcza Białowieża w czasach królewskich* (2005).

2 Andrzej Szujewski, *Puszcza Białowieża. Konflikty wokół ochrony i zarządzania* (2008) p. 4.

3 Marcin Koziół, *ibid.* pp. 274–275.

Significant changes, or rather damages, were made during World War I. During this period, the Germans who occupied the area devastated the forest. At that time, wood was used for road construction, the 200 kilometer narrow gauge railway and the development of the wood industry in nearby towns. Logging carried out in 1924–1929 by the English company the European Century Timber Corporation also resulted in tragic consequences for the Bialowieza Forest. The contract on the exploitation of the Forest was concluded with the company by the Polish government, which, as a result of significant criticism, later decided to terminate it. However, during World War II, in 1940–1941, Soviets carried out devastating logging activities in parts of the forest located on Polish territory. Then, in 1950–1989, tree clearance was conducted in the Forest several times by the State Forests.<sup>4</sup> In spite of these events, a considerable area of the Bialowieza Forest has survived, with a fragment of a primeval forest which was created without man's intervention and in which natural processes continue to take place. The Bialowieza Forest covers an area of about 1500 square kilometers (sq km). The greater part of the Forest (874 sq km) is located on the territory of Belarus. On the Polish side of the border the Forest covers 620 sq km.<sup>5</sup>

Today, the natural value of the Bialowieza Forest is priceless, and no forest complex in Europe can compete with it in terms of the quantity of species of plants, mushrooms and animals which can be found there. A wide range of species are still preserved in the Bialowieza Forest: about 4500 plant species, about 3000 mushroom species and nearly 10,000 animal species, including rare large mammal such as moose, wolf, lynx, and the most closely associated with the Bialowieza Forest – European bison, being its emblem.<sup>6</sup> By the end of 2016, the population of this species in the entire area of the Forest was 1108 individuals and it has been increasing for years.<sup>7</sup>

4 Andrzej Szujecki, *Puszcza Białowieska. Konflikty*, *ibid.* pp. 7, 8; The State Forest (full name: The State Forests National Forest Holding) is an organisational unit without legal personality. The basic document for the State Forests is the Forest Act of September 28, 1991. It defines the principles of forest management of the State Forests and in the forests of other ownership types. The structure of the organisation is defined by its statute, released by the regulation of the Minister of the Environment in 1994. Forest units operate at the national, regional and local levels. The organization of the State Forests is based on the principle of self-financing. See on the website: <<http://www.lasy.gov.pl>>.

5 Robert Cyglicki, Adam Bohdan, *Cała Puszcza Parkiem Narodowym. Raport z monitoringu ochrony Puszczy Białowieskiej* (2016) p. 6.

6 Andrzej Szujecki, *ibid.*, p. 6.

7 See Białowieskie żubry policzone, on the website <<http://zpppn.pl/bialowieskie-zubry-policzone-143/n>>.

The natural richness, uniqueness and beauty of the Białowieża Forest was recognised by its entry on the UNESCO World Heritage List. This was achieved for the first time in 1979. At that time only an area of 50 sq km of the Białowieża National Park was included in the list. In 1992 the entry was extended to the part of the Forest located in Belarus, and in 2014 to the whole area of the Białowieża Forest on the Polish side. At present, the Forest is the only natural property situated in Poland which has been recognised in this way. It shows that it is of exceptional value and is a common good of the mankind, which must be protected from destruction and preserved unchanged for the future generations.<sup>8</sup> The implementation of this cross-border preservation should also take place on the basis of the subsidiarity and solidarity of border areas as well as the consensus of continuing to seek a common position. This task requires Polish-Belarusian cross-border cooperation 'above and beyond borders', involving national authorities, regional and local governments and other entities potentially interested in its protection.

### 3 Cross-border Cooperation

Cross-border cooperation, being a special type of international cooperation, can be implemented at both regional and local levels. The feature distinguishing cross-border cooperation from other types of international cooperation is the proximity of areas resulting in neighbouring contacts.<sup>9</sup> It is within the framework of cross-border cooperation that local, regional and local government structures "unite their efforts to solve common problems, despite the national border dividing them".<sup>10</sup>

The European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities, signed in Madrid on 21 May 1980, defines the notion of 'transfrontier cooperation', here referred to as cross-border cooperation as: "any concerted action designed to reinforce and foster neighbourly relations between territorial communities or authorities within the

8 See Pracowania na rzecz Wszystkich istot, on the website <http://puszcza.pracownia.org.pl/puszcza-bialowieska/unesco>.

9 Wojciech Staszewski, "Współpraca transgraniczna", in E. Cała-Wacinkiewicz, R. Podgórskańska, D. Wacinkiewicz (eds.), *Encyklopedia zagadnień międzynarodowych* (2011) p. 609.

10 Marta Woźniak, "Współpraca międzynarodowa jednostek samorządu terytorialnego w świetle prawa polskiego i standardów międzynarodowych", 4 *Samorząd Terytorialny* (2005) pp. 13–14.

jurisdiction of two or more Contracting Parties". Cross-border cooperation is also the conclusion of any agreement and arrangement necessary for this purpose.<sup>11</sup> Poland is a party to this Convention, which entered into force on 19 June 1993, though Belarus is not a party to the Convention as it is not a member of the Council of Europe within which the Convention was prepared. The fact that the Madrid Convention is a framework act, modelling cross-border agreements, makes it, to some extent, a standard of cross-border cooperation also in relations with partners from countries not bound by the Convention. Therefore, in the text of the Agreement concluded between the Government of the Republic of Poland and the Government of the Republic of Belarus on the Principles of Cross-Border Cooperation of 24 April 1992, the parties refer to the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities, both in its preamble and in Article 10, in which they recommend the joint coordination bodies of Belarus and Poland to use agreement and statute templates being annexed to the Convention of 21 May 1980,<sup>12</sup> which proves that the Belarussian party (then its authorities) accepted the standards introduced by the Convention and was interested in implementing them.

The European Charter of Border and Cross-border Regions (since 1995 the European Charter for Border Regions) elaborated by the Association of European Border Regions (AEBR), adopted in 1981 by the Council of Europe and amended in 1995, proposes a similar definition of cross-border cooperation.<sup>13</sup> It implies that cross-border cooperation covers both neighbourly cooperation, where borderland regions are neighbouring each other, and foreign cooperation run by regional and local authorities, and organisations or institutions representing areas which border each other. It is stressed that cross-border cooperation does not only mean actions of authorities (local or regional) but also joint initiatives of organisations, the business sector/cooperation and

11 Art. 1 of The European Framework Convention on Cross-Border Cooperation between Communities and Territorial Authorities signed in Madrid on 21 May 1980 (Journal of Laws of 1993, No 61, item 287).

12 Porozumienie między Rządem Rzeczypospolitej Polskiej a Rządem Republiki Białoruś o głównych zasadach współpracy transgranicznej sporządzone w Warszawie dnia 24 kwietnia 1992 r. / Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on the Principles of Cross-border Cooperation concluded in Warsaw on 24 April 1992.

13 Iwona M. Wieczorek, Adam Głąb, "Zadania administracji samorządowej w zakresie współpracy transgranicznej", in I. M. Wieczorek, M. Ganczar (eds.) *Wybrane aspekty współpracy transgranicznej polskich samorządów kontekście przemian prawa Unii Europejskiej* (2016) p. 10.

even residents.<sup>14</sup> The Charter is not an act of international law and has no universally binding force. It is only a declaration of cooperation within the Association of European Border Regions (international non-governmental organisation of European regions) active within the Council of Europe, a *sui generis* code of cross-border cooperation.<sup>15</sup> Although the Charter constitutes a programme declaration of the Association, since 1995 Poland has actually respected its provisions,<sup>16</sup> whereas Belarus, in the absence of direct activity of the Belarusian regions in the Association, does not feel bound by the Charter. The non-binding nature involves the possibility of changing the conduct of the states in principle at all times, both positive (increase in importance of the non-binding document) and negative (departing from respecting the non-binding document's content).

Cross-border cooperation is intended to allow the creation of links both at local and regional levels, which enable smooth cooperation for a stable economy. From the point of view of European Union policy, however, it is not about unification of cross-border areas, but about their sustainable development based on the cooperation of equal actors.<sup>17</sup>

The ultimate goal of cross-border cooperation is to bridge the negative effects of the peripheral location of border areas, including the living conditions of their inhabitants. Among the objectives of cross-border cooperation are the following: overcoming stereotypes and fighting prejudice concerning inhabitants of both sides of the border, as well as erasing social, cultural, economic, and infrastructural barriers resulting from the functioning of the state border.<sup>18</sup>

Cross-border cooperation in its material scope can in principle concern every issue within the competence of local and regional authorities. The practice shows that, when collaborating, parties most frequently address issues related to spatial planning, transport and communication, the provision of

14 Adriana Żelazo, "Pojęcie współpracy transgranicznej samorządu terytorialnego", 24(212) *Biuletyn PISM* (2004) p. 1137.

15 Wojciech Wytrązek, "Współpraca Transgraniczna w dziedzinie kultury" in I. M. Wieczorek, M. Ganczar (eds.) *Wybrane aspekty współpracy transgranicznej polskich samorządów kontekście przemian prawa Unii Europejskiej* (2016) p. 157; Łukasz Buczkowski, Lech J. Żukowski, *Formy współpracy międzynarodowej lokalnych jednostek samorządu terytorialnego*, p. 30. <[www.wspia.eu/file/18697/05-Buczkowski+Żukowski.pdf](http://www.wspia.eu/file/18697/05-Buczkowski+Żukowski.pdf)>.

16 Janusz Szymański, "Podstawowe instrumenty prawne współpracy transgranicznej w ramach Rady Europy", in *Przyjazna granica niezbędnym elementem wzmacniania stosunków społeczeństw Polski i Rosji*, 9 *Białostockie Studia Prawnicze* (2011), pp. 100–101.

17 Eliza Szadkowska, "Pojęcie współpracy transgranicznej", in Maciej Perkowski (ed.) *Współpraca transgraniczna. Aspekty prawno-ekonomiczne* (2010) p. 16.

