

Annex No 3

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**SELF-PRESENTATION OF SCIENTIFIC AND ACADEMIC ACHIEVEMENT**

**I. First name and surname**

Monika Zakrzewska

**II. Diplomas held, scientific/artistic degree with the indication of the name, place and year in which they were acquired.**

2009 - Maria Curie-Skłodowska University, Faculty of Law and Administration, PhD degree in science. *Environmental protection in the investment and construction process. Administrative and legal issues (Ochrona środowiska w procesie inwestycyjno-budowlanym. Zagadnienia administracyjno-prawne)*. The supervisor of the work was Dr hab. Helena Kisilowska, prof. PW. Reviewers of the work were Dr hab. Jerzy Stelmasiak, prof. UMCS and Dr hab. Sławomir Fundowicz, prof. KUL.

1996 - University of Warsaw, Faculty of Law and Administration, Master's degree in Master's Law *Good faith in the purchase of a movable item by an unauthorized person.*(Dobra wiara przy nabyciu rzeczy ruchomej od nieuprawnionego). The supervisor of the work was Prof. dr hab. Jan Błeszyński.

1990 - 1995 - Cardinal Stefan Wyszyński University, master degree in canon law.

**III. Information about previous employment in scientific establishments**

1998 - 2009, employment as an assistant at the College of Social Sciences and Administration of the Warsaw University of Technology, and then (after the transformation of the college into a faculty) at the Faculty of Administration and Social Sciences of the Warsaw University of Technology.

2009 - currently, employment as an adjunct at the Faculty of Administration and Social Sciences of the Warsaw University of Technology.

**IV. Identification of an achievement pursuant to Art. 16 sec. 2 of the Act of 14 March 2003 on Academic Degrees and Academic Title as well as on Degrees and the Title Within the Scope of Art (J.O.L. No 65, item 595 as amended)**

a) Title of the academic achievement:

**The legal model of participation of social organisations in environmental protection (Model prawny udziału organizacji społecznych w ochronie środowiska)**

b) Author, title of the publication, the name of the publishing house, reviewers of the work.

Monika Zakrzewska, The legal model of participation of social organisations in environmental protection ( Model prawny udziału organizacji społecznych w ochronie środowiska), Oficyna Wydawnicza Politechniki Warszawskiej, Warszawa 2018, 407 s., ISBN 978-83-7814-767-1;

Reviewers of the work: Prof. dr hab. Janina Ciechanowicz-McLean, Dr hab. Helena Kisilowska, prof. UTH w Radomiu.

c) Summary of the academic objectives of the aforesaid paper and achieved results as well as a summary of their potential application.

#### **Preliminary comments**

The subject of this monograph is participation of social organisations in environmental protection in Poland. Issues discussed in this monograph are well matched to the wide problem concerning public participation in environmental protection. Since the Rio Declaration on Environment and Development adopted during the United Nations Conference in 1992 it has been recognised that environmental issues are most effectively solved with active participation of the society, under the assumption that the common access to environmental information is assured. To ensure the appropriate environmental conditions for the present and future generation is the task of public authorities, but it is also the obligation of the society. In order to correctly fulfil that obligation, cooperation between public administration bodies and representatives of the society, interested in environmental protection, is required. Considering ineffectiveness of conventional forms of activity and the new challenges assigned to the public administration, it is necessary to search for new instruments of cooperation in the field of environmental protection. It should also be stressed that existing instruments of the society's cooperation in environmental protection are applied when conflicts of interests appear and activities of organisations and other representatives of the society, aiming at environmental protection, is often recognised as unjustifiable blocking of socioeconomic development. Besides, activities of social organisations are not always driven by protection of public interests, since such situations when investments are blocked by orders from competitors, as a result of proposals to withdraw submission of remedies for making payments for the statutory objectives

of an organisation or false accusation concerning corruption of officials who issue investment or environmental permits and decisions. Although such cases do not often happen, they lead to lack of trust in relations between public authorities and representatives of the society who are interested in environmental protection.

Therefore it is necessary to carry out research works aiming at pointing to new instruments of cooperation between public authorities and social organisations. Issues concerning participation of social organisations in environmental protection are related to demands presented to the current public administration bodies in order to increase the level of public participation in making decisions concerning public issues, in accordance to the *public governance* assumptions. Adopting this topic resulted from the belief that social organisations might play the key role in environmental protection actions in the future; at present many legal and practical issues connected with activities of such organisations may be already noticed.

#### **Scientific objective and research problems of the work.**

The main scientific objective of the presented monograph is to present a new model of participation of social organisations in environmental protection. It should be stressed that the method of research concerning the development of a new model of proceedings in a specified domain of social science, refers to proposed conditions which may be developed basing on solutions which already exist in that domain.

Performed research works allow to formulate the thesis that binding regulations concerning participation of social organisations in environmental protection have not been correctly developed. Therefore, the initial objective of this monograph was to present the current legal status referring to issues of organisation and operations of social organisations, environmental protection as statutory objectives of ecological organisations, as well as participation of social organisations in proceedings which require participation of the society regulated in the act of October 3, 2008 on access to information on the natural environment and its protection, participation of the society in environmental protection and on environmental impact assessments ( J.O.L. of 2017 r. item 1405 as amended) which is further referred to as the act on access to environmental information and participation of social organisations in general administrative and juridical-and-administrative proceedings.

In the case of analysis of highly complicated issues concerning proceedings requiring participation of the society in environmental protection, a method of creation of a model procedure is very useful, assuming that a model may be considered as idealisation or simplification of the reality. The model of participation of social organisations in environmental protection, proposed in this monograph, is characterised by those two features: it is the

proposed, ideal condition and it also simplifies the reality which is commonly recognised as highly complicated issues. The proposal of a new model refers to several elements which should be included in current proceedings; it is a kind of simplification, permitted when a new model is being created. Considering this, it should be stressed that the proposed legal model of participation of social organisations in environmental protection does not cover all complicated issues and it will be necessary to continue investigations in order to determine the legal instruments of cooperation of public authorities and the society, to ensure the effectiveness of environmental protection.

In order to find the assumed model of participation of social organisations in environmental protection the following research problems have been assumed in the monograph:

The starting point of considerations concerning the model of participation of social organisations in environmental protection was presentation of issues concerning the public participation in environmental protection in the context of new challenges for the public administration, considered from the perspective of *public governance* and development of participatory democracy. Regulations of the international law, the UE and domestic legislation concerning the widely discussed participation of all interested entities in environmental protection operations have been also presented in the monograph.

The issues of defining entities which are operating in the field of environmental protection as established organisation, as well as determination of their basic goals and types was the objective of analyses undertaken in further sections of the monograph. In particular, it was necessary to refer to the term "social organisation", as the widest term which defines entities which are operating for the benefits of the natural environment protection. Another research issue concerned the definition of environmental protection as the statutory objective of operations of social organisations, determined as ecological organisations. Research works covered the analysis of literature, administrative court sentences, as well as statutes of selected social organisations.

The basic assumption of research presented in this work was the reference to procedural regulations concerning operations aiming at environmental protection. Within this group of research problems the references were made to existing requirements concerning proceedings which require the social participation, as well as to powers of ecological organisations in general, administrative and court-and-administrative proceedings, resulting from the act on access to environmental information. The next research problem referring to issues of administrative procedures may be considered as determination of conditions of participation of

social organisations in administrative proceedings, according to regulations in the Administrative Procedure Code.

The analysis of the above research problems leads to the conclusion that formulation of new rules of cooperation between social organisations and public administration bodies are required in order to effectively protect the natural environment. Therefore the assumption of the discussed monograph was to perform an experiment aiming at development of a complex model which might be applied for the needs of wide cooperation of social organisations and public authorities in the field of environmental protection. For that purpose the issues of axiology of the environmental protection law, as well as the doctrinal approach to social-and-organisational actions in the field of environmental protection are very important. Instruments of cooperation between social organisations and public administration bodies, as well as formulation of proposals of new solutions, considered as *de lege ferenda* demands, were the subjects of performed research works.

#### **Research thesis**

Performed research works allow to formulate the thesis that binding regulations concerning participation of social organisations in environmental protection have not been correctly developed. There are no legal instruments allowing for achieving the consensus in conflicts between protection of the natural environment and the social-and-economic development, according to the sustainable development rules. First of all it should be stressed that regulations concerning powers of ecological organisations in proceedings which require the social participation have not been properly developed; this often leads to development of antagonistic relations between public administration bodies and social organisations. Legal instruments predicted in procedure requiring social participation in the environment protection are used by local authorities by the necessity of meeting conditions determined by the law, not in order to achieve consensus and harmonised operations of communities. Therefore the new approach to participation of social organisations in environmental protection has been presented in this monograph; it may be generally characterised as: from the model of confrontation to the model of cooperation. That thesis was verified in this monograph in order to determine the most important elements of a new legal model of participation of social organisations in environmental protection.

#### **The structure and methodology of the work**

Both, the layout of this monograph and the applied methodology of research works are the consequence of formulated research problems and the assumed thesis of research. The

discussed monograph consists of the introduction, seven sections concerning resuming comments. Considerations carried out in this monograph end with the final conclusions.

