

SUMMARY OF PROFESSIONAL ACCOMPLISHMENTS

executed for the purposes of the habilitation procedure, presenting the description of scientific and academic accomplishments as well as the characteristics of an academic accomplishment as defined in article 16, paragraph 2 of the Act of March 14, 2003 on academic degrees and titles and on academic degrees and titles in the Arts (Law Journal of 2017, position 1789, as amended)

1. Name and Surname

Agata Kosieradzka-Federczyk

2. Diplomas and degrees held

In the years 1998-2003 I took a full-time law school at the Faculty of Law of the Cardinal Stefan Wyszyński University (UKSW); studies completed in 2003, with a very good grade.

During my studies, from February to July 2002, I was at the Faculty of Law of the Università di Studi di Cassino on the Socrates-Erasmus scholarship. The knowledge gained during the Socrates-Erasmus Programme on the Italian legal system resulted in the preparation of a master's thesis entitled "Tutela cautelare in administrative court proceedings in Italian law".

On January 20, 2009, I received a degree - a PhD in legal sciences – following the decision of the Council at the Law and Administration Faculty at Cardinal Wyszyński's University in Warsaw. Degree awarded based on a doctoral dissertation under the title of "Integrated Regional Operational Program - legal instruments for the selection of projects (administrative law study) prepared under the supervision of dr hab. Z. Cieślak, prof. UKSW, reviewers: dr hab. G. Szpor, prof. UKSW, prof. T. Włudyka (Jagiellonian University).

3. Information on employment in academic institutions to date

In the years 2004-2009, as part of cooperation with the Department of Administrative Proceedings of the Faculty of Law and Administration at the University of Cardinal Stefan Wyszyński, I taught the administrative procedure.

Since 2009, I have been cooperating with the College of Applied Information Technology and Management at Warsaw University of Technology: until 2011 - under a work contract at the Faculty of Information Technology Management, and in 2011-2018 I was employed as an lecturer at the Faculty of Information Technology Management. I taught public commercial law, environmental law, and diploma seminars.

From September 2017 to the present I am employed at the Department of Environmental Anthropology, I am the Head of the Unit of Sustainable Development, Law and Environmental Management, at the Institute of Ecology and Bioethics, Faculty of Christian Philosophy of UKSW.

At the same time since 2004, I have been employed in the central government administration (Ministry of Regional Development, General Directorate for Environmental Protection, currently Ministry of the Environment) since 2008 I have been appointed civil servant. In the years 2009 - 2015 I was an assistant judge of the Constitutional Tribunal; from 2013, I am a legal counsellor.

4. Indication of an accomplishment referred to in article 16, paragraph 2 of the Act of March 14, 2003 on academic degrees and titles and on academic degrees and titles in the Arts

As a scientific achievement obtained after receiving the degree of doctor of legal sciences, I submit a monograph entitled "**Environmental Impact Assessment. International law-related issues**", Warsaw 2019, ISBN 978-83-61551-28-7, p. 357. Reviewers: dr hab. Z. Cieślak, prof. UKSW, dr hab. M. Nyka (University of Gdańsk), number of characters: 889883.

The monograph mentioned above, according to the guidelines in article 16 act 2 concerning academic degrees and titles, constitutes my main academic achievement after receiving the academic degree of PhD at law.

At the grounds of the decision to undertake research work regarding the environmental impact assessment was the conviction that it would be necessary to analyze this instrument as a legal construction, which is an important element of decision-making as well as investment processes. As a research perspective, I adopted international law. Based on the nodal issues

related to this area, the chosen tool of environmental protection has been analyzed. The analysis of the international scientific achievements regarding the environmental impact assessment clearly indicates the fragmented embedding of theoretical issues related to the assessment of the impact on the international environment. In contrast, in Polish literature - if you can find scientific considerations regarding the assessment of environmental impact, as a perspective they accept Polish law (more often) or EU law (less frequently).

Considering the undisputed importance which the environmental impact assessment tool plays in solving environmental problems of a global, regional and local nature, the lack of embedding international research in Polish scientific literature should be considered a significant gap.

This monograph is filling this gap. It presents the first in the doctrine such a broad approach to impact assessment as an element of the decision-making process as a preventive instrument in environmental protection (a universal aspect - referring to the national and international situation). In addition, by embedding in an international legal context, it was possible to explore topics both environmental law-related and those belonging to international law. All this constitutes the novelty of the monograph.