18 Wojciech Staszewski, *ibid.*, p. 610.

electricity, gas and water to the population, and mutual information policies in case of natural calamities or other disasters occurring in a neighbouring area. Parties also plan joint action to eliminate the effects of these negative phenomena and prevent crime in their areas. Cooperation equally often covers the sphere of culture and art, as well as issues related to tourism, sport and recreation, health care and nature or environmental protection.<sup>19</sup> Statistically speaking, cooperation in the field of environmental protection is one of the most eagerly undertaken by local self-government units in Poland, and, above all, it is considered one of the best-practiced areas of cooperation.<sup>20</sup>

Among the principles to be followed by the parties implementing cross-border cooperation, first of all, there is the integrity of communities' and local authorities' jurisdiction, and the primacy of domestic law of the state in relation to agreements concluded between the partners of cross-border cooperation. Cross-border cooperation should respect the principle of good neighbourliness between borderland inhabitants and voluntary participation in various forms of cooperation. It should be guided by the principle of partnership, equality and equality of parties in pursuit of symmetry and parity, and by friendship and trust in agreeing common objectives crossing borders, as well as the principle of national, state or regional identity preservation by co-operating territorial units and local communities. In practice, the principle of pragmatism and cost-benefit analysis and the principle of rotation, i.e. changing places of organisation, meetings or implementation of initiatives, are also worth implementing. Cross-border cooperation should also be based on the subsidiarity principle and solidarity of border areas, as well as on the consensus forcing to continuously seek common grounds.<sup>21</sup>

Apart from the abovementioned multilateral international conventions, cross-border cooperation between Poland and Belarus is subject to bilateral agreements between neighbouring states. In the case of Poland and Belarus the most important are:

1. Declaration on Good Neighbourhood, Mutual Understanding and Cooperation between the Republic of Poland and the Republic of Belarus signed on 10 October 1991;<sup>22</sup>

<sup>19</sup> Ibid.

<sup>20</sup> Mirosław Natanek (eds.), *Współpraca międzynarodowa jednostek samorządu terytorialnego* (2013) pp. 6, 26.

<sup>21</sup> Wojciech Staszewski, *ibid.*, p. 610.

<sup>22</sup> See Zbiór Dokumentów, R.48, nr 2 = 528 (1992): <<http://digit.pism.pl/dlibra/docmetadata?id=575&from=publication>>.



2. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on the Principles of Cross-Border Cooperation concluded in Warsaw on 24 April 1992;<sup>23</sup>
3. Agreement establishing the international association of local community 'Białowieża Forest EUROREGION' concluded in Hajnowka on 25 May 2002;<sup>24</sup>
4. Treaty between the Republic of Poland and the Republic of Belarus on Good Neighbourliness and Friendly Cooperation, signed in Warsaw on 23 June 1992;<sup>25</sup>
5. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on Cooperation in the Field of Culture, Science and Education, signed at Warsaw on 27 November 1995;<sup>26</sup>
6. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on International Road Transport, signed in Minsk on 20 May 1992;<sup>27</sup>
7. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on Economic Cooperation, signed in Warsaw on 30 April 2004;<sup>28</sup>
8. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on Border Traffic, signed on 20 December 2007;<sup>29</sup>
9. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on the Principles of Local Border Traffic of 12 February 2010;<sup>30</sup>
10. Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on cooperation in the field of environmental protection, signed in Białowieża on 12 September 2009;<sup>31</sup>

23 The Official Website of the Embassy Republic of the Belarus in Poland: <[http://poland.mfa.gov.by/pl/bilateral\\_relations/political/umowy\\_rb\\_rp/](http://poland.mfa.gov.by/pl/bilateral_relations/political/umowy_rb_rp/)>.

24 The Official Website Euroregion Puszcza Białowieska: <<http://www.euroregion-pb.pl/wordpress/umowa-zalozycielska/>>.

25 Dz. U. z 1993 r., nr 118, poz. 527.

26 Dz. U. z 1996 r., nr 76, poz. 365.

27 M.P. z 2001 r., nr 46, poz. 743.

28 M.P. z 2006 r., nr 26, poz. 286.

29 M.P. z 2008 r., nr 83, poz. 733.

30 Dz. U. z 2010 r., nr 122, poz. 823.

31 M.P. z 2011 r., nr 74, poz. 737.



11. Agreement between the Government of the Republic of Belarus and the Government of the Republic of Poland on cooperation in the field prevention of calamities, natural disasters, other serious accidents and eliminating their consequences, concluded in Białystok on 23 April 2015.<sup>32</sup>

The abovementioned agreements do not differ from international standards, although Belarus is not a standard neighbour. Differences appear in practice, which can be illustrated by the example of the Agreement on small border traffic concluded between Poland and Belarus (despite being signed by the presidents of both states, the Agreement has not yet entered into force). At the same time, local border traffic was launched in Białowieża in June 2015.<sup>33</sup> The solution is all-encompassing and necessary. However, extending visa-free border traffic on the Augustów Channel at the border crossings in Rudawka and Kuznica Białostocka, and including Grodno and other cities in it is indeed replacing small border traffic, which results from the impasse in it.<sup>34</sup>

Cross-border cooperation, based on international or national legal bases, generates specific bilateral or multilateral agreements, which collectively can be classified as international self-governmental agreements. Their nature is difficult to define because they do not fall into any of the classical forms of public international law sources,<sup>35</sup> nor are they part of national law, as their generally public nature and content concerning future mutual relations do not allow for explicit classification as agreements regulated by Polish or Belarussian private international law. It seems that they are a specific source of law, in principle more international than national, and each time the governmental approval

32 Dz. U. 2017 poz. 689.

33 The official website Białowieżski Park Narodowy: <[https://bpn.com.pl/index.php?option=com\\_content&task=view&id=2019&Itemid=280](https://bpn.com.pl/index.php?option=com_content&task=view&id=2019&Itemid=280)>.

34 <<https://radio5.com.pl/bialorus-wprowadzila-mrg/>>.

35 By adopting the collective notion of international self-government agreements, it is difficult to unambiguously identify them. In addition to those that take the form of a private-law contract (where the status can be determined on the basis of the applicable law or using private international law binding the applicant), the others are not recognized as contracts within the meaning of public international law. Their international and public law nature does not allow them to be treated as domestic documents of one or more parties. Intuitively, it can be assumed that international self-governmental agreements are among the typical sources of public international law, but their nature, the way in which they apply, and other issues require in-depth research and doctrinal findings. See: Maciej Perkowski, Konrad Wnorowski, "Międzynarodowa współpraca regionów a źródła prawa międzynarodowego", in B. Mielnik (ed.), *Z problematyki źródeł prawa międzynarodowego* (2017), p. 209.

(in Poland – of the Ministry of Foreign Affairs and in Belarus – the President) regarding their conclusion allows for a cautious thesis that we deal here with a conventional franchise. The point is that the Ministry of Foreign Affairs (by approval) authorises a given local government to conclude an agreement with a foreign partner. It can be argued that in case of disputes over such an agreement, it is the Ministry that is ultimately competent to conduct the case and the State safeguards possible liability. The status of these agreements is worth being clearly described in future papers on the sources of international law. Certainly, it is also worthwhile to develop appropriate patterns, because the weakness of the foundations is the weakness of cooperation based on them. This ‘vicious circle’ can be broken only with a positivist and common-sense enhancement.<sup>36</sup>

Although there are many advantages to cross-border cooperation,<sup>37</sup> unfortunately Polish and Belarusian participants in cross-border cooperation point out that they face many obstacles in its implementation. First and foremost, they note the low level of development of current communication infrastructure and differences in the spatial development of cross-border areas and the divergent levels of their socio-economic development. Mutual contacts are accompanied by social constraints, i.e. the need to cope with stereotypes, linguistic or cultural differences, as well as administrative aspects – the cooperating partners are not equal, since the administrative division and the entire administrative system of the states are different: in Poland the territorial division of three levels – voivodeships, *poviats* (commonly translated as districts) and communes, and the decentralisation of power, whereas in Belarus we see the centralisation of power and the two-level division into regions and districts *raions* (commonly translated as districts).<sup>38</sup> Solutions to these issues are seen i.e. in ensuring constant economic, spatial, infrastructure, social and environmental growth in the area with the development of institutional cooperation to exchange experiences through the support of cross-border municipalities, which will improve the housing and economic conditions in the area. Likewise,

36 See more: Cezary Mik, “Opinia w sprawie prawnych aspektów aktywności międzynarodowej województw, zawieranych przez nie umów i porozumień oraz kompetencji Ministra Spraw Zagranicznych i Ministra Spraw Wewnętrznych”, 2(38) *Zeszyty Prawnicze Biura Analiz Sejmowych Kancelarii Sejmu* (2013) pp. 187–202; Cezary Mik, “Opinia w sprawie charakteru prawnego współpracy zagranicznej polskich jednostek samorządu terytorialnego i jej skutków” BAS-WAPEiM-616/16 (2016).

37 See: Janusz Szymański, “Podstawowe instrumenty prawne ...”, *ibid.*, p. 98.

38 *Ibid.*, pp. 93–94.

by elevating the common standards for environmental protection the attractiveness of the region for tourism will increase.<sup>39</sup>

#### 4 The Institutionalisation of Cross-border Cooperation

Cross-border cooperation can take many forms. One of them is common in Poland and considered the most mature form of cooperation, Euroregional cooperation, which institutionalises cooperation structures. Distinguishing cross-border cooperation from Euroregional cooperation, it is vital to remember that cross-border cooperation is a broader concept, it does not require constant structuring. In this form of cross-border cooperation the purpose and object of cooperation are important. Euroregional cooperation is connected with the Euroregion concept.<sup>40</sup>

Euroregions are border areas, which were created within Euroregional cooperation and are a manifestation of neighbourly border cooperation taking the form of a grassroots initiative. They are the lowest level of regional integration, primarily aimed at developing cross-border cooperation, including the development of neighbourhood cooperation, cultural exchange, environmental cooperation and disaster prevention. The goals and tasks of Euroregions include, first and foremost, the elimination of historical prejudice and inequalities in economic development, the development of infrastructure, environmental protection, consultation and coordination of spatial development plans. Euroregions are institutions of cross-border cooperation, acting as public or private bodies, with the power to conclude agreements between communities and territorial authorities.<sup>41</sup> The membership of individual local or regional authorities in the Euroregions, of course, is favoured by the membership of their national states in the Council of Europe or the European Union. However, this is not a *sine qua non*. Partners from so-called third countries, especially at

39 Bogdan Kawalko, "Granica wschodnia jako czynnik ożywienia i rozwoju społeczno-ekonomicznego regionów przygranicznych". Synteza, p. 650: <<http://www.polskawschodnia.2007-2013.gov.pl/analizyraportypodsumowania/documents/kawalko.pdf>>.