The first section contains legal conditions concerning the participation of the society and social organisations in environmental protection. New challenges for the public administration in the field of public administration and participatory democracy have been described. The second part of the first section development of legal instruments related to the participation of the society and social organisations in the international, the EU and the Polish legislation have been discussed.

The second section presents social organisations as entities which participate in protection and administration of the natural environment. In order to present many opportunities of participation of organised groups of the society in environmental protection, legal forms dedicated to social activities, regulated by the Polish law, have been described. For that purpose, apart from explaining basic terms, such as social organisations and non-governmental organisations, basic regulations concerning associations and foundations, as well as other forms of self-organisation, such as organisations of professionals and economists, social fire brigades and trade unions, have been also presented.

The exceptionally, privileged position in proceedings which require the participation of the society, is held by ecological organisations, being one of the types of social organisations, distinguished due to their subject of activities. Therefore, the third section of the work presents environmental protection issues as a statutory objective of a social organisation. This section presents historical and normative approach to the environment in the Polish law and its relations to the term "the nature", as the initial subject of protection. Reference to the concept of environmental protection and the current approach to those issues in the Polish and the EU legislation are presented in the further part. The second art of this section presents the development of regulations concerning statutory objectives of selected organisations dealing with the protection of the environment and the nature.

The fourth section presents instrument of public participation in proceedings which require the participation of the society. Voluntary organisations and other participants of the proceedings are eligible to present their comments and conclusions concerning particular proceedings; therefore this part of this work presents legal conditions concerning the nature, forms and dates of submission comments and conclusions. Administrative debates carried out in the frames of proceedings which require the participation of the society, has been also the subject of considerations.

The fifth section is dedicated to issues of authorisation of ecological organisations in proceedings which require the participation of the society. Proceedings with the social participation has been normatively connected with the procedure of environmental impact assessment. Therefore, the fifth section presents issues related to the participation of social organisations in the procedure of assessment of impacts of planned investments on the environment and the Natura 2000 sites.

The rules of participation of social organisations in administrative debates, among others, as parties eligible according to the Administrative Procedure Code, are analysed in the sixth section. Voluntary organisations, when it is justified by statutory objectives and supported by the social interest, may call for the commencement of debates or allowing them to participate in debates. Due to this, ecological organisations and other social organisations would be able to participate in administrative debates concerning environmental protection, according to regulations of the Administrative Procedure Code.

The attempt to present a model of participation of social organisations in environmental protection leads to the conclusion that it should be a model of cooperation. Basic issues presented in the seventh section of the monograph have been related to axiological and doctrinal premises concerning cooperation of social organisations in the field of the protection of the environment or the nature. Instruments of cooperation with the society in the field of environmental protection have been presented in this section. According to German legislation those instruments include, first of all, procedures of mediation and public-and-legal agreements. The Polish legal system includes such instruments as commissions and advisory groups which may play the positive role in solving conflicts related to the protection of the environment. Pointing to new solutions in the field of participation of social organisations in the protection of the environment, the institution of partner organisations undertaking the permanent cooperation with the public administration bodies in the field of environmental protection has been proposed; such cooperation could mainly rely upon participation in conferences organised at the initial stages of proceedings requiring the participation of the society.

Considerations undertaken in this monograph are ended with the proposal to point to the basic elements of a new model of participation of social organisations in environmental protection. The final conclusions present legal circumstances of a model of cooperation between social organisations and public administration bodies, from the perspective of basic issues related to the participation of social organisations in environmental protection according to binding regulations, as well as *de lege ferenda* proposals.

Referring to the methodology of performed works, the use of the dogmatic-and-legal method should be pointed to. First of all, normative materials, as well as jurisdiction and literature concerning environmental protection and papers on the administrative law have been analysed in the work, to the extent required for performed analyses. Referring to issues related to social organisations, the presented work also contains non-legal aspects concerning activities of those organisations and papers related to that area. The analysis of normative materials has not been limited to the linguistic explanations of the international, the European Union and domestic law acts; it has been amended with the systematic and functional explanations. Issues related to participation of the society in protection of the natural environment has been expressed in international agreements and the EU regulations, which point to objectives and functions of those regulations; therefore, in order to meet the objectives of this monograph it was important to refer to the functional explanation of discussed regulations. However, in the systematic approach the work widely refers to regulations of the Polish Constitution, being the axiological foundation of the Polish legislation system. Although this monograph is not the legal-and-comparative study, in some aspects solutions existing in legislation of other countries were also presented; this, in particular, concerns the aspects of implementation of the EU laws and meeting obligations resulting from international agreements which regulate the issues related to the participation of the society in environmental protection.

### **Results of performed research works**

Participation of the society in environmental protection as the subject of regulations of the international, the EU and the domestic law. Those issues have become the subject of interest due to the necessity to reform the public administration in order to ensure its efficient operations. The starting point for formulating a new model of participation of social organisations in environmental protection was presentation of issues related to participation of the society in environmental protection in the context of a wider issue concerning the public administration reforms, according to the public management rules. After critical estimate of the Weber model of administration and the unsuccessful attempt to introduce the New Public Management, new concepts which would ensure the effective and efficient public management are searched for in the administrative science. Therefore, participation of the society in decision making processes which require consideration of environmental issues should be analysed from the perspective of the new forms of the public management, in particular, the *public governance* idea. Participation of the society in development of such documents as policies, strategies, plans and programmes may be considered from the perspective of democracy development: from indirect democracy, through direct democracy, up to participatory democracy. Both, the *public*



*governance* idea, as well as the new forms of participatory democracy may be particularly applied in the case when conflict situations related to environmental protection, appear. Therefore the first section of the work also presents the term of an ecological conflict and legal regulations which were the answer to the ecological crisis in the seventies of the 20<sup>th</sup> century. The model of participation of the society in environmental protection has been developed basing on regulations of the international and the EU legislation, providing that the general and abstractive regulations included in the EU legislation should be adapted to particular legal and social-and-economic conditions of particular countries. Despite the use of directives by the EU legislator, the model of participation of the society and social organisations in environmental protection has been so precisely formulated in the EU legislation that a few levels of freedom have been left to domestic legislators. Therefore the evaluation of the current model of participation of social organisations in environmental protection has been also performed with reference to appropriate implementation of the EU law.

In order to determine frames of performed research works it was necessary to analyse the term "social organisations" and legal forms of their operations. In considerations concerning social organisations should be referred, first of all, to issues related to terminology, since the term "social organisations" is gradually substituted in the legislation by the term "non-governmental organisations". With reference to that it should be clearly considered that, due to systematic and historical explanations, elimination of the term "social organisations" from the legal terminology is not justified. In the Polish Constitution of 1997, as well as in such regulations as Administrative Procedure Code and the act of April 27, 2001 - The environmental protection law (J.O.L. of 2017, item 519 as amended) the term "social organisations" is still used. This term is also historically connected with organised activities for the benefits of protection of the nature, and, later, with operations related to environmental protection. Referring to demands included in the doctrine concerning unification of terminology and substitution of the term "social organisations" by the term "non-governmental organisations" it has been pointed in this monograph that - when a governmental element is exposed in the term "non-governmental" - governmental structures are promoted by the term "non-governmental". However, the term "social organisations" promotes the social nature of organisations; it is amended by the term "social works", devaluated in times of communism and by the term "socially useful activity" existing in the legislation; those terms also point to values which are the core of development of the third sector in Poland.

The assumption of the new model concerns involvement of all interested bodies in operations for the benefits of environmental protection and in legal procedures aiming at

environmental protection. Therefore the successive area of undertaken research works was presentation of legal forms of activity of social organisations in Poland. The work points to new solutions in the field of establishment of associations being legal entities, assigning legal abilities to normal associations and new solutions in the field of supervision on associations. It is also worth to be noticed that - due to many problems concerning representation of normal associations which often occur in practical activities of such associations - new regulations of the act of April 7, 1989 - The law of associations (J.O.L. of 2017, item 210 as amended) assume the possibility to establish managing boards or to nominate a representative for those associations.

Foundations are a special form of social organisations which undertake activities in the field of environmental protection. According to the doctrinal view, the opinion was initially prevailing that foundations could not be legally recognised as social organisations; as a result they could not be also recognised as ecological organisations which could benefit from facilitations in proceedings which require the participation of the society. However, changes in the field of interpretation of the term "social organisations" which participate in the general administrative proceedings were introduced in judicature of administrative courts. As a result foundations were recognised as one type of social organisations. Wide consideration of entities included in activities for the benefits of the environment was confirmed in Art.45 of the Act on the access to environmental information which assumes that cooperation in the field of environmental protection may be undertaken by ecological organisations, supporting entities of local governments, workers' self-managements, social fire brigades and trade unions.

The objective of the work was to present a new model of participation of social organisations in environmental protection. For that purpose, it was important to define environmental protection, as the statutory objective of social organisations, recognised as ecological organisations. During the initial stage of development of the environmental and natural protection law the highest importance was assigned to the aspect of protection; this was connected with the presence of many creatures and natural resources which might be protected. Later, restitution and preventive activities were becoming more important, relating to the environment, which was highly transformed by humans. In connection with the above evolution of environmental protection aspects, certain stages of development of objectives implemented by social organisations may be also noticed. In Poland, the League for the Preservation of Nature was an organisation which arose at the initial stage of development of ecological movements. That organisation was, first of all, focused on protection of nature, considered as a

national good which was the subject of particular protection even before Poland recovered its independence in 1918.