The adopted research perspective is in relation with the thesis: the environmental impact assessment is an international instrument of preventive environmental protection genetically connected with national law, with an ordered internal structure. The consequence of internationalization is both the widespread use of the evaluation and the objectives pursued by this instrument, which go beyond environmental protection.

The thesis constructed in this way underlines that the analyzed instrument is present in national and international regulations. One of the determinants identified in the part of the book dedicated to the development of impact assessment in international law indicates national law. The scrutiny carried out in the work show the strong influence that national law has played in this area. A detailed analysis indicates mutual conditioning of development: national law undoubtedly played the greatest role in the initial period of using this instrument, because the first comprehensive regulation comes from national law and is associated with the adoption of the NEPA (the National Environmental Protection Act) in the USA.

The analysis of the environmental impact assessment shows that the internationalization of the discussed instrument is measured not only by the presence of an impact assessment in international legal regulations, but also by the role that this instrument plays in regulating inter-state relations.

The implementation of the fundamental thesis adopted in the work is supported by partial theses, related to the title node issues. These are: (1) placement of impact assessment amongst instruments of environmental protection and international law; (2) review and ordering the process of developing impact assessment from the perspective of the geographical dimension and the scope of the subject assessment; (3) examine the genesis of impact assessment in national law and then identify the factors that led to the internationalization of this instrument; (4) analysis of the characteristics of the impact assessment in the acts of international law and other documents and doctrine as the basis for formulating the definition of this instrument constituting the basis for further analyzes; (5) analysis of impact assessment as part of the decision-making process, with reference to the main objectives pursued by the impact assessment when making decisions regarding the implementation of the action; (6) examining the mutual interaction (relationship) of this instrument with the principles and institutions of international law, including international environmental law; (7) reconstruction of the stages of the environmental impact assessment procedure in international law; (8) identification of various roles played by impact assessment in international law.

The considerations were organized in seven chapters, the beginning and the end. Each chapter precedes the introduction and ends with a summary.

The first chapter has the introductory character. In addition to the characteristics of international law on aspects relevant to the work perspective, it presents the results of research on the development of impact assessments in the objective and geographical dimensions. They show that initially the study of the impact of a given measure on the environment carried out as part of the impact assessment focused on establishing the biological effects and physical changes that can be triggered by the action planned for implementation. Over time, it has been extended and now it includes social and cultural effects, impact on human life and health, and environmental effects that action proposed for implementation may trigger. The UN Framework Convention on Climate Change mentions impact assessment as one of the instruments used to combat climate change.

The growth of the impact assessment has led to a situation in which one can talk about the family of environmental impact assessments, created by assessing the impact on monuments, health, strategic environmental assessment.

Environmental impact assessment is one of the instruments used to solve environmental problems in the international dimension. The universal character of this instrument is evidenced by the fact that impact assessment not only falls into subsequent conceptions of environmental

protection and linking them with economic development, but also the fact that the evaluation is used as an instrument of sustainable development.

The development of impact assessment was undoubtedly different in developed countries than in developing countries. This can be seen in a broader context - with the state approach to the environmental problems in the national dimension. The need to protect the environment was more often noticed in developed countries, while developing countries paid more attention to economic development.

Summing up this part of the considerations, it should be stated that the development of EIA was influenced by both the adoption of environmental assessment procedures in subsequent national legal orders, as well as the interest which this instrument gained at the international level. In the first period, just after the adoption of NEPA, development in other countries was a consequence of the relationships with the United States. It is important that the United States' influence concerned states that could form a group of co-shaping international solutions for environmental protection. In this way, and only when the environmental impact assessment procedures have found a sufficiently wide application (also geographically) in the national legal systems, internationalization of such procedures has become possible. This process is best illustrated by the situation that took place during the conference in Stockholm - then the EIA was not able to be introduced into the final text of the declaration, despite the proposal contained in the project on which it was worked. 20 years later, when the EIA was already recognized in more countries, it became an instrument used in international documents, including the declaration ending the conference in Rio de Janeiro a reference to the impact assessment.