40 Eliza Szadkowska, *ibid.*, pp. 16–17; Małgorzata Lechwar, "Instytucjonalne podstawy europejskiej współpracy transgranicznej", p. 24: <<https://www.ur.edu.pl/file/6535/02-Lechwar.pdf>>; Iver B. Neumann, "A region – building approach" in F. Söderbaum, T. M. Shaw (eds.), *Theories of New Regionalism: A Plagiarist Reader* (2003); Denisa Abrudan, Gabriela Puscas, Duda Daianu Codruta, "Cross-borders cooperation inside the euroregions. Case of DKMT Romanian Euroregion": <<https://www.ur.edu.pl/file/21949/08.pdf>>.

41 *Ibid.* Anna Szczepańska, "Euroregiony", in E. Cała-Wacinkiewicz, R. Podgórzńska, D. Wacinkiewicz, *Encyklopedia zagadnień międzynarodowych* (2011) pp. 600–601.

the EU's external borders, are members of Euroregions. The consequences of this state of affairs are difficult institutional conditions for such a Euroregion in its activities within the Council of Europe or the European Union.

Euroregions are a part of European integration, creating an opportunity for the development of neighbourhood cooperation. The legal basis for Euroregions' activities consists of the aforementioned general principles of cross-border cooperation adopted within the system of the Council of Europe and the European Charter of Local Self-Government of 15 October 1985 (also adopted within the Council of Europe).<sup>42</sup> Euroregions also act on the basis of the domestic law of states parties to Euroregional cooperation. The Council of Europe controls the functioning of Euroregions, granting both political and financial support to them. Euroregions are also supported by the European Union under the European Territorial Cooperation objective financed within the regional policy.<sup>43</sup> It seems inevitable that the priorities of the EU will be shifted towards the European Grouping of Territorial Cooperation which was formulated within the organisation.<sup>44</sup>

The doctrine presents two models of Euroregions' functioning typical to Poland: the 'self-governmental' model and the 'state-governmental' model. The first is the result of grassroots initiatives and occurs in the Western part of Poland, while the second is initiated by the regional or central governmental administration and concerns the Euroregions located in Eastern and Northern parts of the country.<sup>45</sup>

The lack of legal personality of these forms of cooperation is not an obstacle to effectiveness, it is essential for the effective functioning of Euroregions, which makes it impossible to recognise their activities strictly as international activities, although in practice relations between regions of different states are similar to relations between states. Undoubtedly, however, the activities of regions should be recognised as an important element of the foreign policy of a state in the field of interstate neighbourhood relations.<sup>46</sup> "Euroregions almost entirely cover the state territories, and areas that remained on the map outside euroregions are taken only by communes that have not opted to join one of the

42 Halina Zięba-Załucka, "Współpraca międzynarodowa samorządów": <<http://www.lex.pl/akt/-/akt/wspolpraca-miedzynarodowa-samorzadow>>.

43 Anna Szczepańska, *ibid.*, p. 600.

44 More about the European Grouping of Territorial Cooperation further in the paper, *supra* note 59.

45 Hanna Dumala, "Czy istnieje model „polskiego” euroregionu?", in W. Malendowski, M. Szczepaniak, *Euroregiony. Mosty do Europy bez granic* (2000), *passim*.

46 Janusz Szymański, *ibid.*, pp. 91–92.

Euroregions or cannot create a separate cross-border structure.”<sup>47</sup> Euroregions’ activities increase the economic and social cohesion of regions, as they have become a form of coordination and an important element of regional development policy. This is confirmed by the fact that the supporting funds are directed to them.<sup>48</sup>

The Bialowieza Forest Euroregion is one of the youngest among the sixteen Euroregions currently operating in Poland.<sup>49</sup> The Euroregion was established on 25 May 2002 in Hajnowka in the presence of the Minister of Foreign Affairs and representatives of the voivodeship authorities. Currently the Euroregion is represented on the Polish side by the Association of Self-governments of the Bialowieza Forest Euroregion, which consists of the Hajnowka District (*powiat*), the municipality of Hajnowka, the urban and rural commune of Kleszczewo, eight rural communes of the Hajnowka district: Hajnowka, Bialowieza, Czeremcha, Czyże, Dubicze Cerkiewne, Narew, Narewka and Orla, and two communes of the Bielsk Podlaski district: Bielsk Podlaski and Orla. On the Belarusian side there are the Kamenets District and the Pruzhany District of the Brest Region and the Svislach District of the Grodno Region. The Euroregion was created on the foundation of the cross-border natural property of the Bialowieza Forest.<sup>50</sup> The aim of the cooperation within the Euroregion is:

- environmental protection and rational use of natural resources;
- bringing together the peoples of the two countries;
- preserving the unique European natural complex of the Bialowieza Forest which greatly influences the continent’s climate;
- improving the life quality of the Euroregion residents through investment acquisition and implementation of cross-border economic programs;
- cooperating and exchanging between social, scientific, professional, cultural, sports and youth groups;
- creating a bridge between the countries facilitating economic cooperation;
- spatial planning of the cross-border areas; including development of the cross-border infrastructure;

47 Agnieszka Stachura, Małgorzata Sikora-Gaca, “Działalność i zróżnicowanie euroregionów na terenie Polski”, t. XI Studia Gdańskie. Wizje i rzeczywistość, p. 131.

48 Przemysław Dubel, “Od euroregionu do europejskiej współpracy terytorialnej”, 2 *Studia Europejskie* (2015) p. 97.

49 Wojciech Staszewski, *ibid.*, p. 610.

50 Official website of the Bialowieza Forest Euroregion: <<http://www.euroregion-pb.pl/wordpress/informacje-ogolne/>>.

- prevention and elimination of consequences of natural disasters and emergencies;
- creating a modern, uniform system of municipal and industrial waste utilization.<sup>51</sup>

The analysis of undertakings that were implemented over the years by the Białowieża Forest Euroregion leads to the conclusion that the activity of this entity in the area of the Białowieża Forest protection is insignificant. It seems that the Euroregion members understand the object of the Białowieża Forest very broadly. The assumption is quite legitimate, because in accordance with the principle of sustainable development,<sup>52</sup> the Białowieża Forest consists only of the forest complex with its animal inhabitants (the *stricto sensu* meaning), but also its human residents, local governments and other actors functioning within its borders (the *largo sensu* meaning). For this reason, the Euroregion is mainly focused on the unnatural aspect of the Forest, i.e. people and what they bring to the nature, while it almost does not affect cooperation in the field of environmental protection. It should be emphasised at the same time that the cross-border activity of the Euroregion for bringing local communities from both sides of the border together in the fields of culture, tourism and border infrastructure is impressive.

As far as environmental protection is concerned, the Euroregion representatives participate in seminars, conferences and meetings devoted to protection of the Białowieża Forest and projects funded by the European Union are implemented. For example, in May 2003 the Euroregion co-organised a conference on cross-border cooperation and joint actions for the Forest's protection and development. The meeting was attended by: the Ambassador of Belarus, the Governor of the Podlaskie voivodeship, the Marshal of the Podlaskie voivodeship, representatives of ministries, border guards, the district head of the Hajnowka District and representatives of business organisations. They discussed: intensification of the regional cooperation for preservation

51 Agreement on the creation of the international association of local community the Białowieża Forest Euroregion concluded on 25 May 2002 in Hajnówka, see on the Official website of the District Office in Hajnówka: <[http://www.powiat.hajnówka.pl/sites/default/Files/backup\\_migrate/umowa.pdf](http://www.powiat.hajnówka.pl/sites/default/Files/backup_migrate/umowa.pdf)> and official website of the Marshal's Office of the Podlaskie Voivodeship: <[http://www.wrotapodlasia.pl/pl/bogactwo\\_roznorodnosci/wspolpraca\\_foreign/euroregions/Puszcza\\_bialowieska/](http://www.wrotapodlasia.pl/pl/bogactwo_roznorodnosci/wspolpraca_foreign/euroregions/Puszcza_bialowieska/)>.

52 The principle of sustainable development defines the directions and scope of economic development in a way that does not undermine the environment in which a person lives. It is committed to action that does not violate the laws of nature, economics, culture or social order. Marta Witkowska, *Zasady Funkcjonowania Unii Europejskiej* (2008), p. 263.

of nature, the construction of transport routes, the opening of border crossings for simplified tourist traffic and the damage caused by the bark printer beetle.<sup>53</sup> Additionally, in 2007, the seminar 'Protecting the Białowieża Forest' was held within the project 'Development of the Białowieża Forest through protection of the natural heritage', in which representatives of the Białowieża Forest Euroregion also took part. The debate was devoted to environmental protection by the State Forests, the investment in border crossings near the Forest and the acquisition of European Union funds for environmental protection.<sup>54</sup>

The Association of Self-governments of the Białowieża Forest Euroregion also implements cross-border projects for the protection of the Forest financed with European Union funds. One of them was the project 'Together we protect the Białowieża Forest' implemented in 2013–2015. The Leading Partner of the project was the Association of Self-governments of the Białowieża Forest Euroregion and the foreign partners were the Brest Regional Office of the Ministry for Emergency Situations of the Republic of Belarus and the Grodno Regional Office of the Ministry for Emergency Situations of the Republic of Belarus. The project was funded by the European Neighbourhood and Partnership Instrument under the Poland-Belarus-Ukraine Cross-Border Cooperation Program 2007–2013. The value of the project was EUR 4,380,381.80. The main activity realised within the project was the retrofitting of 18 fire brigade units from the cross-border area of Poland and Belarus with rescuing and firefighting equipment and the training of firefighters in the exchange of knowledge and experience concerning rescue operations and technical knowledge concerning the use of newly purchased vehicles and equipment.<sup>55</sup> In 2015 the Czeremcha Commune, in cooperation with the partners: the Municipal Executive Committee of the Vysokaye Town in Belarus, the Association of Self-governments of the Białowieża Forest Euroregion and the Municipal Unitary Multisectoral Production Enterprise of Housing Maintenance and Utilities Services 'Kamianiec ZhKKh', finished implementing the project 'Improvement of the cross-border environmental protection system of Czeremcha and Vysokaye by the development of the sewerage infrastructure', also within

53 Michał Bołtryk, "Polskie żubrzyce, białoruskie żubry", *Przegląd Prawosławny*: <[http://www.przeglادprawoslawny.pl/articles.php?id\\_n=409&id=8](http://www.przeglادprawoslawny.pl/articles.php?id_n=409&id=8)>.