It is worth to be stressed that after the ecological crisis, which could be observed in the world in the second half of the 20<sup>th</sup> century, ecological organisations acting in Poland could - without any limitations - undertake activities only after social-and-economic transformations commenced in 1989. After this date, international and European organisations dealing with environmental protection issues, could operate in Poland. Due to the modified approach to the environment at the international level, which considered the necessity to protect the environment as a unity, according to sustainable development rules, Polish ecological organisations also introduced the complex environmental protection, the necessity to implement sustainable development rules, as well as limitations in the use of natural resources through modifications of the model of consumption, and, recently the issues of the climate protection.

Objectives specified in the statute of one of ecological organisations in Poland may be considered as a model development of provisions of an ecological organisation: recognition of sustainable development as the foundation for the social-and-economic policy of the state; environmental protection, including the ecology considered as protection of fauna, flora, protection of the natural heritage; protection of the natural landscape and the cultural heritage; development of the social awareness, that the life quality depends on rational administration and management of natural resources and keeping the balance between the environment and development of civilisation; common ecological education; improvement of the quality of the human environment and the European integration and development of cooperation between societies in the field of environmental protection. Therefore, the statute of that organisation refers, first of all, to the constitutional rule of sustainable development, what points to the necessity to consider social and economic aspects in environmental protection. Then, environmental protection was mentioned as the statutory objective, including ecology. Moreover, development of the social awareness and the common ecological education are also considered as important goals. At present it is one of the most important tasks of ecological movements, since the real improvements of environmental conditions are influenced by strengthening the social awareness that the quality of life depends on individual actions undertaken for the benefits of environmental protection.

It is also worth to mention the determination of objectives of another organisation which were specified as "protection and maintenance of the natural environment and natural living conditions of humans", as well as "widening and deepening the social awareness in the field of environmental protection". It may be recognised that such statutory provisions correspond to

concerning the creation of an appropriate, nationwide register of social organisations, similar to the register of public benefit organisations, are formulated. However, in my opinion, it is worth to consider another solution, which would facilitate cooperation between public administration bodies and social organisations, since searching for a nationwide register of social organisations may become the considerable burden for an administrative body. Therefore it may be demanded that social organisations, interested in specified types of issues, would apply for the list maintained at the specified level of administration. The administration body which maintains the proceedings could, without major problems, e-mail information on the commencement of proceedings to organisations included in the list. It is stressed in professional publications that the system of notification of social organisations about subject proceedings was considered a model solution in the course of negotiations concerning provisions of the Aarhus Convention. Therefore it is necessary to return discussions on the institution of the list of social organisations and establishing the obligation to notify them using electronic communication media.

Referring to development of an appropriate model of participation of organisation, the relations between the proceedings which require participation of organisations and the general administrative proceedings should be determined. It was assumed by the Polish legislator that the environmental impact assessment procedure, as well as the procedure of participation of the society in environmental protection are the elements of the general administrative proceedings. However, this procedure significantly affects the course of those proceedings, since it sometimes highly influences the regulations concerning administrative and court-and-administrative proceedings. The influence of the environmental impact assessment relies upon modifications of applications of specified regulations (their application is excluded or modified by clear regulations), or - more frequently - indirect introduction of legal constructions which modify the institution of administrative procedures.

One of indicators of modification of regulations of the Administrative Procedure Code is assigning the right to submit claims concerning decisions and complaints to administrative courts to ecological organisations, even if they did not participate in proceedings at earlier stages. Considering wide facilitations introduced in the Polish legislation, concerning the access to appeal procedures, demands requiring strengthening the requirements for such organisations are formulated in professional literature. One of the criteria considered when the possibilities of participation of an ecological organisation is evaluated according to Art. 44 of the act on access to environmental information is the period of maintaining business activity equal to at least 12 months since the date of commencing the proceedings. For example, the longer, three-

year period of activities of an association, has been assumed in the German legislation with information that, first of all, the date of registration of that association is considered. It may be recognised that such precise formulation of provisions and pointing to a longer period of activities of an ecological organisation is a good solution which should be also adopted in the Polish legislation. The German legislator admits to participate in the proceedings only such association which guarantees correct implementation of tasks, in particular, appropriate participation in official decisive procedures. The type, extent and effectiveness of current activities of the association and profiles of its members should be considered in this process. It may be recognised that those are prerequisites which allow to perform objective assessment of activities of the particular association by the entity which is authorised to recognise the association. Maybe the Polish legislation should not adopt such arbitrary terms as "the guarantee of correct implementation of tasks" by a social organisation which plans to participate in the proceedings. However, the minimum requirement which should again be included in the Polish regulations concerning participation of ecological organisations in proceedings which require the participation of the society is the obligation to submit claims and conclusions, as the condition for submitting the appeal from the decision or claim to the administrative court, according to the rules specified in Art. 44 items 2 and 3 of the act on the access to environmental information. Such solution would allow to recognise that an ecological organisation would guarantee the appropriate participation at successive stages of the proceedings. Before 2008 submission of comments and conclusions by ecological organisations was closely related to the possibility to submit appeals to the decisions. At present, ecological organisations may appeal from decisions, even if they do not participate in the proceedings at the first instance. However, it should be stressed that ecological organisations should be particularly active at the initial stage of the proceedings; they should not appear late as subjects and appeal from an already formed decision. In the frames of preventive protection of the environment, as early as at the stage of submission of comments and conclusions, social organisations may propose solutions aiming at limitations of negative environmental impacts of planned investments. If an ecological organisation misses the opportunity to join the proceedings which require the participation of the society, it would be able to participate in the administrative proceedings as a subject and the party of the proceedings. However, the condition which influences introduction of such a solution is assurance of the wide access to information on the current proceedings. It concerns, in particular, the possibility to obtain notifications by interested ecological organisations on current proceedings; this should not create any problems is administrative bodies would wider utilise electronic media.

Voluntary organisations, which do not meet the requirements allowing for participation in the proceedings, specified in Art. 44 of the act on the access to environmental information will be able to participate in proceeding concerning environmental issues, when they will be able to prove that they meet the requirements specified in Art. 31 of the Administrative Procedure Code. The Administrative Procedure Code introduces two requirements which must be met by organisations which plan to participate in proceedings as one of the parties. The basic prerequisite is the consistency of the subject of proceedings with statutory objectives of the organisation. Besides, the organisation can participate in the proceedings as a party, when it is supported by the public benefit. It should be stressed again that the "public benefit" should be considered in administrative proceedings although the term "social benefit" is left in regulations of the Administrative Procedure Code, as a prerequisite of participation of social organisations in administrative proceedings. In the case of such proceedings the public benefit is secured by ensuring the participation of social organisations in decision making processes. This concerns, in particular, protection of benefits concerning the environment, since it cannot be recognised that public administration bodies are currently the only entities eligible to represent that benefit.

Correct relations between public authorities and the third sector should be based on the model of cooperation, undertaken for the benefits of environmental protection. In the course of searching for justification of the new model of participation of social organisations in environmental protection the author referred too the axiology of the Polish legal system with the fundamental rule of the common good. Following Z.Cieślak I assumed in the monograph that the common good, being the basis for the axiology of the administrative law includes substantial values, which have been specified in details in regulations of the administrative law. Those values may be divided into groups of values concerning, among others, the state as the community of communities and citizens, the external and homeland security, values related to the state development considered as the community of communities, including values related to physical planning, protection and use of the natural resources. "Assurance of harmonised functioning of communities (including solving conflicts of interests)" is mentioned by the Author as the last group of values. The Author also recognises that the final objective of the state's operations is to achieve the peace and security through operations focused on the public benefit. The peace and security are threatened when people are not awarded with they are entitled to, when the human dignity is not respected and human relationships are not directed towards the common good. I assumed in the presented monograph that the common good should not be equated with the public benefit. The common good is dominating over the public

benefit and it is the objective of the state which is implemented by public authorities, organisations and social organisations, as well as by individuals. It may be also assumed that the common good is a kind of balance and compromise between all public and individual benefits. Considering such a way of understanding the common good, it is not possible to consider conflicts and implementation of public objectives regardless the good of individuals. On the other hand, conflicts may appear in relation to the public benefit, including conflicts between the public benefit in the field of environmental protection and the public benefit related to social-and-economic development. The natural environment, being one of the element of the common good, is the subject of protection. But, following the sustainable development rules, it should recognise economic and social aspects. It may be recognised that ecological conflicts in which participate social organisations may result from conflicts in the context of anthropocentric and eco-centric approach to the environmental protection issues. Although the anthropocentric nature of standards of the environmental protection law is stressed in professional publications, trends to empower the natural environment may be recently noticed; this weakens the anthropocentric approach. In the extreme cases, the eco-centric approach to the environmental protection results in the lack of possibilities to commence cooperation between ecological organisations and public administration bodies, which cannot omit the basic sustainable development rules in their decision making procedures. I recognise in my work that - although the rules of cooperation in the field of environmental protection have not been specified neither in the Constitution of Poland nor in other legal acts - this rule may be developed basing on the obligation to commence cooperation in order to ensure the harmonised functioning of communities; this results from the rule of the common good.