The Rio Earth Summit in 1992 can be considered as the pivotal moment from which the influence of international regulations on the development of EIA, also in national law, increases. The doctrine indicates "significant acceleration" of adopting evaluation procedures to national legal orders, mainly developing countries.

The monograph also contributes to the systematization of concepts used both in international law and in national law regarding the assessment of environmental impact. The fact, that the monography tends to clarify and organize some notions on the EIA tool, contributes to its specificity. The author's definition of EIA instrument, built and presented in the monograph in the second chapter, points out that it is a preventive and participatory environmental protection instrument, being an important element of the decision-making process. It aims to estimate the environmental effects of the planned activity to be implemented, which allows making environmentally responsible decisions. The definition is supplemented by five key features explaining the preventive aspect (1 feature), which is not limited to paying attention to the stage

of conducting impact assessment in the investment process, but refers to the doctrine concepts of evaluation as a procedure - "loop" more than a linear procedure . The second key feature concerns the participatory nature with which such public rights are associated, such as: obtaining information about the decision-making process being carried out; access to investment information and results of the investment impact analysis on the environment; the opportunity to comment on the planned investment and to analyze the positions and reservations of the public received by the decision-making administrative authority. Another feature (3) concerns the procedural aspect and emphasizes the ordered nature of the EIA procedure. In international terms, this applies to cross-border environmental impact assessment. The next feature (4) that distinguishes impact assessments among other environmental protection instruments is related to the use of its findings by a public-law administrative authority, that issuing development consent and deciding on the final shape of the activity being implemented. Although the results of the impact assessment are not binding on the decision-makers, this instrument allows to make environmentally responsible decisions (feature 5). In this respect, the role that the findings made during the impact assessment play in the decision-making process are most visible. In broad terms, the arrangements concern both the presentation of the environmental impact planned for the implementation of the action, as well as proposing measures to limit the negative impact.

The monograph analyzes the EIA in relation to the decision-making process as its element. From this perspective, the environmental impact assessment supports the achievement of three main objectives: (1) it supports decision-makers; (2) allows the inclusion of environmental issues in the decision-making process; (3) allows public participation in investment processes.

The research results indicate that the primary objective of the impact assessment is to support decision-makers, provide them with knowledge about possible environmental consequences, strengthen the decision-making process, so that the proposed action takes into account the needs of the environment. This leads to the optimization of the decision permitting the implementation of the action. The inclusion of issues related to comprehensive environmental management to the investment process cycle, ie the implementation of objective 2, is achieved by providing data to the process indicating possible negative environmental impacts that the activity may trigger at the stage of implementation or operation. They allow decision-makers to include, among others in the project documentation of requirements resulting from the need to protect the environment - environmental conditions that are necessary to the reduction of the negative impact on the environment. Public participation - the third objective - is expressed in the ability

of stakeholders to comment on the action planned for implementation. Impact assessment played a significant role in entering decision-making processes for the public.

The third chapter identifies and then analyzes the following determinants of the development of EIA at the level of international law:

- the impact of national law,
- presence of impact assessment at international conferences in the field of environmental protection,
- activities of international organizations,
- activities of international financial organizations.

The research results indicate that each of the determinants mentioned has its own specific dimension. The first determinant referring to national law indicates the roots of this instrument. They undoubtedly extend to the legislation of one country (the United States), which was taken over by other countries - Canada, New Zealand, or international organizations - the European Economic Community. This national law has defined the basic stages of the procedure, present in the international dimension.

The presence of an impact assessment at international environmental conferences is of key importance from the point of view of popularizing this instrument. The conferences were attended by representatives of the vast majority of states, including those for whom environmental protection was not always a priority. At a conference in Stockholm in 1972, the voice of these countries contributed to the inclusion of this instrument in the final Declaration. A major change in this area can be observed at the next conference - the Earth Summit in Rio de Janeiro. In the declaration ending this conference, a separate rule was dedicated to the impact assessment - 17. Several times this instrument was also indicated in Agenda 21, as the appropriate way to implement the activities mentioned in it.

The activities of international organizations in building a legal international position of environmental impact assessment are manifested in typical roles played in the international legal field: as a discussion forum for emerging environmental problems, expert facilities, place of conception of draft conventions, etc. This has created significant promotional opportunities for impact assessment on the environment, building necessary knowledge for the proper use of this instrument by: organizing training, creating guides, guidelines, identifying weaknesses regarding the use of impact assessment in the national and regional dimensions, which enabled taking appropriate measures to reduce or to eliminate them.