54 Adam Bohdan, Katarzyna Kotiuk, "Seminarium Dla ochrony Puszczy Białowieskiej", 6/156 *Dzikie Życie* (2007).

55 See the official website of the Białowieża Forest Euroregion: <<http://www.euroregion-pb.pl/wordpress/2014/03/projekt-trans-graniczny-pn-wspolnie-chronimy-puszcze-bialowiejska/>>.



the framework of the Poland – Belarus – Ukraine Cross-Border Cooperation Program 2007–2013. The result of the project is the sewage treatment plant, the sewage system, three sewage pumping stations in Czeremcha, the sewage system and seven pumping stations in Vysokaye. The total cost of the project was EUR 3,640,836,68.<sup>56</sup>

In recent years, a new improved form of cross-border co-operation, i.e. the European Grouping of Territorial Cooperation (EGTC), has been developed in the European Union.<sup>57</sup> Above all, it provided with legal personality and the predisposition to implement the EU territorial cooperation programs.<sup>58</sup> Although in practice the new entity is already quite common (there are currently 65 EGTCs, including four in Poland)<sup>59</sup>, in Polish practice it is still new and the formula extended to a third country still appears to be an exceptionally difficult exception (e.g. Ukraine's participation in the Tisza European Grouping of Territorial Cooperation Limited Liability).<sup>60</sup>

## 5 From Cross-border towards Intergovernmental Cooperation?

Although the Republic of Belarus, in contrast to the Republic of Poland, is not a party to the European Convention on Cross-Border Cooperation between Communities and Territorial Authorities concluded on 21 May 1980 in

56 See the official website of Urząd Gminy Czeremcha: <[http://www.czeremcha.pl/index.php?option=com\\_content&view=category&id=92&Itemid=229](http://www.czeremcha.pl/index.php?option=com_content&view=category&id=92&Itemid=229)>.

57 Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 5 July 2006 amending Regulation (EC) No 1082/2006 on a European grouping of territorial co-operation (EGTC) to clarify, simplify and streamline the process of creating such groups and their Functioning (OJ L 347/303 of 20.12.2013); Żenia Szczegłowa, "Europejskie Ugrupowanie Współpracy Terytorialnej we współpracy transgranicznej", in M. Perkowski (eds.), *Współpraca transgraniczna. Aspekty prawno-ekonomiczne* (2010) pp. 50–62; Rafał Kuligowski, "Europejskie Ugrupowanie Współpracy Terytorialnej a współpraca zagraniczna jednostek samorządu terytorialnego" in M. Perkowski (eds.) *Międzynarodowa współpraca samorządu terytorialnego. 12 Przyjazna granica niezbędnym elementem wzmacniania stosunków społeczeństw Polski i Rosji*. 9 *Białostockie Studia Prawnicze* (2012) pp. 45–57.

58 See more: Wojciech Zoń, "Kompetencje władzy wykonawczej wobec Europejskiego Ugrupowania Współpracy Terytorialnej z perspektywy Polski", 20(b) *Białostockie Studia Prawnicze* (2016) pp. 475–488.

59 Sabine Zillmer and others, "EGTC monitoring report 2016 and impacts of Schengen area crisis on the work of EGTCs" (2017) pp. 3–6; List of European territorial cooperation groups established in the territory of Poland on the official website of the Ministry.

60 Sprawozdanie monitorujące EUWT za 2015 r. Wdrażanie nowych programów współpracy terytorialnej. Streszczenie (2016) p. 1.

Madrid – from which the cited definition of cross-border co-operation comes from – nor is it a member of the Council of Europe under which this convention was concluded, it demonstrates interest in the practical implementation of cross-border cooperation in relevant areas. One of them is undoubtedly the Białowieża Forest and its protection. Belarus is also not a member of the European Union and therefore is not bound by EU environmental law. The lack of common standards for legal protection complicates Belarusian-Polish cooperation in this regard. International cooperation between Belarus and Poland is additionally complex with their different choices on the direction of integration – Poland decided to get closer to the European Union, whereas Belarus stands at the crossroads, but in practice its progressive dependence on Russia has been observed for years.<sup>61</sup>

The effect of local cooperation is not only in the mutual recognition and integration of the local communities of neighbouring countries, but also, and perhaps more importantly, the increased flow of people, goods, capital and information, which will lead to the development of the whole region.<sup>62</sup> Through cross-border cooperation, local and regional authorities and the local community can realistically influence the development and foreign policy of the state.<sup>63</sup> However, as Janusz Szymanski accurately observes, the local and regional communities undertaking cross-border cooperation in the Eastern borderland operate in a manner that is specific to each and there is no harmonisation of these activities.<sup>64</sup> It is obvious that the situation where cross-border cooperation in border communes is progressing and being intensified is a desirable one. The communes should establish new contacts with their foreign neighbours, and those who already have a foreign partner should strive to further develop this cooperation. Cooperation can bring both positive and negative effects. As Jerzy Menkes states, “the geographic proximity is a natural source of problems (both potential benefits and threats) (...) – the states work together as good neighbours, or the number and the weight of mutual conflict increases steadily”.<sup>65</sup>

61 See more: Rafał Czachor, *Polityka zagraniczna Republiki Białoruś w latach 1991–2011. Studium politologiczne*, Polkowice 2011; Szymon Kardaś, Kamil Łysiński, “Historia bez zakończenia. Nowa odsłona rosyjsko-białoruskiego sporu energetycznego”, 242 *Komentarze osw*, <[http://www.osw.waw.pl/sites/default/files/komentarze\\_242.pdf](http://www.osw.waw.pl/sites/default/files/komentarze_242.pdf)>.

62 Halina Zięba-Załucka, *ibid.*

63 Janusz Szymański, *ibid.*, p. 90.

64 *Ibid.*, p. 91.

65 Jerzy Menkes, “Instytucjonalizacja współpracy. Potencjał i perspektywy” in M. Zdanowicz (eds.), *Przyjazna granica niezbędnym elementem wzmacniania stosunków społeczeństw Polski i Rosji*, 9 *Białostockie Studia Prawnicze* (2011) p. 115.

Cross-border cooperation on the Belarusian side is difficult, because Belarusian scholars, despite conducting research in various fields, are reluctant to share their own opinions and observations on account of so-called political correctness. And it is a great pity because their work would most certainly facilitate the assessment of the current state of cooperation, as well as the directions and chances of its development in the future.<sup>66</sup> Polish scholars experience with Belarusian lawyer and researchers confirm this view, and so far any attempt to systematically frame the Belarusian legal system from the outside has failed. It seems that a different understanding of the role of law and the principles of its application and adherence is the key to which cultural, historical and political differences add up.

Both the Republic of Poland and the Republic of Belarus are unitary states. This means that the territorial units and their specified organs are subordinated to the central authorities of these countries. Accordingly, the institutions and bodies at national levels are the starting point in analysing the entities authorised to initiate and develop Polish-Belarusian cross-border cooperation.

## 6 Cooperation at the level of the Ministries of Foreign Affairs

In Poland, foreign policy competence is defined by the Constitution of the Republic of Poland of 2 April 1997. Accordingly, the bodies authorised to act in this area are: the Council of Ministers, the President, the Sejm and the Senate. Among the indicated authorities, the most competent authority for international activity is the Council of Ministers. This is illustrated by one of the constitutional provisions addressed exclusively to this organ, which reads: "conducts foreign policy of the Republic of Poland".<sup>67</sup> This task in particular comprises exercising general management in relations with other states and international organisations (Article 146 (4) (9)). As stated by Lech Mazewski, this provision gives the government the right to make strategic decisions and to create an organisational structure specifying and implementing the above decisions.<sup>68</sup> The structure conducting Poland's foreign policy on behalf of the Council of Ministers is the Ministry of Foreign Affairs, headed by the Minister of Foreign Affairs. This body carries out the government guidelines on foreign

66 Eugeniusz Mironowicz, *Polityka zagraniczna Białorusi 1990–2010* (2011) pp. 10–11.

67 Art. 146 1, Constitution of the Republic of Poland of 2 April 1997, *Dz. U.* 1997 No. 78 pos. 483.

68 Lech Mażewski, "Prowadzenie polityki zagranicznej w Rzeczypospolitej Polskiej", 3 *Ruch Prawniczy, Ekonomiczny i Socjologiczny Rok LXXI* (2009) p. 9.

policy and cooperates on its implementation with the President and the Prime Minister.<sup>69</sup> In addition, the body's specific competences include, *inter alia*, the conduct of Poland's relations with other states and the coordination of foreign policy of the state.<sup>70</sup>

In the case of Belarus, in spite of the constitutional principle of the tripartite government, the dominant position in the political system is taken by the president who clearly also dominates the government in the field of foreign policy.<sup>71</sup> The Ministry of Foreign Affairs plays an important role in the conduct of foreign policy by the government. According to Belarusian law, this body implements state policy in the sphere of external relations and coordinates its foreign activity. Its action is subordinated to the Government and the President.<sup>72</sup> One of the main objectives of Belarusian foreign policy is to build good neighbourly relations with neighbouring countries. International cooperation in the field of health, transport, communication, science, information, culture, sport, tourism and environment and cross-border cooperation are the key areas of the policy.<sup>73</sup>

Cooperation between the two Ministries has been successful. The contacts are maintained not only at the level of the Ministry of Foreign Affairs but also other ministries of both countries. One of the recent important events was the meeting of Ministers of Foreign Affairs of Poland and Belarus, which took place in October 2016 in Warsaw. The Ministers debated, *inter alia*, many problems of bilateral cooperation, such as launching small border traffic between Poland and Belarus and the possibility to modernise common border crossing points with the support of EU funds. The Ministers also emphasised that the year 2016 was very active for cooperation in all areas, including foreign affairs, infrastructure and the environment. An important element of Polish-Belarusian

69 Art. 3, Constitution of the Republic of Poland, *ibid*.

70 Art. 1 Act of 4 September 1997 on the activities of the government administration, Dz. U. 1997 No. 141 pos. 943 and Regulation of the Council of Ministers of 17 November 2015 on the scope of activities of the Minister of Foreign Affairs, U. 2015, pos. 1899.

71 Barbara Dziemidok-Olszewska, "Konstytucyjne ośrodki decyzyjne Republiki Białoruś", in I. Topolski (eds.), *Białoruś w stosunkach międzynarodowych* (2009), pp. 23, 28; Adam Eberhardt, "Cele i kierunki polityki zagranicznej Republiki Białoruś", 49(153) *Biuletyn PISM* (2003) pp. 901–902; Anna Łabuszewska (eds.), *Białoruś - nieznan sąsiad UE. Sytuacja polityczna, społeczna i gospodarcza Białorusi* (2005) p. 4.