Referring to doctrinal aspects of cooperation in the field of environmental protection I recognise that cooperation with public administration bodies is performed within social-and-organisational operations. It is stressed in professional publications that public administration bodies are unwilling to take those activities due to the lack of possibility to reach and apply coercive measures, as well as the necessity to develop partner relations between administration bodies and social entities. Besides it is recognised that education of officials is directed towards commanding means of administrative operations, what results in limitations of activities undertaken by public administration bodies to typical, legal forms of activity, without amending them by social-and-organisational activities. However, in this monograph it has been assumed that commencing cooperation in the field of environmental protection is one of conditions of appropriate implementation of public tasks by the state; therefore it is necessary to conduct

the requirements faced by a social organisation with the statutory objective to protect the environment and to recognise it as an ecological organisation. The analysis of statutory objectives of selected ecological organisations, professional literature and judicature of administrative courts allows to point to some general conclusions which were developed in the doctrine and judicature in order to determine the protection of the environment as a statutory objective of an ecological organisation. It should be recognised, first of all, that protection of the environment may be the main or one of many statutory objectives of an organisation which might be recognised as an ecological organisation. Pointing to detailed provisions in statutes which may confirm the ecological nature of this organisation, the following objectives are recognised in judicature of administrative courts: promotion of sustainable development ideas, performing pro-ecological actions or operations for the benefits of the protection of nature.

Another issue discussed in the presented monograph is ensuring the participation of social organisations and other entities in proceedings which require the participation of the society, regulated by the act on the access to environmental information. The monograph stresses that in order to ensure the real participation of interested entities in proceedings concerning environmental protection, acquisition information on continued proceedings is particularly important. *De lege ferenda* demand should call for introduction of provisions concerning effective, public presentation of information on planned investments. The effectiveness of public presentation means that all efforts have been made in order to notify all interested entities about the planned investment. The Polish legislation does not assume distribution of information concerning planned investments as press, radio and television announcements, advertisements in social media or as sms messages or in a way which is commonly approved in a given place. It remains in conflict with the basic objective of informing the society, which should be to effectively reach with information on planned investments, in order to ensure the real participation of the society in decisions making processes. Therefore it is not sufficient when the eligible body responsible for the maintenance of proceedings formally sends information, using all ways specified by the legislator.

In the case of the general administrative proceedings a social organisation may learn about continued proceedings from an administrative body which - according to Art. 31 § 4 of the Administrative Procedure Code - informs the organisation about the commencement of proceedings. However this regulation is not practically important since it is not applied by public administration bodies. It may be recognised that the abandonment of this obligation which takes place in the case of numerous proceedings results from the lack of sanctions for not abiding the Art. 31 § 4 of the Administrative Procedure Code. In this context demands



research works in the field of determination of instruments of such cooperation in the Polish legislation.

Pointing the main elements of the new model of participation of social organisations in environmental protection, it should be stressed, first of all, that - independently from legal forms of activities and statutory objectives - all interested social entities should participate in cooperation in the field of environmental protection. Besides, if we assume that environmental protection is to be implemented according to the sustainable development rules, demands related to the social-and-economic development at the national, regional and local levels, should be considered by public administration bodies at all stages of the proceedings. It will be possible to present all aspects of planned investments, including the environmental protection perspective, as well as social and economic aspects, if the institution of a preliminary conference will be introduced at the early stage of proceedings, as a new element of proceedings which require the participation of the society. I also recognise that, in some cases, the possibility to release the administration body from organisation of the preliminary conference may be assumed.

The model of participation of social organisations in environmental protection should consider the institution of partner organisations, recognised by the public administration as entities which cooperate in the field of environmental protection. In order to ensure the high substantial level during the preliminary conference, public administration bodies should maintain the list of social organisations which permanently cooperate with the administration bodies and, therefore, they may be recognised as partners at particular levels of administration. Voluntary organisations, including ecological organisations, would be authorised to inform appropriate administration bodies that they are interested in participation in planned conferences; on the other hand, public administration bodies could send, without any difficulty, invitations for those conferences using electronic media. Wider cooperation should be commenced in the form of commissions and groups acting for the benefit of the natural environment; representatives of ecological organisations and other social organisations could be active members of those commissions and groups. Besides, such instruments of cooperation, described by the act on activities in the public interest area and volunteering, as informing about planned activities, organisational support for activities of social organisations or financing projects performed by those organisations, should be wider utilised. Current cooperation, when an ecological conflict has not appeared yet, would allow for formulating the basis for more effective solutions of environmental issues, which may appear in the future. An example of regional evaluating commissions has proved that the most controversial investments should be

evaluated by such independent commissions. However, according to existing standards, regional commissions operating in particular provinces (voivodships) are meeting to present their positions once or twice a year; therefore it cannot be considered that those commissions effectively play their role.

Implementation of environmental protection objectives requires the introduction of a model of cooperation between the public sector and social organisations; this concerns both, the development of the environmental protection policy and decision making processes. Considering this, modification of the approach to participation of the society in environmental protection towards the development of a real cooperation in this field may be proposed. Such cooperation should be undertaken with entities interested in environmental protection, including ecological organisations, and with entities which are interested in ensuring the socio-economic development at the municipal, district and voivodship levels. It should be stressed that public administration bodies should not limit cooperation for the benefit of environmental protection to ecological organisations only, since other entities, which are considered ecological organisations, should not be excluded from discussions concerning protection of the environment within given areas. This concerns, in particular, local development associations or economic associations which represent economic or social interests; they could contribute to recognition of environmental protection requirements, according to the rule of sustainable development. For that purpose cooperation in the field of environmental protection should be widely considered, without excluding anyone from discussed activities. This wide approach is also indicated in Art. 45 item 1 on the act on the access to environmental information, which assumes that cooperation in the field of environmental protection may be initiated by ecological organisations, auxiliary units of local governments, workers' self-governments, voluntary fire brigade units and trade unions.

Presented arguments allowed to recognise the thesis of this monograph as true. Besides, it should be recognised that the objective of this monograph was achieved by pointing to new elements of proceedings which require participation of the society that should lead to ensuring the effectiveness of environmental protection. Results of performed investigations and *de lege ferenda* conclusions may be utilised for the possible modification of provisions of the act on the access to environmental information which determine conditions of participation of ecological organisations in proceedings which require participation of the society and new elements of that procedure.

## V. Discussion of other scientific achievements

In addition to the monograph discussed above, after obtaining the PhD, I published several dozen of scientific publications, including the monograph entitled *Environmental protection in the investment and construction process*. My articles have been published in scientific journals such as: „Samorząd Terytorialny”, „Studia Prawnoustrojowe”, „Opolskie Studia Administracyjno-Prawne”, as well as chapters in monographs published by professional scientific publishers: LexisNexis, Wolters Kluwer, C.H. Beck, Oficyna Wydawnicza Politechniki Warszawskiej. Recognition of the value of my scientific achievements is reflected in the reviews of some of my publications and citation in legal literature. Based on the literature review, I can determine the number of citations to at least 30, while based on quotations in Google Scholar, my Hirsch index is 1.

My scientific and research activity, after obtaining the PhD, included the following research topics:

1. Environmental protection in the investment and construction process
2. Public participation in environmental protection
3. Cooperation of the society with local self-government bodies
4. Axiology of environmental protection law
5. The management of municipal waste
6. Crisis management

### **Ad. 1. Environmental protection in the investment and construction process.**

In the initial period of my scientific activity, after obtaining the PhD, I undertook issues related to environmental protection in the investment and construction process as well as real estate management. The issue of environmental protection in real estate management was the subject of the chapter titled: *Real Estate Management versus Environmental Protection Law (Gospodarowanie nieruchomościami a prawo ochrony środowiska)*, in the monograph pt. *Nieruchomości. Zagadnienia prawne*, H. Kisilowska (ed.), Wydawnictwo LexisNexis, Warszawa 2009, ISBN 978-83-7620-243-3. As part of this publication I discussed the issues of protection of agricultural and forest land, restrictions on property rights related to special areas, requirements of environmental law in relation to projects that could significantly affect the environment, as well as environmental protection issues in the spatial development. In the next sixth edition of the monograph *Nieruchomości. Zagadnienia prawne*, H. Kisilowska (ed.), Wydawnictwo LexisNexis, Warszawa 2011, ISBN 978-83-7620-856-5, a chapter that I wrote, titled *Real Estate Management versus Environmental Protection Law (Gospodarowanie*

*nieruchomościami a prawo ochrony środowiska,)* has been extended to include greenery protection and permission to remove trees and shrubs.