Another determinant concerns international financial organizations. The environmental policies quoted by selected financial organizations show that they are highly developed and

provide for an impact assessment as a condition for granting financial support for the proposed activity by the state. Circumstances that led to the inclusion of the evaluation procedure in the documents specifying the conditions for granting support, as shown in the analysis contained in the monograph, are complex. The actual impact of such organizations on the development of impact assessment concerns not only the requirement to carry out the evaluation as a condition for providing support for the project, but it remains much wider - it includes financing projects concerning difficulties and errors in the application of the evaluation in individual regions, as well as financing training activities that address these reasons (e.g. actions to improve the competences of human resources in developing countries).

The fourth chapter presents the results of research on the relation of EIA to selected institutions and principles of international law: sustainable development, principle non-discrimination principle, prevention principle, foresight principle, good neighbourliness and cooperation principle, no-harm principle (cross-border). The analysis carried out in relation to the role that EIA plays in implementing the principles and institutions of international environmental law, points to an individual relationship. In the implementation of each of the aforementioned principles and institutions, impact assessment plays a significant role. Along with the formulation of the concept of sustainable development that defines the relationship between economic and social development and environmental protection, it has become obvious that EIA should be one of the basic tools for its implementation.

Due to the fact that (1) EIA is carried out before the implementation of the activity, (2) it consists in the identification of environmental negative impact that may be associated with its implementation, (3) enables the implementation of such solutions that will reduce the negative impact on the environment, this instrument implements the principle of prevention. In addition, in situations where the determination of a negative impact is not possible due to the lack of scientific certainty, the findings made in the framework of the EIS implement the precautionary principle.

Discussing the relationship with the no-harm principle has been used, precedes the concise recall of the concepts in the doctrine regarding the understanding of this principle. Its essence concerns the order of such proceedings on the territory of the state, so as not to cause negative effects on the territory of other states. One of them emphasizes the obligation to maintain the requirement of careful action by the state. In other words, if the no-harm principle involves a duty of due diligence to prevent it from occurring, the classification of the State's behavior of not carrying out an impact assessment should be regarded as a breach of principle, regardless of the actual effects of the action, i.e. whether damage will be caused cross-border or not.

The reconstruction - in the fifth chapter - of the normative assessment of influence in international law was based on the sources of this law, with particular emphasis on the convention, followed by custom and soft law acts. Every legal act using this instrument arose in response to the needs of solving specific problems. In each of them, a different aspect of environmental protection is regulated, which means that the impact assessment is used to protect the new scope. This chapter identifies and examines conventions in the areas of nature conservation, marine environment, river use, climate change as well as regional conventions. For the latter, the Espoo Convention and the Aarhus Convention deserve special attention. The first of them was entirely dedicated to the cross-border environmental impact assessment, defining the mutual obligations of countries: origin and exposure. Although there is no reference to environmental impact assessment in the text of the Aarhus Convention, its connection with this instrument is obvious. The public participation that regulates this convention is most often implemented as part of the EIA tool. Among the general regional conventions, ie those that do not focus on one of the elements of the environment, but introduce comprehensive protection, the African Convention of 2003 deserves attention.

The analysis of sources of international law was used in the next, sixth chapter, in order to reconstruct the formal stages of impact assessment. It allowed to observe the occurring the same procedural solutions, although undoubtedly the degree of structuring the procedure differs in individual legal acts. Some conventions are limited to mentioning the name of the instrument itself, omitting any reference to procedural elements, others mentioning selected stages. The Espoo Convention does the most. The procedure is also described in detail in international law on Antarctic protection. The African Convention of 2003 is also quite strongly outlined. By the way, the observation is that similarly international organizations using the impact assessment as well as financial institutions understood the instrument with similar procedural stages. The following stages have been highlighted and discussed in the monograph: the initiation of the procedure (that is, the distinction of the conditions that have to occur to start the assessment); the setting of the obligation to carry out an impact assessment and determining of the scope to be assessed; notification consultation; public participation; final decision; monitoring and post-implementation audit.

The regulations contained in legal acts regarding the assessment of environmental impact strengthens the development in the form of guides and guidebooks specifying the intentions of the parties regarding the detailed use of this instrument. Although they are not legally binding, they build the legal status of this instrument.