72 Art. 1 and 2 of the Decree of the Ministry of Foreign Affairs, on the official website of the Ministry of Foreign Affairs of Belarus: <<http://mfa.gov.by/by/ministry/>>.

73 Art. 25 and 26 of the Law of the Republic of Belarus of 14 November 2005 on the approval of the main policies of the Republic of Belarus and the internal affairs of the Republic of Belarus, on the official website: <<http://mfa.gov.by/by/ministry/>>, (accessed 15.05.2017).

contacts at the ministerial level is the functioning of joint intergovernmental committees and sectoral working teams, the activities of which will be discussed in greater detail further in this paper.<sup>74</sup>

What connects Poland and Belarus in the context of cross-border cooperation, beyond the well-coordinated cooperation, is the role of a control and supervision body on their self-government units. In the case of Poland, in principle, any foreign undertaking carried out by local self-government units requires the consent of the Ministry of Foreign Affairs.<sup>75</sup> The requirement to approve resolutions of local government units about their admission to international associations of local or regional communities is an example.<sup>76</sup> Moreover, in Poland the access to such structures is recorded and announced in the Official Journal of the Republic of Poland. The announcement containing a list of entities that have acceded, participated in, or opted out of such cooperation is announced each year by the minister competent for administration.<sup>77</sup>

In order to ensure the highest possible effectiveness of the government administration, the voivodeship office is expected to function in each of the 16 voivodeships (regions).<sup>78</sup> The Podlaskie voivodeship has competencies in cross-border cooperation in the area of protection of Białowieża Forest at the level of the voivodeship.<sup>79</sup> Its main tasks in the field include: monitoring

74 See official website of the Ministry of Foreign Affairs: <[http://www.mfa.gov.pl/en/news/messages/members\\_ms\\_z\\_polski\\_i\\_bialorusi\\_relacje\\_miedzy\\_sze\\_j\\_krajami\\_sa\\_coraz\\_blizsze](http://www.mfa.gov.pl/en/news/messages/members_ms_z_polski_i_bialorusi_relacje_miedzy_sze_j_krajami_sa_coraz_blizsze)>.

75 Maciej Perkowski, *Międzynarodowa współpraca województw w prawie i praktyce* (2013) pp. 84, 87–88.

76 Art. 4, point 3 of the Act of 15 September 2000 on the Accession of Local Government Units to International Associations of Local and Regional Communities, Dz. U. 2000 No. 91 pos. 1009.

77 Łukasz Karaś, Izabela Skipiół, "Stowarzyszenia gmin jako jedna z form współdziałania jednostek samorządu terytorialnego na przykładzie stowarzyszeń gmin uzdrowiskowych – uwagi do dyskusji", in B. Dolnicki (eds.), *Formy współdziałania jednostek samorządu terytorialnego* (2012) p. 201.

78 Art. 376 of the Act of 27 April 2001 on Environmental Protection Law, Dz.U. 2001 No. 62 pos. 627.

79 The voivode's main competencies include: implementation of Polish government policy in the voivodeship; Ensuring the co-operation of all government and self-government administration bodies operating in the voivodeship; Directing and coordinating the activities of complex governmental administration (it is composed of all state administration bodies directly governed by, among others, Voivodeship Commander of the State Fire Service, Voivodeship Police Commander, Voivodeship Inspector for Environmental Protection, Provincial Sanitary Inspector, Voivodeship Veterinary Officer). In addition, it supervises the activities of local government units and their relationships in terms of

compliance with environmental protection laws, monitoring the state of the environment, counteracting threats to the environment, ensuring cooperation of governmental and self-governmental authorities in the voivodeship and directing their activities in the field of environmental risk prevention.<sup>80</sup> It also implements government policy on environmental protection at the level of the voivodeship. The body also has competence in the area of cross-border cooperation. It reviews and then submits to the minister competent for foreign affairs draft resolutions of territorial self-government units to join international associations of local and regional communities.<sup>81</sup> In addition, along with its supporting activities, the Voivodeship Office conducts independent cooperation with foreign partners in the scope of their competences. In 2001, the Governor of the Podlaskie Voivodeship and the Governor of the Grodno Region of Belarus signed a letter of intent to strengthen and develop good neighbourly contacts between the Podlaskie Voivodeship and the Grodno Region.<sup>82</sup> The development of this cooperation takes place within the framework of the Border Cooperation Subcommittee, acting within the framework of the Polish-Belarusian Intergovernmental Coordination Commission on Cross-Border Cooperation. Initiatives undertaken within the agreement aim to prevent and eliminate catastrophes, natural disasters and other exceptional situations in the border regions of Poland and Belarus, cooperation of security and rescue services, counteracting environmental degradation caused *inter alia* by storing hazardous waste in the border regions.<sup>83</sup>

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legality. Its activities are supported by the vice-governor, the provincial office, and the governmental administration of the united administration in the voivodeship. See the official website of the Białystok Voivodeship Office: <<http://www.bialystok.uw.gov.pl/Wojewoda/Competencies+within.htm>> (accessed 17.05.2017).

80 Art. 379 of the Act of 27 April 2001 Environmental Protection Law, Dz.U. 2001 No. 62 pos. 627; Art. 3. Act of 23 January 2009 on voivodeship and government administration in the voivodeship, Journal of Laws, Dz. 2009 No. 31 pos. 206.

81 Art. 4(3) of the Act of 15 September 2000 on the Accession of Local Government Units to International Associations of Local and Regional Communities 2000 No. 91 pos. 1009.

82 See the official website of the Podlaskie Voivodeship Office: <<http://www.bialystok.uw.gov.pl/NR/rdonlyres/00005da7/xltkayirzpuvzebiaaxnankucvhnqlqf/ZA%C5%813GRODNO LISTINTENCYJNY.pdf>>.

83 Andrzej Klimczuk, *Raport Desk Research: samorządowa i obywatelska współpraca transgraniczna w województwie podlaskim. Przegląd literatury i dokumentów strategicznych* (2013), pp. 38–39; <<https://depot.ceon.pl/bitstream/handle/123456789/2895/Raport%20Desk%20Research%20Samorz%20c4%85dowa%20i%20obywatelska%20wsp%20c3%b3%20c5%82praca%20transgraniczna%20w%20wojew%20c3%b3dzdtwie%20podlaskim%20Przeegl%20c4%85d%20literatury%20i%20dokument%20c3%b3w.pdf?sequence=1&isAllowed=y>>.

The activities of the Voivodeship Inspectorate for Environmental Protection in Białystok are of importance to the authorities of the governmental administration governed by the voivodeship in the matter of cross-border protection of the Białowieża Forest. This institution is managed by the Podlaskie Voivodeship Inspector for Environmental Protection, performing tasks in the field of Environmental Protection Inspection in the Podlaskie Voivodeship. Its specific competencies include, but are not limited to:

- monitoring the implementation of environmental law regulations and the rational use of natural resources;
- monitoring compliance with decisions on environmental conditions and the scope, frequency and manner of measuring emissions;
- participation in investment location proceedings;
- participation in commissioning of facilities or installations implemented as projects likely to have significant effects on the environment;
- controlling installations and equipment to protect the environment from pollution;
- carrying out environmental quality studies, observation and assessment of its state and its changes in the voivodeship area,
- preparing information on the state of the environment and the results of inspections carried out in the voivodeship area for self-government bodies,
- cooperation in the field of environmental protection with other inspection and law enforcement bodies and judiciary, state and government administration, local self-government and civil defense organs, as well as social organizations.<sup>84</sup>

The Voivodeship Inspectorate for Environmental Protection in Białystok regularly conducts research on the state of the environment in all the districts of the Podlaskie Voivodeship, including the Hajnowka district. As much as 58.5% of its area constitutes areas of special natural value, including: Białowieża National Park, nature reserves and protected landscape areas. Controlling activities concern observance of environmental law by business entities and conducting environmental studies. The primary purpose of the control is to force entities operating in the district area to reduce their negative impact on

84 Organizational Regulations of the Voivodeship Inspectorate for Environmental Protection in Białystok established on 12 July 2011 by the Podlaskie Voivodeship Inspectorate for Environmental Protection in Białystok, <<http://www.wios.bialystok.pl/pdf/regulamin.pdf>>.



the environment.<sup>85</sup> Although the organisational rules of the institution do not result directly in the possibility of cross-border cooperation with entities from Belarus, the information and reports that it elaborates may be the basis for undertaking cross-border activities by the Governor of the Podlaskie Voivodeship.

## 7 The Polish-Belarusian Intergovernmental Coordination Commission on Cross-Border Cooperation

Entities influencing the shape of cross-border co-operation at the government level are the already mentioned committees and councils for cross-border and interregional cooperation.<sup>86</sup> Their work consists mainly of: setting general directions and forms of cooperation, co-ordinating cooperation programs and settling disputes that constitute barriers in mutual relations.<sup>87</sup> The entities are composed of representatives of both states, including representatives of individual ministries, regional authorities, regional public institutions, diplomats and experts.<sup>88</sup> Meetings of committees are organised as required, but not less than once a year. Reports from these meetings indicate the accomplished tasks and plans for further cooperation. The Commission acts on the basis of the statutes and domestic law of member states. It also has its own bodies: the chairpersons, the deputies, the secretaries and the members. The Commission may, if necessary, set up a working team on a specific topic of cross-border cooperation.<sup>89</sup>

Regarding Polish-Belarusian relations, the Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on the Principles of Cross-Border Cooperation of 24 April 1992 under Article 7 established the Polish-Belarusian Intergovernmental Coordination Commission on Cross-Border Cooperation. The body is in charge of:

85 *Informacja Podlaskiego Wojewódzkiego Inspektora Ochrony Środowiska o stanie środowiska na terenie powiatu hajnowskiego* (2016) pp. 4–5.

86 See point 6: The Cooperation at the level of the Ministries of Foreign Affairs, *supra* note 74.

87 M. Perkowski, *Międzynarodowa współpraca województw*, *ibid.*, pp. 90–91.

88 Protocol of the 10th meeting of the Polish-Belarusian Intergovernmental Coordination Commission for Cross-Border Cooperation, Official website of the Ministry of Interior and Administration: <<https://mswia.gov.pl/en/wspolpraca-international/wspolpraca-transgranic/miedzyrzadowe-rady-i-k>>.