One of my significant achievements was the publication of the monograph *Environmental protection in the investment and construction process, ( Ochrona środowiska w procesie inwestycyjno-budowlanym)* by Wydawnictwo LexisNexis, Warszawa 2010, 354 pages, ISBN 978-83-7620-494-9. I have stressed in this monograph that the positive law specifies conditions which should be met by an investor in order to quickly and efficiently implement investment works; however relations between environmental protection and construction-and-investment operations should be analysed from a new perspective, with the reference to general rules of the Constitution, being the foundations of the legal order. In the presented publication the analysis of requirements of environmental protection in the construction-and-investment process is performed with reference to the common good rule and the rule of a democratic rule of law. Such approach which yet has not been presented in the doctrine of environmental protection law, leads to the conclusion that it is not sufficient that public administration bodies apply the standards of environmental protection law concerning the participation of the society in procedures in order to reach the consensus related to environmental protection in the construction-and-investment process. Therefore further research works are necessary concerning procedural solutions which will allow to balance all public and individual interests, at the preliminary stage of implementation of investments which may have high environmental impacts.

In my research work I referred to issues concerning limitations of investment activities due to environmental protection on special areas, such as Natura 2000 sites and national parks. According to this, in my successive publication *Natura 2000 sites versus sustainable development at the local level (Obszary Natura 2000 a zrównoważony rozwój na poziomie lokalnym) in: Rozwój zrównoważony a budowa marki miejsca*, ed. by E. Sobczak, Oficyna Wydawnicza PW, Warszawa 2011, ISBN 978-83-930594-4-7, I pointed to issues related to Natura 2000 sites in the context of construction-and-investment activities. I stressed that the sustainable development rule may be the efficient instruments of solving the conflicts if it leads to balancing requirements of environmental protection, economic and social development, with consideration of the rule that the social development cannot exist if it is connected with limitation of basic rights of individuals. However, in practice, protection of valuable natural resources is often considered as a priority good regardless the costs which must be covered by local societies the development of which is being limited. In my next publication, concerning protection of a national park, *Selected legal instruments of protection of a national park against*

*external threats, (Wybrane instrumenty prawne ochrony przyrody parku narodowego przed zagrożeniami zewnętrznymi)* Studia Prawnoustrojowe 2017, vol. 37, ISSN 1644-0412, I made an attempt to point to the possibility to introduce in the Polish law some solutions included in the Spanish legislation, referring to establishment of a socio-economic area of impact of a national park, as a new instrument of natural protection. In the Spanish legislation, if such area is introduced, this results in the possibility to make donations for municipalities covered by such a park, to cover the costs of public goals serving for local societies. In Poland, according to the social justice rule, it is possible to postulate to transfer certain funds for infrastructural investments, public services in the field of environmental protection, education, social aid for such municipalities which possibilities of development are limited due to their locations within the area of a national park.

Within my research works concerning environmental protection issues in the construction-and-investment processes I also initiated research subjects which referred to the environmental impact assessment of planned investments. In my publication *Ensuring the objectivity of administrative bodies in the process of issuing investment permits when a municipality is an investor, (Zapewnienie obiektywności organów przy wydawaniu zezwoleń inwestycyjnych w sytuacji, gdy gmina jest inwestorem)*, in: *Ochrona środowiska a działalność inwestycyjna. Aspekty prawne. Prace Studialne Warszawskiego Seminarium Aksjologii Administracji*, vol. V, ed. by Z. Cieślak, A. Kosieradzka -Federczyk, Warszawa 2016, ISBN 978-83-61551-1-20-1, I stressed that - in the case of implementation of infrastructural investments with a municipality as an investor - some doubts might appear concerning the objectivity of operations performed by an executive unit of a municipality which is to issue a permit to make an investment which may highly influence on the natural environment. In this connection new solutions have been introduced by the Polish legislator in the field of determination of a body which is appropriate to issue a decision on environmental conditions when a municipality is an investor. I proposed *de lege ferenda* to introduce the obligation to transfer competencies concerning issuing building permits and other permits concerning investments, listed in Art. 72 item 1 of the act on the access to environmental information, to entities other than executive bodies of a municipality in the case when a municipality is an investor.

In the next publication concerning the issue of assessments of impacting the environment (Dorota Wilkowska – Kołakowska is a co-author of the publication) *The impact of spatial information infrastructure system (INSPIRE) on the procedure of environmental impact assessment of transboundary projects (Wpływ systemu infrastruktury informacji przestrzennej*

(INSPIRE) na procedurę transgranicznej oceny oddziaływania na środowisko planowanych przedsięwzięć) in: *Wybrane aspekty współpracy transgranicznej polskich samorządów w kontekście przemian prawa Unii Europejskiej*, ed. M. Ganczar, I. Wieczorek, Wydawnictwo Naukowe Doctrina, Łódź 2016, ISBN 978-83-946137-2-3, I emphasised the meaning of creating European spatial information infrastructure for the environment protection in the investment-building activity in matter of trans border procedure of assessment of impacting the environment by planned enterprises.

#### **Ad. 2 Public participation in environmental protection**

An important part of my research works has been dedicated to issues of public participation in environmental protection. First of all, the issue of participation of social organisations in environmental protection is the subject of the scientific monograph, discussed earlier, being the scientific achievement, required in the postdoctoral proceedings. Besides, due to implementation of a research „*Legal aspects of public participation in solving environmental problems*”, financed by the National Science Centre I have prepared a dozen of publications concerning the public participation in environmental protection.

I have recognised at the initial stage of my research that - in order to correctly determine issues related to ensuring the public participation in environmental protection - it is necessary to evaluate the jurisdiction of administrative courts; it was reflected in my publication *The public participation in environmental protection in jurisdiction of administrative courts. Selected issues (Partycypacja publiczna w ochronie środowiska w świetle orzecznictwa sądów administracyjnych. Wybrane zagadnienia)*, in: *Wpływ przemian cywilizacyjnych na prawo administracyjne i administrację publiczną*, ed. by J. Zimmermann, P.J. Suwaj, LEX a Wolters Kluwer business, Warszawa 2013, ISBN 978-83-264-4037-3. In this publication I pointed to two main issues which were later solved by the novelty of related regulations. Firstly, it turned from the analysis of jurisdiction that - for protection of rights of individuals in proceedings concerning environmental impact assessment - it is important to correctly determine the area impacted by planned investments. Initially, it was the investor who determined that area on a map; as a result of modification of the legal act - The building law, it is the responsibility of a designer to determine the area of possible impacts, since - according to binding regulation - a building design should include, among others, information on the area of impacts of a planned investment. The second issue which was disclosed after the analysis of jurisdiction of administrative courts, concerns the quality of environmental impact assessment reports; it was connected with the lack of legal determination of requirements concerning the level of education and professional experiences of authors of those reports. As a result of the novelty of

the act on the access to environmental information, the legislator has introduced solutions which may guarantee the high quality of the reports. In my next publication, *Legal aspects of assuring professionalism of environmental impact assessment reports in order to protect public interests*, (*Prawne aspekty zapewnienia fachowości w ocenie raportu o oddziaływaniu na środowisko w celu ochrony interesu publicznego*) in: *W służbie dobra wspólnego – ludzie, postawy, kompetencje w administracji publicznej*, ed. by B. Jaworska-Dębska, A. Dobaczewska, Krajowa Szkoła Administracji Publicznej im. Prezydenta Rzeczypospolitej Polskiej Lecha Kaczyńskiego, Warszawa 2016, ISBN 978-83-61713-02-9 I positively evaluated the modification of regulations consisting of the statutory determination of requirements concerning the education level and professional, experiences of authors of environmental impact assessment reports.

The public participation in environmental protection should not be discussed without the reference to the process of Europeanisation of the Polish environmental protection law. Therefore, the analysis of jurisdiction of administrative courts was continued in my next publication, *Legal aspects of the direct utilisation of regulations of the international and European law concerning the access to justice in relation to environmental issues in jurisdiction of administrative courts*, (*Prawne aspekty bezpośredniego stosowania przepisów prawa międzynarodowego i unijnego o dostępie do sprawiedliwości w sprawach dotyczących środowiska w orzecznictwie sądów administracyjnych*), in: *Inteligentna i zrównoważona gospodarka sprzyjająca włączeniu społecznemu – wyzwania dla systemów prawnych Unii Europejskiej i państw członkowskich*, ed. by S. Dudzik, B. Iwańska, N. Półtorak, C.H. Beck, Warszawa 2017, ISBN 978-83-255-9616-3. I have pointed in that publication that the issue of the direct utilisation of regulations of the Aarhus Convention appears in jurisdiction of Polish administrative courts in relation to two problems. Firstly, it is the issue of the access to the justice in proceedings in which the public participation is not considered obligatory and which concern investments which may possibly have the high influence on the environment. Another issue concern the types of legal acts which may become the subject of appeal according to Art. 9 items 2 and 3 of the Aarhus Convention, in the context of the possibility to appeal local spatial arrangement plans by social organisations.

The issue concerning the possibility to establish *actio popularis* in environmental protection was the starting point for research works on the public participation. Therefore, the first publication after the PhD dissertation defence which focused on the public participation in environmental protection and pointed to certain directions of the environmental law development in that field, was the publication *The public complaint in the environmental*

*protection law (Skarga powszechna w prawie ochrony środowiska)*, in: *Dekada harmonizacji w prawie ochrony środowiska*, ed. by M. Rudnicki, A. Haładyj, K. Sobieraj, Wydawnictwo KUL, Lublin 2011, ISBN 978-83-7702-319-8.