Despite the regulation of impact assessment in numerous legal acts, coherence has been maintained regarding the procedural aspects of this instrument. It refers to the essential stages of the impact assessment, whereas detailed solutions applicable in individual legal orders may significantly differ. However, this does not undermine the basic assumption of the work accepted in the thesis that the impact assessment is a procedural instrument with an ordered internal structure (ie its stages).

The presence of the same procedural elements in international documents, as in national legal acts, explains the interconnections between national law and international law. The results are, among others, common problems affecting assessment in international law and national law.

The last chapter identifies the roles that impact assessment plays outside of the environmental protection field, discussed so far. Impact assessment allows identification of the interests of countries other than the country of origin. Importantly, due to its preventive nature, this takes place at the investment planning stage. Establishing the interests, often divergent, allows for negotiations to be conducted in good faith, which fosters a position that avoids conflict.

The obligation to initiate a cross-border procedure, depending on the fulfilment of the premises (the analysis carried out in the monograph showed differentiation occurring in individual conventions in the formulation of premises requiring the transfer of documentation to the state of exposure), allows to achieve the predictability of the behaviour of the state that is planning to implement a specific activity. From the perspective of the state, which may be affected by the negative effects of such action, this increases the level of security. Evaluation regulations may be perceived as introducing transparency in inter-state relations, not only in the neighbourhood, but also in regional relations – or in other words – in the scope determined by the predictable negative environmental impact of the planned activity.

The EIA is an decision-making processes that enables public participation. The element of the procedure that is present in international law as well as in national laws. Pursuant to the assumption, participation concerns the society affected by the actions planned to be implemented, regardless of the administrative boundaries of the states. One of the determinants of effective participation is the sharing of data on the planned activity, which may be seen as the contribution in shaping another tool of environmental protection – the access to environmental information.

In the last subsection, closing one, the issue of effectiveness and efficiency of impact assessment was discussed. Among the researchers conducted by both scientists and

practitioners, this is often taken up issue. There are also many methods of "measuring" effectiveness and efficiency: examining whether and to what extent the EIA has led to the achievement of goals; how long it completes the procedure. The effectiveness of impact assessments in international law can be presented using a different perspective: the genesis presented in this paper, and then the development of this instrument in a holistic approach can be a source of reflection on the degree of effectiveness of assessment in international law. This instrument is undoubtedly derived from national regulations, its quick transfer to the international level should be seen in the context of meeting the objectives set before it. Otherwise, such a dynamic development of this instrument would not be possible either in national legal systems, and even more so in international law, requiring the consensus of the states creating this law.

Development – in relation to international law, one can be perceived in two dimensions – "qualitative" and "quantitative". The "qualitative" development refers to the spread of the scope of the EIA – from the instrument intended to assess the environmental impact of the planned infrastructure projects to be implemented, to an instrument adequate to assess this impact caused by very different types of activities. "Quantitative" development is measured by the number of international law acts that indicate impact assessments as an instrument of environmental protection that would be appropriate for implementing the provisions of the acts. The separate fragments of the monograph have discussed the both issues.

The multiplicity of sources can both favour the implementation of the instrument, and also constitute a certain obstacle. The EIA constitute a relatively uniform procedure, which facilitates the extension of the application of this instrument to ever-new areas of environmental protection.

Although the enforceability of international law is weaker than national law, certain standards derived from the former may contribute to increasing the importance of this instrument in national law. Conclusions regarding the effectiveness of international regulations may also be drawn based on inquiries from the organs of some conventions regarding the state's obligation to carry out an impact assessment of individual projects. Examples are activities under the Ramsar Convention, Bonn Convention or the Convention on the Protection of Cultural and Natural Heritage cited in the monograph.

Another aspect is worth special attention. The acceptance of impact assessment as a universal instrument of environmental protection in international law and even in domestic law does not improve national practice. This is evidenced by, among others published in the publication, the difficulties occurring in the states regarding the reliability of documentation

prepared in connection with the assessment and its actual impact on the decision-making process.

Analysis of selected nodal problems proves the accepted thesis that the assessment of environmental impact is a well-recognized instrument of preventive environmental protection at the international level. Its origins go back to national law. Its procedure is ordered. The consequence of internationalization is both the widespread use of the evaluation and the objectives pursued by this instrument, which go beyond environmental protection.