89 M. Perkowski, *Międzynarodowa współpraca województw*, *ibid.*, p. 91.

- setting directions and basic principles for the development of cross-border cooperation and presenting them to relevant authorities in both countries;
- developing joint action programs;
- coordinating cross-border cooperation;
- reviewing proposals of state and local government authorities concerning cross-border cooperation;
- approving statutes of joint regional and local coordinating bodies;
- preparing proposals for creating favourable legal, economic, financial and commercial conditions for cross-border cooperation;
- settling disputes related to cross-border cooperation.<sup>90</sup>

## 8 The Polish-Belarusian Commission for Environmental Cooperation

Since 2016 the new Polish-Belarusian Commission for Environmental Cooperation has also been operating at the government level. Its creation was the result of the Agreement concluded between the Government of the Republic of Poland and the Government of the Republic of Belarus on Environmental Cooperation of 12 September 2009. Its task is to coordinate co-operation in such areas as:

- protection and sustainable use of biological and landscape diversity of the Border Crossing World Heritage Property of the Białowieża Forest;
- protection and rational use of cross-border waters;
- environmental impact assessment in cross-border context;
- waste management.

The first meeting of the Commission was held at the turn of October and September 2016 in Białowieża. It was chaired by the Deputy Minister of Environment of the Republic of Poland and the Minister of Natural Resources and Environmental Protection of the Republic of Belarus. The meeting was devoted to issues of cooperation in the area of the UNESCO World Heritage Site 'Białowieża Forest'. It was also decided to set up a special working group on this

<sup>90</sup> Statute of the Polish-Belarusian Intergovernmental Coordination Commission for Cross-Border Cooperation, the official website of the Ministry of Interior and Administration: <<https://mswia.gov.pl/en/wspolpraca-international/wspolpraca-transgranic/miedzynarodowe-rady-i-k>>.

facility and other working groups on topics including: water resources, waste management, air and climate and geology.<sup>91</sup>

## 9 The Regional Self-governments

Since 1 January 1999, the system of public administration in Poland has been based on a three-tier structure of local governments. It includes: voivodeships, districts and communes. Their competence in cross-border cooperation is confirmed by Article 172 point 2 of the Constitution of the Republic of Poland of 2 April 1997, according to which: "A local self-government unit has the right to join international associations of local and regional communities and to co-operate with foreign local and regional communities".<sup>92</sup> This law is detailed by the Act of 15 September 2000 on the principles of accession of local government units to international associations of local and regional communities. The Act grants local governments the right to conduct such co-operation provided that it complies with domestic law, foreign policy of the state, international commitments accepted by the state and exclusively within the limits of the tasks and powers of self-governments.<sup>93</sup> The scope of international cooperation of self-governments in Poland is also defined by the law on their functioning and the acts of local law established by local governments.

From the current EU governance model, it is clear that the main actors responsible for cross-border cooperation are the regional authorities. In the case of Poland these are the voivodeship authorities.<sup>94</sup> At the level of voivodeships, the administrative authority is exercised by the regional council<sup>95</sup> and

91 Official website of the Ministry of Environment: <<https://www.mos.gov.pl/news/news/news/news/news-and-social-poland-Belarusian-commissions-for-cooperation-in-environment-protection/>>.

92 OJ 1997 No. 78 pos. 483.

93 Art. 1 of the Act of 15 September 2000 on the Principles of Accession of Local and Regional Authorities to International Associations of Local and Regional Communities, Dz. U. 2000 No. 91 pos. 1009.

94 See: A. Klimczuk, *ibid.*, p. 33.

95 The voivodeship council consists of councilors, the number of which depends on the number of inhabitants of the region (Podlaskie voivodeship elects 30 councilors). Councilors are elected by universal and direct election for a four-year term. Works of the council are run by the elected councilors: the chairman of the voivodeship council and up to three vice presidents. Art. 15, 16, 32 of the Act of 5 June 1998 on the voivodeship self-government, Dz. U. 1998 No. 91, item. 576; See the website of the Podlaskie Voivodeship: <[https://www.wrotapodlasia.pl/pl/adm/samorzad\\_woj/](https://www.wrotapodlasia.pl/pl/adm/samorzad_woj/)>.

the voivodeship board.<sup>96</sup> The regional council is a lawmaking and controlling body. Its competences in cross-border cooperation include:

- passing the priorities of the voivodeship's foreign cooperation, including the objectives and geographical priorities of future cooperation;
- adopting resolutions on participation in international regional associations and other forms of regional cooperation.<sup>97</sup>

The voivodeship board, as a body with executive powers in the field in question: executes resolutions of the regional council; prepares projects of the voivodeship development strategy and other development strategies and monitors their implementation; organises cooperation with regional self-government structures in other countries and with international regional associations.<sup>98</sup> It should also be stressed that the chairman of the voivodeship board, i.e. the marshal of the voivodeship, is competent to represent the voivodeship externally.<sup>99</sup>

In addition to their cross-border competence, Polish law grants environmental protection powers to regional self-governments. According to the Act on Environmental Protection, the environmental authorities are the regional council and the marshal of the voivodeship. The first of these bodies has the right to establish local acts in the field of environmental protection, including the protection of the Białowieża Forest. Resolution No. XXIII / 203/16 of the Regional Council of the Podlaskie Voivodeship of 21 March 2016 on the Protected Landscape Area 'Białowieża Forest' is an example. The marshal of the voivodeship is an authority exercising control over the observance and application of environmental regulations within its jurisdiction.<sup>100</sup> In addition, according to the Act on the voivodeship self-government, the voivodeship

96 The board of the voivodeship consists of five persons: the marshal, up to two vice-presidents and members of the voivodeship board. The Marshal is elected from among the councilors by the voivodeship council with an absolute majority of votes. The remaining members of the board are also elected by the council at the Marshal's request. The Marshal manages the works of the voivodeship board and the marshal's office, which assists the board in carrying out its tasks. – Art. 31 of the Act of 5 June 1998 on the voivodeship self-government, *ibid.*

97 Art. 18 pt. Art. 13 and 14 and Art. 75. Act of 5 June 1998 on the voivodeship self-government, *ibid.*

98 Art. 41 pt. 2. Act of 5 June 1998 on the district self-government, *ibid.*

99 Art. 43 pt. 1. Act of 5 June 1998 on the voivodeship self-government, *ibid.*

100 Art. 376 of the Law of 27 April 2001 on Protection of the Environment (Journal of Laws 2001 No. 62, item 627).

self-government sets the development strategy of the voivodeship, one of the main objectives of which is to preserve the value of the cultural and natural environment, taking into account the needs of future generations. The Act also outlines the priorities for the development of the voivodeship's policy, including the rational use of natural resources and the development of the environment, in line with the principle of sustainable development.<sup>101</sup> These regulations are confirmed in the Podlaskie Voivodship Development Strategy until 2020. One of the operational objectives of the Strategy is the development of cross-border partnership cooperation on regional and local levels in the area of exchange of information, experience, good practice and human resources. The main directions of cooperation interventions are the protection of the common natural and cultural heritage of the borderland area and, thus, of the Białowieża Forest.<sup>102</sup>

The scope and directions of international cooperation of the Podlaskie Voivodeship in the field of environmental protection are also determined by local acts. A regulation of fundamental importance is Resolution No. XXXVII / 480/06 of the Podlaskie Voivodeship adopted on 10 April 2006. It outlines the objectives of the Podlaskie Voivodeship's foreign cooperation, which include: "developing good neighborly relations and partner cooperation of the Podlaskie voivodeship with regions of the countries neighbouring with the region in order to harmonise border development *inter alia* in the area of cross-border environment protection". The resolution emphasises that one of the directions of the region's foreign cooperation is to continue cooperation with border regions, including Belarus, with particular attention to the regions of the Białowieża Forest Euroregion. The act also specifies the participation of representatives of the Podlaskie Voivodeship in the work of this entity.<sup>103</sup>

The participation of the voivodeship self-government in the initiative 'Integrated Program of the Białowieża Forest – the Forest Heritage of Europe' became an important activity within the framework of the cross-border protection of the Białowieża Forest. The authorities of the voivodeship, together with local authorities from the Białowieża Forest, the State Forests, the Białowieża National Park and the Minister of Environment are the parties to the program

101 Art. 11 of the Act of 5 June 1998 on the district self-government, *ibid*.

102 Podlaskie Voivodship Development Strategy until 2020, p. 44: <[http://www.strategia.wrotaopodlasia.pl/pl/ps2/var/resources/154/248/4/srwp\\_2020\\_1.pdf](http://www.strategia.wrotaopodlasia.pl/pl/ps2/var/resources/154/248/4/srwp_2020_1.pdf)>.

103 Uchwała nr XXXVII/480/06 Sejmiku Województwa Podlaskiego z dnia 10 kwietnia 2006r. w sprawie Priorytetów Współpracy Zagranicznej Województwa Podlaskiego: <[http://bip.umwp.wrotaopodlasia.pl/wojewodztwo/akty\\_prawne1/uchwaly\\_sej/uchw\\_sejmiku\\_od\\_2002\\_do\\_2007/rok\\_2006\\_s/IV\\_2006\\_s/XXXVII\\_480.html](http://bip.umwp.wrotaopodlasia.pl/wojewodztwo/akty_prawne1/uchwaly_sej/uchw_sejmiku_od_2002_do_2007/rok_2006_s/IV_2006_s/XXXVII_480.html)>.

agreement. Its main aim is to better and more effectively use the exceptional natural and cultural values of the Białowieża Forest for the development of the region and to improve the living conditions of its residents. As part of the project implementation, a number of investments will be financed by the European Union, *inter alia* within the framework of the Podlaskie Regional Operational Program 2014–2020, but also from the national programs, the state budget and the local government budget.<sup>104</sup>

It should be also highlighted that the Podlaskie Voivodeship participates in the European Neighbourhood and Partnership Instrument programs aimed at supporting the cooperation of European Union Member States with third countries. The program for the development of cross-border Polish-Belarusian cooperation is the Poland-Belarus-Ukraine Cross-Border Cooperation Program 2014–2020. The program supports activities to promote and preserve the natural heritage and its beneficiaries may include local government units.<sup>105</sup>

In the case of Belarus, according to the Administrative Law of the Republic of Belarus of 1998, as in Poland, a three-tier model of administrative and territorial division is present. According to Belarusian law, the regional level includes *voblasts* (regions), the base level covering *raions* (districts) and the basic level including *selsoviets*, which is the equivalent of Polish communes.<sup>106</sup> At present, the system of self-governing bodies in Belarus has a dual structure. It consists of two elements: councils of deputies and executive committees. Councils of deputies are legislative bodies operating at every level of local government. They create a system that is supposed to guarantee the unity of norms in the functioning of local government. Their members are elected in free, universal, equal, and direct elections held by secret vote, for a 4-year term. In practice, the activities of the councils are merely symbolic. These structures do not have executive bodies and, therefore, do not have the capacity to exercise their decision-making and community interest rights. The law stipulates that these organs are to be the core of the self-government system, but in reality they are state representative bodies. Their competence in the 1990s was

104 See the official website of the Ministry of Environment: <[https://archiwum.mos.gov.pl/artikul/wersja/7\\_archiwum/57141\\_Puszcza\\_bialowieska\\_lesne\\_dziedzictwo\\_europy.html](https://archiwum.mos.gov.pl/artikul/wersja/7_archiwum/57141_Puszcza_bialowieska_lesne_dziedzictwo_europy.html)>.