In order to ensure the public participation in environmental protection the access to environmental information, the possibility to submit applications concerning the access to information and submission of comments in the procedure which requires the public participation via Internet are very important; these possibilities are known as *e-participation* in international professional publications. Therefore in the publication *Legal conditions of computerisation of the public administration in the field of environmental protection, (Prawne uwarunkowania informatyzacji administracji publicznej w zakresie ochrony środowiska)*, in: *Współczesne uwarunkowania europeizacji i informatyzacji administracji*, ed. by E. Jasiuk, G.P. Maj, Wyższa Szkoła Handlowa w Radomiu, Radom 2012, ISBN 978-83-62491-31-5 I have recognised that the initial conditions aiming at assurance the public participation in environmental protection is the access to environmental information which would be facilitated as a result of computerisation of the public administration.

In my next publications I referred to the public participation issue in relation to many aspects of the environmental protection law. In my publication *Participation of social organisations in recognition of the sustainable development ideas in plans, policies and strategies (Udział organizacji ekologicznych w kształtowaniu koncepcji zrównoważonego rozwoju w planach, politykach oraz strategiach)* in: *Zrównoważony rozwój jednostek samorządu lokalnego w świetle globalizacji gospodarki*, ed. by H. Kisilowska, E. Sobczak, Oficyna Wydawnicza PW, Warszawa 2013, ISBN 978-83-7814-164-8, I pointed to the possibility to utilise the institution of social partners in proceedings which require the participation of the society. The institution of social partners has been successfully active in procedures regulated by the act on the rules of development policy, related to assuming the development strategy at different levels of the state and local government administration. Importance of opinions submitted by local societies, social organisations, as well as by other entities is growing in the process of creation of the development strategy, since it is nowadays difficult to defend the thesis that the public administration bodies at different levels should be the only bodies to decide about the priorities of development.

In my publication *The public participation rule in deciding environmental problems versus the procedure of changes of destination of agricultural and forest land (Zasada partycypacji publicznej w rozwiązywaniu problemów środowiskowych a procedura zmiany przeznaczenia gruntów rolnych i leśnych)* in: *Prawne aspekty gospodarowania zasobami środowiska*.



*Oddziaływanie na zasoby środowiska*, ed. by B. Rakoczy, M. Szalewska, K. Karpus, Toruń 2014, Wydawnictwo TNOiK Dom Organizatora, ISBN 978-83-72-85-770-5, I stressed that the effectiveness of legal protection of lands in the investment process is connected with the demand for scheduling; this means the necessity to prevent changes of destination of lands. Therefore the local spatial development plan is the best instrument of protection of agricultural and forest land. In the same publication I paid attention to diversified conditions in the field of protection of interests of real estate owners and participation of ecological organisations in the case when the change of destination of agricultural land of I-III classes is introduced by the local plan, comparing to situation when the change of destination of agricultural land of IV-VI classes has been preceded by issuing the decision on building conditions.

I also referred issues concerning public participation to selected aspects of protection of nature in two publications *Legal aspects of solving social conflicts related to nature conservation in national parks in light of the principle of sustainable development*, in: *Chosen Problems of Nature conservation in Polish and International Law*, Polish Economics Publishers, Warsaw 2015, ISBN 978-83-208-2197-0 and *Legal aspects of landscape protection in light of the rule of public participation in environmental protection*, (*Prawne instrumenty ochrony krajobrazu w świetle zasady udziału społeczeństwa w ochronie środowiska*), in: *Zrównowagony rozwój społeczno-gospodarczy gmin i województw*, edited by E. Sobczak, Oficyna Wydawnicza PW, Warszawa 2016, ISBN 978-83-7814-554-7. I stressed in the first publication the necessity to ensure public participation at the stage of determination of boundaries of a national park, permitting to use the natural resources according to the sustainable development rule. I also referred to relations between a local spatial development plan and plans of protection of national parks. In the second publication I stressed that - through provisions of the act on modification of some acts due to strengthening the landscape protection tools, the basis landscape protection competencies were regulated, first of all, by the act on planning and spatial development. Provisions regulating the landscape protection did not assume the public discussion with assured participation of interested municipal bodies or social organisations; the access to information on planned landscape audits was also insufficiently assumed. I recognised in the publication that the disadvantage of new regulations is the practical lack of determination of instruments of negotiations of adverse interests related to the landscape protection, for example interests related to interdictions to perform building investments within landscape protection zones, introduced by a voivodship council.

Two sections in monographs are the summary of my research works concerning public participation in environmental protection; in those sections I referred to the necessity to

introduce changes in the constitutional and substantive law in order to ensure the appropriate construction of the institution of the environmental protection law which is participation of the society in environmental protection. In my publication *Tasks of the regional director of environmental protection in the field of ensuring participation of the society in environmental impact assessment procedures in light of the subsidiarity rule*, (*Zadania regionalnego dyrektora ochrony środowiska w zakresie zapewnienia udziału społeczeństwa w procedurze oceny oddziaływania przedsięwzięcia na środowisko w świetle zasady subsydiarności*), in: *Organizacja administracji publicznej z perspektywy powierzonych jej zadań*, ed. by T. Bąkowski, LEX a Wolters Kluwer business, Warszawa 2015, ISBN 978-83-264-8105-5 I pointed to issues related with the transfer of the basic competence concerning environmental impact assessment procedures to appropriate municipal bodies. Establishment of regional directors of environmental protection was to ensure the transfer of responsibility for proceedings concerning environmental impact assessment procedures to one body, and, therefore, to accelerate administrative procedures. That objective was not met. Introduction of new, constitutional solutions is still necessary in the field of the public participation in environmental protection. It may be recognised that the transfer of the entire environmental impact assessment procedure to appropriate regional directors of environmental protection, would be the required solution. Opposite to local government bodies, they do not have their own interests, they are not responsible for implementation of development investments neither at the national level, nor to the benefit of regional or local public interests. Besides, regulation of possibilities to nominate conciliation commissions able to perform - according to investors' proposal - proceedings with the public participation, should be also proposed. Regional directors of environmental protection are able to employ experiences negotiations in their structures; those negotiators would be able to professionally assist to achieve compromise solutions.

Continuation of research works concerning participation of the society in environmental protection leads to the conclusion that both, at the stage of establishment of laws, as well as at the stage of application of law, the Polish model of proceedings which require participation of the society is not directed towards the cooperation in environmental protection activities; it is directed towards disclosing interests of particular parties and individuals. Besides, ecological organisations are privileged in proceedings which require participation of the society; such organisations are focused on environmental protection, without any compromise and at all costs. In my publication *Legal instruments of cooperation in the field of environmental protection in the German and Polish legislation in light of the rule of cooperation*, (*Instrumenty*

*prawne współpracy w dziedzinie ochrony środowiska w prawie niemieckim i polskim w świetle zasady kooperacji*), in: *Prawo i polityka ochrony środowiska w doktrynie i praktyce*, ed. by A. Barczak, A. Ogonowska, Szczecin 2016, Wydawnictwo Naukowe Uniwersytetu Szczecińskiego, ISBN 978-83-7972-070-5 I made an attempt to point to the possibilities to apply new instruments of cooperation in the field of environmental protection. I referred, first of all, to discussion of instruments of cooperation described in the doctrine of the German legislation. According to that description those instruments include public agreements, informal agreements and mediations. Public agreements and informal agreements are applied, first of all, in activities of such business companies which utilise the environment and assume some obligations in the field of environmental protection. In Polish conditions the rule of cooperation assumes that relations between the public administration bodies and the society, including ecological organisations, should be based on such forms of cooperation which were regulated in the act on public interest organisations and on voluntary organisations. Referring to the fact that environmental protection tasks do not have to be exclusively performed by the state bodies, according to the subsidiarity rule it is also possible to order implementation of those tasks by non-public entities, including ecological organisations.