5. Summary of remaining academic and scientific accomplishments

My scientific interests after obtaining the doctoral degree concern public law, in particular environmental law. A significant part of scientific achievements concerns the issues of EIA, it is the fundamental trend of analyses and scientific research related to my basic achievement - a monograph characterized in point 4. In total, apart from the monograph, among all scientific publications, impact assessments concern 15 publications of various character: articles in scientific journals, chapters in monographic studies, as well as commentary to the administrative court sentences. Impact assessments were presented in it from the perspective of various administrative theoretical and legal constructions. They focus, as a rule, around point issues related to this instrument. The dominating field of research is Polish law, European Union law appears rarely.

The specifics of legal solutions adopted in Poland, which fulfil the framework of EU regulations, are presented in the article Dealing with Environmental Impact Assessment - the Polish experience, *Central and Eastern European Legal Studies* 1/2014; pp. 115-135, ISSN: 2310-2705.

One of the issues analysed is the considerations regarding the legal description of the decision on environmental conditions as a decision ending the administrative proceedings. The results of the research were presented in three separate scientific articles. These are: Legal characteristics of selected aspects of the decision on environmental conditions, *Samorząd Terytorialny*, zeszyt 7-8 2013, pp. 52-60, ISSN: 0867-4973, Decisions on environmental conditions and their feasibility and implementation. Legal analysis, *Przegląd Prawa Ochrony Środowiska*, 2/2013, pp. 47-67, ISSN: 2080-9506; Decisions on environmental conditions: related or discretionary acts, declarative or constitutive acts? Legal analysis, *Kwartalnik Prawa Publicznego*, 3/2013, pp. 51-62; ISSN 1642-9591.

According to Polish procedure, the decision on environmental conditions ends the separate procedure initiated at the investor's request. Our legislator decided to adopt the same name for the final decision - regardless of whether it was preceded by an EIA or carried out without it (it contained only screening proceedings). From the perspective of the decision-making process, it is a significant difference because – by defining environmental conditions – it determines the shape of the investment to a larger extent. In an article published in the *Samorząd Terytorialny*, apart from the general presentation of the characteristics of the decision on environmental conditions as an individual administrative act, the issues of limited effectiveness of decisions in time were addressed, including the effects of such limited effectiveness; then – whether the decision can be cancelled in formal way after the expiration of the decision's effectiveness.

The article published in the *Przegląd Prawa Ochrony Środowiska* focuses on the issue of "feasibility" and "implementation" of the decision on environmental conditions in the context of temporary protection during court-administrative proceedings. The view on the impossibility of suspending the application of such a decision by the court pursuant to art. 61 § 3 of the Law on proceedings before administrative courts, since in the sentence including the complaint, the administrative court contains such an element of the decision.

The analysis is complemented by an article in the *Kwartalnik Prawa Publicznego*, which main issue is the qualification of decisions on environmental conditions with the use of classical distinctions of discretion and the binding of the content of the decision and its declarativity and constitutive aspect.

The procedural links of the impact assessment and the administrative jurisdictional proceedings have been analysed in four diverse aspects: exclusion of the employee from conducting procedure, determination of the legal nature of the environmental impact assessment report, indication of the competent authority to issue a decision on environmental conditions and regarding the annulment of the decision because of the lacking public participation.

In a vote to the judgment of the Supreme Administrative Court of 25 November 2011, II OSK 1981/11, *Gdańsk Studia Prawnicze Przegląd Orzecznictwa*, 2012/4, pp. 53-62; ISSN: 1734-5677 (co-authored by W. Federczyk) regarding the application of provisions of on the exclusion of an employee of a administrative authority that issues opinion in administrative proceedings, we demonstrated the need to apply the regulation on the exclusion of an employee of that authority who prepared an environmental impact report. It is necessary to obtain impartiality.

The issue of the legal character of the report on the impact assessment is devoted to the article published in the *Zeszyty Naukowe Sądownictwa Administracyjnego*, Rok VIII No. 1 (40) / 2012, pp. 41-56; ISSN 1734-803X. The report on the impact of the undertaking on the environment is the main evidence, based on which the authority determines the scope of the project's impact on the environment and decides about environmental conditions.