105 The Poland-Belarus-Ukraine Cross-Border Cooperation Program 2014–2020: <[http://www.ewt.gov.pl/media/30901/JOP\\_PBU\\_5\\_Oct\\_2016.pdf](http://www.ewt.gov.pl/media/30901/JOP_PBU_5_Oct_2016.pdf)>, pp. 11 and 66.

106 Aleh Mazol, Local Self-Governance in the Republic of Belarus: <<http://freepolicybriefs.org/2015/06/01/local-self-governance-in-the-republic-of-belarus-2/>>; Rafał Czachor, “Uwarunkowania prawne funkcjonowania samorządu terytorialnego w Republice Białoruś”, in J. Wojnacki (eds.), *Europejskie modele samorządu terytorialnego. Stan obecny i perspektywy* (2014) p. 189.

severely limited to executive committees, to which the councils had no influence. The committees are the field representatives of executive power. Just as councils, they function at each level of self-government and their activities are controlled by the council and the president. These authorities include:

- ensuring that the Constitution provisions and other state acts, including presidential decrees and ordinances, decisions of higher executive bodies and local councils of deputies, are implemented in the territory;
- developing and submitting to a higher level authority the development plans of a given territorial unit;
- submitting to local councils any issue that is relevant to the local community;
- organizing the work of local government bodies;
- representing the interests of the area and the population before the higher authorities.<sup>107</sup>

The councils of deputies and the executive committees of the Kamenets District and the Pruzhany District of the Brest Region and the Svislach District of the Grodno Region are involved in cross-border cooperation between Poland and Belarus in the area of protection of the Bialowieza Forest.<sup>108</sup> Their representatives represented these areas in the process of concluding the agreement on the establishment of the Bialowieza Forest Euroregion and took part in Euroregion's undertakings.<sup>109</sup>

## 10 Local Self-governments

According to Polish law, competence for cross-border activities in the field of environmental protection is also possessed by organs of local self-government – districts (*poviats*) and communes. In the case of districts, the Act on the district self-government refers to the performance of public tasks by the *powiat*, *inter alia*, in terms of environmental protection, nature and forestry. These tasks are carried out by the district authorities, i.e. the district council<sup>110</sup>

<sup>107</sup> Rafał Czachor, *ibid.*, pp. 189–210.

<sup>108</sup> Robert Cyglicki, Adam Bohdan, *ibid.*, p. 6.

<sup>109</sup> See the official website of the District Office of Hajnowka: <<http://www.powiat.hajnowka.pl/bialorus>>.

<sup>110</sup> The district council is made up of councilors elected for a four-year term in direct and general elections. Their number depends on the number of inhabitants of the district and can range from 15 to 29 councilors.



and the district board.<sup>111</sup> The district council is an organ with legislative and controlling functions. Regarding cross-border cooperation, it has the right to adopt resolutions on cooperation with the local communities of other countries and to join international community associations. On the other hand, the district administration as the executive body of the district executes the resolutions of the district council and performs tasks of the district resulting from legal provisions. As far as communes are concerned, the smallest units of local self-government and their competence in this area are determined by the Act on local self-government. It is clear from the regulations governing the activities and tasks of the commune that the commune's own tasks are to meet the collective needs of the community, including environmental and nature protection issues and cooperation with foreign local and regional communities. These tasks are carried out by the commune council and by the commune administrator, the mayor or the president respectively. The exclusive competence of the commune council is to adopt resolutions, including resolutions on cooperation with the local and regional communities of other countries and to join international associations of local and regional communities. The executor of these resolutions is the commune administrator, the executive organ of the commune.<sup>112</sup>

Polish law explicitly confirms the competence of local government bodies to cross-border activities in the field of environmental protection. The question arises whether adjacent local self-governments to the Białowieża Forest benefit from this competence. The practice shows that it is so. The Białowieża Forest area within the borders of Poland is located entirely in the Hajnowka District. The territory of the Hajnowka District is subdivided into smaller territorial divisions, which are communes. For many years the authorities of the Hajnowka District and the authorities of the communes constituting this district have been cooperating with the Belarusian border regions. The formalisation of this cooperation took place in 2002 initiated by the governor of the Hajnowka District, who proposed the establishment of the Białowieża Forest

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111 The district board consists of: the chairman, the district head and its deputy, vice-chairman and other members of the board. The five-member board of the district council is selected by the district council. It should be emphasized that the activities of the district board are supported by the district authorities and the district organizational units, e.g. inspections, services and guard.

112 Art. 17, art. 18 ust. 2 pkt. 12a, art. 30 ust. 1, art. 33 ust. 1 of Act of 8 March 1990 on the commune self-government, Dz. U. 1990 Nr 16 poz. 95.

Euroregion,<sup>113</sup> as discussed in more details earlier. The Euroregion's activities are over-funded by the European Union, which means that periodically (when the projects are finished, competitions are not announced, etc.), it is 'hibernated'. At the same time, however, individual local governments undertake individual initiatives, which, in principle, do not go beyond the 'event' formula (courtesy, mutual visits, etc.).

## 11 The Bialowieza National Park and the Forest Administration

On the Polish side of the border, the Bialowieza Forest is located in the North-eastern part of the country, in the Podlaskie Voivodeship, in the Hajnowka District. Its area covers 620 sq km of which 105.17 sq km is a national park.<sup>114</sup> It is not only an area of nature conservation but also an organisational unit. It has its own bodies, structure, regulations and statutes, which determine the mode of its operation. Park management is supervised by the relevant Minister for Environmental Protection.<sup>115</sup>

The Bialowieza National Park covers only 17% of the Bialowieza Forest area within Poland. For years in Poland there has been a public debate on the extension of its borders, which has been strongly opposed by the local population. The residents of the surrounding communities are concerned about the obstructions and their consequences, which can significantly hinder their day-to-day functioning (e.g. passes for car use, difficulties in road maintenance and repairs, difficulties with farming, difficulties in obtaining firewood, limiting admission to forests or to potential investors).<sup>116</sup> A slightly different situation with regard to the Bialowieza Forest is present on the Belarusian side of the border. It should be emphasised that the greater part of the Forest, as much as 874 sq km, is located on the territory of Belarus. The whole area has the status of a national park.<sup>117</sup> This part of the Bialowieza Forest is managed by the office appointed by the President of the Belarus – GPU NP. 'Belovezhskaya

113 See the official website of the Bialowieza Forest Euroregion: <<http://www.euroregion-pb.pl/wordpress/informacje-ogolne/>>.

114 Robert Cyglicki, Adam Bohdan, *ibid.*, p. 6.

115 Supreme Audit Office, *Functioning of National Parks, Information on the Results of the Control*, April 2014, p. 17; see on the website: <[https://www.nik.gov.pl/.../wyniki-kontroli.../pobierz\\_ksi-p\\_13\\_123\\_2013042408425](https://www.nik.gov.pl/.../wyniki-kontroli.../pobierz_ksi-p_13_123_2013042408425)>.

116 [http://wyborcza.pl/1,75248,7134172,Konflikt\\_w\\_Bialowieskim\\_Parku\\_Narodowym\\_\\_100\\_mln.html](http://wyborcza.pl/1,75248,7134172,Konflikt_w_Bialowieskim_Parku_Narodowym__100_mln.html)>.

117 Robert Cyglicki, Adam Bohdan, *ibid.*, p. 6.

Pushcha' is directly under the authority of it and controlled by it.<sup>118</sup> For many years, the management of the two parks has been based on cooperating on the Białowieża Forest. This cooperation was established for the first time in the early 1990s. The first contract was signed on 4 January 1993, which concerned launching permanent scientific cooperation. Since then, cooperation has grown considerably. To date, several agreements have been signed. Currently the institutions cooperate in the field of: information exchange and deepening knowledge in the field of nature, forest and forest protection, fire protection, natural and forest education, cooperation in obtaining aid funds, especially from the Poland-Belarus-Ukraine Cross-Border Cooperation Program, study trips and exchange of professionals, mutual visits and participation in events organised by the parties.<sup>119</sup> The parties maintain working contacts and participate in meetings of the scientific councils of both parks.<sup>120</sup> They also worked on requesting UNESCO enlarge the area of the Białowieża Forest World Heritage site. This action was also attended by representatives of the Polish forest administration from the Regional Directorate of State Forests in Białystok.<sup>121</sup>

## 12 The Forest Administration

On the Belarussian side of the border almost the entire area of the Forest is covered by the status of a national park. In Poland, the Forests located outside the Białowieża National Park, covering about 520 sq km, constitute the Białowieża Forest Promotional Complex. This area is managed by the Regional Directorate of State Forests in Białystok jointly with three of its field units – the Forest Districts of: Białowieża covering 123 sq km, Białobrzeg 204 sq km

118 See the official website of Belarusian National Park "Puszcza Białowieżskaja": <<https://npbp.by/служба-охраны-национального-парка>>.

119 Agreement concluded on 17 February 2010 between the Regional Directorate of State Forests in Białystok, the Białowieża Science Park and the Białowieża Forest National Park, Agreement of 10 August 2010 on the cooperation between the Białowieża National Park (Białowieża, Poland) and the National Institution for the Protection Nature "Białowieża National Park" (Kamienik, Belarus), Agreement of 5 December 2014 on cooperation between Białowieża National Park (Białowieża, Poland) and Park Białowieża Forest National (Kamieniuki, Belarus).

120 Information on the work of the Sejm committees of the 6th term of 19 November 2009 No. 135/2009 (320): <<http://orka2.sejm.gov.pl/InformBKS6.nsf/WWW-nr/7D31485959A45FoEC12576740047F46A?OpenDocument>>.