### **Ad. 3. Cooperation of the society with local self-government bodies**

I also studied the issue of public participation in wider range than only in connection to environment protection. In the paper *The role of social consultations in building self-government community of Gmina's habitants*, (*Rola konsultacji społecznych w budowaniu wspólnoty samorządowej mieszkańców gminy*), in: *Dwudziestolecie funkcjonowania samorządu terytorialnego w Polsce*, ed. by H. Kisilowska, E. Malak, Oficyna Wydawnicza PW, Warszawa 2010, ISBN 978-83-85964-99-5 I made an analysis of the idea of self-government community of habitants and indicated that while building the community, on the basic unit of self-government functioning as Gmina, it is the easiest to build civic society. I rated negatively regulations functioning then concerning social consultations encapsulated in a law about Gmina's self-government and I accentuated the necessity to legally regulate social consultations' supervision. In the publication *Selected aspects of the cooperation of local government units with non-government organisations in the light of the presidential draft law on cooperation for the benefit of local and regional development and amending certain laws* (*Wybrane aspekty współpracy jednostek samorządu terytorialnego z organizacjami pozarządowymi w świetle prezydenckiego projektu ustawy o współdziałaniu w samorządzie terytorialnym na rzecz rozwoju lokalnego oraz o zmianie niektórych ustaw*), in: *Współpraca*

*organizacji pozarządowych z samorządem terytorialnym*, ed. A. Gołębiowska, Powszechnie Wydawnictwo Prawnicze, Warszawa 2015, ISBN 978-83-940767-4-0 I indicated that the need to reinforce society participation in deciding about the development directions, whereas, instruments, offered by presidential project, can lead to an improvement in cooperation with the society to fasten local development. It can be acknowledge that presidential project concludes offers of dealing with creating new kinds of associations satisfy the social need for regulating an association having legal power. In my next article *Legal aspects of associations' responsibility for the public tasks realisation in favour of local communities, Prawne aspekty odpowiedzialności stowarzyszeń za realizację zadań publicznych na rzecz społeczności lokalnej*, in: M. Augustyniak (...), M. Zakrzewska at all, *Prawne problemy samorządu terytorialnego z perspektywy 25-lecia jego funkcjonowania*, ed. By B. Jaworska – Dębska, R. Budzisz, Warszawa 2016, ISBN 978-83-255-8455-9 I stated that the lack of legal subjectivity of regular society had an enormous impact on limited practice of this legal form. Granting special laws with legal subjectivity to a regular association should make the association a perfect partner to cooperate with local authorities. Additionally, in the publication I emphasized the fact, that the best form of pursuing a determined task, using public funding, is registration association that possesses legal personality and takes responsibility only for financial commitments. It should be acknowledged that for civic society development's sake it is essential to provide legal forms of associations that would be proper for small local initiatives, as well as for running consistent activity using public funding in order to pursue public tasks.

#### **Ad. 4 Axiology of environmental protection law**

Since the beginning of my research activities, after getting my doctor's degree, the subject of my interest included issues concerning the axiology of environmental protection law. It is worth to stress that the issues of the axiology of law is a highly important, and difficult, at the same time, area of research activities. Those research works should recognise the existence of a system of objective values since relative approaches to values result in the impossibility to perform final evaluation, whether objective values have been considered in the process of establishing of applying the law; then, consideration of issues of the axiology of law is not practically important. In my research works I presented anthropocentric approach to environmental protection, referring to recommendations of the social doctrine of the church. Among others, the rule of the common good originates from that doctrine; it was the subject of my analysis in the publication *The influence of the common good rule on participation of social organisations in solving ecological conflicts, (Wpływ zasady dobra wspólnego na udział organizacji społecznych w rozwiązywaniu konfliktów ekologicznych)*, in: *Aksjologia prawa*

*administracyjnego*, ed. by J. Zimmermann, vol. II, Warszawa 2017, Wolters Kluwer, ISBN 978-83-8107-808-5. In this publication I referred to the lack of cooperation between ecological organisations and other parties of ecological conflicts. From the approach to the common good as the term containing harmonised operations of communities, I derived the obligation of cooperation aiming at peaceful solution of conflicts.

In the publication *Ethical and axiological conditions of the public participation in implementation of selected tasks in the field of environmental protection, (Etyczne i aksjologiczne uwarunkowania partycypacji publicznej w zakresie realizacji wybranych zadań z ochrony środowiska)*, in: *Administracja publiczna – uwarunkowania prawne, organizacyjne i społeczne*, Powszechne Wydawnictwo Prawnicze, Warszawa 2015, ISBN 978-83-040767-5-7 I pointed to two areas of the environment, which cause the strongest emotions of representatives of ecological organisations: protection of the biodiversity (in particular in Natura 200 sites) and humanitarian protection of animals. The attitude to protection of animals or to protection of the biodiversity may reflect the extreme, ecocentric ideas which consider humans as one of the elements of the natural environment - but not the most important element. Considering such dilemma, the public administration should be sensitive to signals from the society and it should consider different motives and values in the course of establishing and applying the law. It should be stressed that there is a danger that in decision making processes environmental interests will be properly represented by ecological organisations while economic or social interests will not have appropriate representatives. Therefore the public administration bodies will not be finally released from the responsibility for organisation a procedure with the participation of the society, in which nationwide, regional, local or group public interests will be disclosed and balanced.

In the publication *Axiological and legal aspects of protection of human health in the environmental impact assessment procedure, (Aksjologiczne i prawne aspekty ochrony zdrowia ludzi w procedurze oceny oddziaływania przedsięwzięcia na środowisko)*, in: *Prawo zarządzania środowiskiem – aspekty sprawiedliwości ekologicznej*, ed. by M. Nyka, T. Bojar – Fijałkowski, Fundacja Rozwoju Uniwersytetu Gdańskiego, Gdańsk 2017, ISBN 978-83-7531-287-4 I stressed that protection of human health should be considered from the perspective of the ecological justice rule. The ecological justice being one of the variations of the public justice and it is closely connected with the protection of health, since it will become real when all individuals will be equally covered by protection against hazards for the environment and health. I *de lege ferenda* proposed to introduce in provisions of the act on the access to environmental information the possibility to refuse to approve implementation of an investment

if it may cause hazards for human health (at the same time I pointed to premises of the overriding public interests, which would allow for derogation from that rule). In this publication I also paid attention to the fact that both - in legal regulations and in practice, the possibility to refuse to implement an investment may be applied in the case of negative impacts of the investment on the Natura 2000 site, but not due to the basic value, i.e. the human life and health. This situation negates the anthropocentric approach to the ethics of the environmental protection law.

The next constitutional rule determining axiological basics of the environment protection law is axiological safety, which was the subject of my analysis in publication *Ecological safety in European Union and in Poland in the light of general principals of the environment protection law, (Bezpieczeństwo ekologiczne w Unii Europejskiej i w Polsce w świetle zasad ogólnych prawa ochrony środowiska)*, in: *Współczesny wymiar bezpieczeństwa - między teorią a praktyką*, red. J. Pawłowski, Stowarzyszenie Ruch Wspólnot Obronnych, Warszawa 2011, ISBN 978-83-933009-2-1. I likewise consider my article *Access to Environmental Information as a Fundamental Human Right – selected issues*, in: *Communication as a Measure of Protection and Limitation of Human Rights. Information in Relation to Human Rights*, edited by L. Dufalova, K. Lenhartova and others, Comenius University in Bratislava, Faculty of Law, Bratislava 2013, ISBN 978-80-7160345-0 as axiological argumentation. The right itself can be derived from the second article of the European Convention on Human Rights, confirming the universal right to life, protected by the act. The threats to human life could be not only terrorist attacks, but also the consequences of abusing the environment. Thus, every action potentially bringing harm for the environment and, consequently, to a large population, is prohibited by the principle of protection of life stated in the second article of the convention. Although the right to a proper environment was not stated *expressis verbis* in most European constitutions, the jurisdiction and the doctrine of the constitutional law associate this right with the right to life, because providing a suitable environment is one of the elements conditioning protection of the right to life. The Charter of Fundamental Rights could also be interpreted in such a way, implying that protection of the right to life depends upon providing a proper life environment. This connection was particularly emphasised in the Convention of Aarhus. It is worth mentioning that the Convention of Aarhus implies a duty of publication of information concerning the state of health and safety of people, the conditions of their life, the places of cultural importance and buildings, as long as they are or might be under the influence of the state of the environment or, through these elements, under the influence of factors, actions or means mentioned above.

## Ad. 5. Municipal waste management

A new research topic, that I took up as a result of the necessity to adjust the Polish legal system to a new European Union law determining waste management issue, are waste management policies. In a paper *Municipal waste management policies in the Polish legal system with a focus on Warsaw's local government as an example* in 23rd The Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee) Annual Conference: *Insourcing and/or outsourcing. How do they contribute to public administration reform*, held on May 21-23, 2015 in Caucasus University in Tbilisi, Georgia, ISBN 978-80-89013-77-7 I made evident that investment realisation regarding waste management according to the European Union legislator should be pursued by external subjects, and if they will not be found, eventually Gmina can fulfill the task by itself. The task realisation outsourcing which could be done by local self-government is commissioned by higher authorities. The aim of outsourcing application is not only to reduce costs and to be focused on essential qualities, but to make use of technology possibilities by providing the highest quality of services in local waste procession installations, for example in waste incinerators. Moreover, entrepreneurs carrying projects of building waste incinerators have experience in the matter of fulfilling similar investments in other countries. I likewise referred to the issue of waste management tasks realisation in a publication *Legal outsourcing conditioning of waste management tasks, (Prawne uwarunkowania outsourcingu zadań z zakresu gospodarowania odpadami komunalnymi)*, in: *Finansowanie zadań publicznych służących zaspokajaniu potrzeb wspólnot samorządowych*, ed. by A. Zalcewicz, Warsaw 2016, Publisher Poltext, ISBN 978-83-7561-0. As a consequence of waste Directive implementation necessity, Polish legislator responded in an univocal way when a dilemma appeared: outsourcing vs. insourcing of municipal waste management tasks. They can be described as reclaiming, transporting, together with procession of waste. Local self-government has been committed to carry tenders for these tasks as well as commissioning them to external subjects. Partnerships with Gmina's involvement can collect municipal waste from the owners of real estates for Gmina's commission, exclusively if they were chosen in tender. Gminas' self-governments have been also authorised to commission to external subjects tasks such as building, maintaining and exploitation of local waste procession installations. What is more, Gmina's self-government is fully responsible for implementing 2008 Directive about waste that concerns selective municipal waste collecting as well as reducing quantity of biodegradable waste, which is passed to waste stockpiles. In my work I evaluated limitation of Gmina's latitude to choose an appropriate subject to build waste

procession installation, which was modified in 2017 by termination of the law imposing that Gminas outsource the task.

The municipal management issue is touched upon in my paper *Gmina's authorities' part in solving interest conflicts connected with local waste procession installations using example of building waste incinerator*, *Rola organów wykonawczych gmin w rozwiązywaniu konfliktów interesów związanych z realizacją regionalnych instalacji do przetwarzania odpadów komunalnych na przykładzie budowy spalarni odpadów*, *Samorząd Terytorialny 2016*, z. 1-2. Gmina's authorities are responsible for providing building of waste procession installations, likewise they run procedure concerning giving away permissions for investments to build those installations. De lege ferenda I postulate that in case when Gmina as an investor or one of them is pursuing investment of public use, for which the procedure rating how the environment affected is run, to introduce obligatory exclusion of its authorities from giving off investment permissions. I also indicate that waste incinerator localisation is an enormously important aspect of investment, which is about to serve the entire local societies, but they cause gigantic nuisances for neighbourhood area. In my opinion it is necessary to make it a responsibility to enact for these areas plans for local management of space. Leaving the decision concerning the localisation of enterprises that can have meaningful impact on the environment, that are being pursued by one person, the head authority of Gmina, is a doubtful solution. Moreover, when Gmina's authorities are focused on the fastest way to build waste procession installation, it is essential to pass the decision to local environment protection manager, to provide public interest protection in this case connected with the environment.

#### **Ad. 6. Crisis Management**

I consider legal aspects of crisis management as new research directions that I followed. Admittedly, shortly after my PhD thesis defence I prepared a paper *Legal environment protection instruments against severe industrial breakdowns*, (*Prawne instrumenty ochrony środowiska przed poważnymi awariami przemysłowymi*), in: *Nowe wyzwania i wykorzystanie współczesnej nauki w zarządzaniu kryzysowym*, ed. by. E. Sobczak, PW Publishing House, Warsaw 2010, ISBN-978-83-930594-0-9. Nevertheless, through the recent year this topic was the subject of two of my papers. In the publication *Providing the information about dangers as an example of real activities undertaken at the stage of taking actions in crisis situations- legal aspects*, (*Przekazywanie informacji o zagrożeniach jako przykład czynności faktycznych podejmowanych na etapie reagowania w sytuacjach kryzysowych – aspekty prawne*), which is going to be released in *Administration and Law Studies of Opole* I emphasised the necessity for administration authority to take actions beyond regulated procedures, when life and health



of people are in danger. Whereas, my last article is called *Public consultation and access to spatial information as legal instruments of flood risk management using the example of the Odra river basin*, in: 25<sup>th</sup> Anniversary Conference Proceedings, ISSN 2623-5714 (Online), ISSN 2459-7627 (CD-ROM). It should be emphasised, that the after-conference thesis is going to undergo procedure of indexing in the international science bases of Web of Science and Scopus (the publication from the GIS ODYSSEY conference, which took place in 2016, has been indexed on Web of Science and the publication from 2017 is currently undergoing procedure of indexing). In my publication I stressed that the effectiveness of flood risk managements highly depends on the access to information concerning flood hazards. The access to water management information through tele-information networks is very important in the case of information operations directed towards the society. Informing the society about planned operations aiming at reduction of negative flood results, collecting opinions to planned documents and, finally, the access to information about approved documents, may lead to positive behaviour of particular individuals and institutions when the flood hazards become real.

#### **VI. Leadership in international and national research projects and participation in such projects**

In years 2011-2015 I was the leader of the research project titled *Legal aspects of public participation in solving environmental problems*. The project was financed by the National Science Center, awarded in the Sonata 1 competition announced in 2011 for research projects carried out by people starting a scientific career with a PhD. The result of the project was numerous publications and a monograph.

In years 2016 – 2017 I was the leader of the research project titled *Axiological and organizational aspects of cooperation between public administration bodies and entities outside the administration in deciding matters related to environmental protection and real estate management*, in under the grant for statutory activity (contractor PhD Dorota Wilkowska-Kołąkowska).

#### **VII. Presentation at international and national conferences**

After obtaining the doctoral degree, I participated in 30 national and international scientific conferences, whereas during 14 conferences I gave speeches. I presented the results of my scientific research at prestigious international conferences, including one lecture in English at a conference organized by The Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee) in Tbilisi (Georgia). In addition, I gave three lectures

at prestigious international conferences organized in Poland, as well as a Polish report at an international comparative conference organized in Costa Calma (Spain).

M. Zakrzewska, *Municipal waste management policies in the Polish legal system with a focus on Warsaw's local government as an example*, 23 rd The Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee) Annual Conference: Insourcing and/or outsourcing. How do they contribute to public administration reform, held on May 21-23, 2015 in Caucasus University in Tbilisi, Georgia;

M. Zakrzewska, *Wybrane aspekty prawnej ochrony przyrody na terenach parków narodowych*. Międzynarodowa Porównawcza Konferencja Naukowa Prawa Publicznego organizowana przez Wydział Prawa i Administracji Uniwersytetu Gdańskiego w dniach 20 - 27 marca 2017 r. w Costa Calma, Hiszpania;

M. Zakrzewska, *Aksjologiczne i organizacyjne aspekty ochrony zdrowia ludzi w procedurze oceny oddziaływania przedsięwzięcia na środowisko* Międzynarodowa Konferencja Naukowa – Zjazd Katedr Prawa Ochrony Środowiska pt. Sprawiedliwość ekologiczna w gospodarce, energetyce i administracji, w dniach 9-11 maja 2016 r. w Gdańsku;

M. Zakrzewska, D. Wilkowska – Kołakowska, *Wpływ systemu europejskiej infrastruktury informacji przestrzennej (INSPIRE) na procedurę transgranicznej oceny oddziaływania na środowisko planowanych przedsięwzięć*, Międzynarodowa Konferencja Naukowa pt. „Prawne aspekty współpracy samorządu i gospodarki wobec współczesnych przemian w prawie Unii Europejskiej” w dniach 8 -10 czerwca 2016 r. w Tomaszowie Lubelskim,;

M. Zakrzewska, *Teoretyczne i praktyczne aspekty funkcjonowania zasady kooperacji w ochronie środowiska* XVI Polsko-Czesko-Słowacka Konferencja Prawa Ochrony Środowiska: pt. Rozwój prawa i polityki ochrony środowiska, Pogorzelnica 5-8 września 2015 r..

The other lectures that I gave at national scientific conferences and a list of conferences in which I participated were listed in Annex 4 to the application.

#### **VIII. Teaching achievements and achievements in popularization of science**

After obtaining a PhD diploma, I conducted teaching at the Faculty of Administration and Social Sciences of the Warsaw University of Technology under the following faculty: Administration. As a supervisor, I conducted master's and bachelor's diploma seminars and promoted about 40 Master theses and 40 Bachelors theses. My other didactic achievements and in the field of popularization of science are listed in Annex 4 to the application.

**IX. National awards for scientific**

In 2002, I received a team award of the 3rd degree Rector of the Warsaw University of Technology for didactic achievements, and after PhD thesis in 2010 - an individual award of the 3rd degree Rector of the Warsaw University of Technology for scientific achievements.

**X. Information on international collaborations of the applicant**

As part of my scientific activity I took part in international conferences as a speaker and participant, and I undertook activities for internationalization of my research results. From 21 to 23 May 2015, I took part in the work of the Working Group on Local Government, during the 23rd of The Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee) Annual Conference: Insourcing and / or outsourcing. How to contribute to public administration reform, Caucasus University in Tbilisi (Georgia) In 2017, I actively participated in the International Comparative Public Law Public Scientific Conference organized by the Faculty of Law and Administration of the University of Gdańsk on 20 - 27 March 2017 in Costa Calma ( Spain), combined with lectures on Spanish law and meetings with the municipal authorities of the Canary Islands. In order to present the results of my research, I prepared a poster entitled Public consultation and access to the Odra River basin, issued during the poster session on September 10-14, 2018 during the 25th Anniversary of the Geographic Information System Conference and Exhibition "GIS ODYSSEY 2018 ", in Perugia (Italy).

As part of a project financed by the National Science Center "Legal aspects of public participation in solving environmental problems" in June 2015, I completed a ten-day library query at Universitätsbibliothek Europa - Universität Viadrina, where I collected materials for legal and comparative publication and materials regarding EU law regulating public participation in environmental protection.

**XI. Participation in international and national scientific organizations and societies**

In addition to scientific and didactic work, I consider participation in scientific organizations to be very important to me. For many years I have been a member of the Association of Polish Canonists and the Association of Education of Public Administration, and in 2017 I was appointed a member of the Program Board of the Association of Public Administration Education.

*Monika Łobuśka*