121 *The inspection report of the Supreme Audit Office of the Republic of Poland Delegation in Białystok, P / 13/123 – Functioning of the Białowieża National Park* (2013) p. 6.

and Hajnowka, covering 196 sq km. In the management of this area, the Directorate is supported by the advisory and opinion body of the Scientific and Social Council, composed of representatives of the Regional Directorate of State Forests in Białystok, the Directorate General of State Forests, Forest Districts, the Białowieża National Park, self-governments, non-governmental organisations and representatives of the academic world, among whom the co-author of this paper, Professor Maciej Perkowski, should be mentioned. The Council acts as an advisory and opinion body of the director of the Regional Directorate of State Forests in Białystok in the field of initiating and evaluating the implementation of activities undertaken in the complex area. The Council gives opinions on: projects on forest management plans, projects proposing legal protection of new facilities, research topics and their practical use, educational activities and tourist sites. This body also works with ecological NGOs, local governments and scientific institutions in the field of the complex protection.<sup>122</sup>

The representatives of the Regional Directorate of State Forests in Białystok actively participate in cross-border undertakings connected with preserving the nature of the Białowieża Forest. The areas of cooperation of this institution in the framework of cross-border cooperation were indicated in this paper when discussing the cooperation between the two parks concerning the Forest, as one of the parties of the mentioned agreements is also the Regional Directorate of State Forests in Białystok.<sup>123</sup>

### 13 The Challenges for Cross-Border Cooperation in the Białowieża Forest

The above-mentioned state of affairs encourages one to look for the potential for the development of cross-border relations in the area of the Białowieża Forest protection, which can be and is certainly worth being achieved.

It is undoubtedly worthwhile to undertake joint Polish-Belarusian efforts to fulfil the standards of protection of the Białowieża Forest as a cross-border UNESCO heritage site. It should be indicated that only the unique and the most outstanding objects in the category are listed on the World Heritage List. This recognition brings not only prestige to the state and to the object, but also

<sup>122</sup> See the official website of the Regional Directorate of State Forests in Białystok: <<http://www.bialystok.lasy.gov.pl/nadlesnictwa>>.

<sup>123</sup> Agreement of 17 February 2010 between the Regional Directorate of State Forests in Białystok, the Białowieża National Park and the 'Belovezhskaya Pushcha' National Park.

many real benefits. Being in the list places a site on the map of the most important and most valuable tourist attractions in the world, and thus gives the opportunity to secure more financial income from tourism.<sup>124</sup> In this manner, the recipient can also count on international expertise, training, material and even financial assistance from UNESCO.<sup>125</sup>

What would also be beneficial in the future for the development of cross-border cooperation in the area of protection of Białowieża Forest is to shape peoples' attitudes. Cooperation in this area requires the openness and goodwill of various categories of entities, especially central government, local authorities, naturalists, scientists, business representatives and residents of the border regions.<sup>126</sup> After all, it is necessary to transfer the knowledge and acquired experience between the Polish and Belarusian authorities responsible for the Białowieża Forest and the mutual exchange of both national and international good practices and standards.

Włodzimierz Cimoszewicz, a former Polish Minister of Foreign Affairs and candidate for the post of the Secretary General of the Council of Europe, in one of his speeches emphasised: "The forest is an integral complex and we cannot talk about a Polish forest or a Belarusian forest. This is the Białowieża Forest which unites both nations".<sup>127</sup> It is difficult to disagree with this concept. It seems, therefore, that since the Forest is one, it would be worthwhile to think of creating a joint entity of a structure, competences and tasks identical in Poland and Belarus, which would plan and manage the Białowieża Forest as a single object.<sup>128</sup> The co-author of this paper, Professor Maciej Perkowski, acting as an advisor to the Marshal of the Podlaskie Voivodeship on international cooperation, the European funds and sectoral cooperation, has come up with such an initiative. He proposed to set up an EGTC of the Białowieża Forest. For this purpose, a working group was set up to launch a grouping in which another co-author of this publication participated.

It is also possible to work on a common environmental and sanitary safety policy. The entities involved in the protection of the Forest should cooperate

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124 See Prawie cała Puszcza Białowieska wpisana na Listę Światowego Dziedzictwa UNESCO, on the website: <[http://podroze.gazeta.pl/podroze/1,114158,16205337,Prawie\\_cala\\_Puszcza\\_Bialowieska\\_wpisana\\_na\\_Liste\\_Swiatowego.html](http://podroze.gazeta.pl/podroze/1,114158,16205337,Prawie_cala_Puszcza_Bialowieska_wpisana_na_Liste_Swiatowego.html)>.

125 See Art. 19-23 of the Convention concerning the Protection of the World Cultural and Natural Heritage; <<http://whc.unesco.org/en/conventiontext>>.

126 Ref. M. Kozieł, *ibid.*, p. 282.

127 See the official website the Hajnowka District: <<http://www.powiat.hajnowka.pl/archiwum/2005/kwiecien/przejsciograniczne.htm>>.

128 Ref. M. Kozieł, *ibid.*, p. 282.

in limiting the over-exploitation of Forest resources, pollution of its areas, ecosystem degradation, introducing sanitary loggings, cutting of diseased, dead or broken trees, and suppressing various other hazards such as gradations. At present, the Bialowieza Forest struggles with the huge problem of gradations of the bark printer beetle. The issue is quite difficult and complex and the solution became a 'bone of contention' between various circles interested in protecting the Forest, especially in Poland. Future cross-border cooperation in this area requires firstly the unity of positions and actions at the national level. Here, the local governments share the care for the entire Forest and its implications.

The last possible and worthwhile area of cooperation is joint action in the area of care and migration of wild animals in the Bialowieza Forest. At this point it is worth pointing out individual successful projects that can be replicated on the ground of cross-border cooperation. An excellent example is the 'Bison Land' project, the main aim of which was to improve the situation of the bison in the Podlaskie Voivodeship and to ensure the long-term conservation and preservation of the species. The partners of the project were: the Institute of Mammal Biology of Polish Academy of Sciences, the Regional Directorate of State Forests in Bialystok, the Bialowieza Forest District, the Browsk Forest District, the Hajnowka Forest District, the Green Lungs of Poland Foundation and the Bialowieza National Park.<sup>129</sup>

As has already been mentioned, cross-border cooperation between Poland and Belarus for the protection of the Bialowieza Forest is on a low level. In order to improve this situation, Polish and Belarusian subjects face many challenges. Answering them requires the operators present in the Forest on both sides of the border to honestly diagnose their own weaknesses.

It seems that, first and foremost, it is indispensable to strengthen the competence of local government units in the field. Local governments should ensure they develop appropriate structures with staff with knowledge and experience in the protection of the Forest. According to the above-mentioned institutional analysis, in the present situation individual officials are responsible for cross-border activities in the field of environmental protection within local government units. It should be also emphasised that their competence in this area is one of many and constitutes only a certain part of their functions and tasks.

Secondly, considering for example the activity of the Bialowieza Forest Euroregion, it is difficult to find stability and cyclicity of activities. A serious

129 See the official website of the project 'The Bison Land' <<http://www.krainazubra.pl/kategorie,34.html>>.

impediment to the functioning of this entity is the lack of a permanent source of funding for its undertakings. That is why it can be stated that the Euroregion acts *ad hoc*, only when it has funds. The specific source in this case is financial resources from the European Union, but these are not always obtainable. If this is the case, the Euroregion is active, but when there are no funds – it becomes inexistent. In addition, as in the case of territorial self-government units, the Euroregion requires strengthening of staff, competence and resources in the area of protection of the Forest. It should be recalled that this entity was created primarily for this purpose, and, paradoxically, its activity in this field is negligible.

Thirdly, the states themselves are facing a challenge. National authorities should involve local governments in their foreign cooperation. This would contribute significantly to their strengthening. Meanwhile, the central authorities in Poland demonstrate some resistance on this matter, which results primarily from the painful history of the country. In the past it was affected by negative experiences regarding sovereignty and autonomy. The Polish lands were subdued several times, and the country was also occupied and under ideological control. Whereas Belarus, for centuries, simply did not exist or had only the appearances of being a sovereign state, for Poland sovereignty is something of special value, but it is also a field of numerous complexes. It seems that every form of challenge to sovereignty from inside or from outside is contentious. That is why until recently the central government interfered in everything that was happening at the level of local governments. The policy of self-governments was dependent, even weak, both in institutionally and in terms of budget. These restrictions have made cross-border cooperation at the level of local governments only a matter of courtesy of their representatives. Therefore, to change this state of affairs the Polish state must break its objections and seek to be more open. It ought to enable self-governments to act autonomously, but strictly in accordance with national priorities. The meeting of the inter-regional cooperation subcommittee of the Polish-Belarusian Intergovernmental Coordination Commission, which took place on 11 May 2017 in Brest (Belarus), was a successful one. The Belarusian side was chaired by Andrej Klec, the Deputy Chairman of the Brest Regional Executive Committee, and on the Polish side – Jerzy Leszczynski, the Marshal of the Podlaskie Voivodeship. The members of the Subcommittee debated new joint infrastructural projects, cooperation in the area of border traffic, tourism, cultural heritage, agriculture, entrepreneurship and environmental protection. The possibilities and options for raising funds for the development of the chosen



directions of cooperation were also discussed.<sup>130</sup> Another meeting was held in Augustow (Poland) in a manner strongly coordinated by the Ministry of Foreign Affairs, which poses good prospects, and could become a positive pattern in Europe or at least an interesting reference system.

Succeeding in the above challenges connected with the cross-border protection of the Bialowieza Forest, from the perspective of Poland, seems to be realistic due to the decentralised system of public administration. There is no certainty as to Belarus, because in this case the centralisation of power can effectively impede the implementation of such measures.

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130 See the official website of the Podlaskie Voivodeship Marshal's Office: <[https://wrota podlasia.pl/pl/samorzad/samorzad/z\\_prac\\_zarzadu/spotkaniu-podkomisji-ds-wspolpracy-miedzyregionalnej-polsko-bialoruskiej-miedzyrzadowej-komisji-koordynacyjnej.html](https://wrota podlasia.pl/pl/samorzad/samorzad/z_prac_zarzadu/spotkaniu-podkomisji-ds-wspolpracy-miedzyregionalnej-polsko-bialoruskiej-miedzyrzadowej-komisji-koordynacyjnej.html)>.