The next publication is a comment to the Supreme Administrative Court's decision of 15 November 2011, II OW 135/11, which settles the dispute regarding the authority competent to issue a decision on environmental conditions, referred to in the Act of 3 October 2008 on making information about environment and its protection, public participation in environmental protection and environmental impact assessments, for a project carried out in the marine area, *Gdańsk Studia Prawnicze Przegląd Orzecznictwa*, 2012/2, pp. 21-28, ISSN: 1734-5677. The factual situation, which became the basis of the dispute, illustrates the difficulties with the correct application of the legal norm.

Another issue that is under consideration concerns the annulment of the decision. The results of the research work are presented in the article "Ecological justice and annulment of decisions on environmental conditions issued without an environmental impact assessment", [in:] *Sprawiedliwość ekologiczna w prawie i praktyce*, collective work edited by T. Bojar-Fijałkowski, University Development Foundation Gdańskiego, Gdańsk 2016, pp. 157-166, ISBN: 978-83-7531-272-0. The article shows the clash of two issues: public participation in the decision-making process and annulling the decision due to the observed severe legal defects. The first is one of the immanent elements of the environmental impact assessment, presented in the first EIA procedure adopted under the NEPA. The second – is a typical example of the construction of national law. The question raised in the article concerns the possibility of annulment of the decision on environmental conditions in a situation where, despite the legal obligation, the administrative authority did not guarantee the public participation in the EIA. The ruling of the court, which became an impulse for the preparation of the article, excluded the possibility of recognizing such an infringement as a severe violation of the law. The positions of both the administrative law doctrine and rich case-law in this area represent the administrative perspective. However, this is a too one-sided approach, disregarding specific conditions for the assessment of environmental impact.

The issue of public participation in environmental protection has been raised in the article *Aarhus Convention*, [in:] *Partizipation im Umweltrecht Gegenwart und Zukunft*, Eva Schulev-Steindl / Gerhard Schnedl / Barbara Weichsel-Goby (Hg.), Graz, pp. 32-44, was submitted for

printing on October 2017, accepted for publication). It presents the implementation of international obligations (the Aarhus Convention) in the area of public participation during impact assessment in Polish law. However, the influence of the impact assessment on the assurance of public participation in decision-making processes in international terms has been discussed in the monograph referred to in point 4 of this application.

The subject of separate research was the relationship between individual instruments of environmental protection. Issues regarding the existing relationships between two environmental protection tools, i.e. an environmental impact assessment and areas of limited use, have been addressed in the wording to the Supreme Administrative Court judgment of 18 April 2014, Ref. Act II OSK 2769/12, Bound by the results of the environmental impact assessment when creating areas of limited use, Gdańsk Studia Prawnicze. Przegląd orzecznictwa, 2014, No. 3, pp. 11-19; ISSN: 1734-1582.

Another issue being the subject of research concerns the last stage of the evaluation procedure. In the article Monitoring as a corrective tool the project at the stage of its implementation, [in:] Prace studialne Warszawskiego Seminarium Aksjologii Administracji, Volume V Environmental protection and investment activity Legal aspects, collective work edited by Z. Cieślak and A. Kosieradzka-Federczyk, Warsaw 2016, pp. 101-110, ISBN: 978-83-61551-20-1, attention was paid to the role that properly conducted monitoring can play in environmental protection. Despite legislative changes in this area, the monitoring results still play too little role in environmental management in relation to their potential.

Due to the diversity of projects subject to obligatory or optional environmental impact assessment, there is no need to analyze each case. At the same time, however, selecting a complexity issue can formulate important general conclusions. An adequate example is the next article Fri Assessment of the impact of aviation projects on the environment, Study works of the Warsaw Seminary of Axiology Administration, Volume I Sketches in the field of substantive administrative law, collective work edited by Z. Cieślak and K. Zalasinska, Warsaw, 2012, pp. 111-125, ISBN: 978-83-62723-27-0. It contains an analysis of the correctness of the classification of the division of aviation enterprises as it can always have a significant and potential impact on the environment using the case law of the Court of Justice of the European Union.

Due to the importance of the EIA as an environmental protection instrument, I also undertook research work on evaluation relationships with constitutional solutions, the results

are presented in the article Implementation of constitutional environmental protection requirements on the example of environmental impact assessments, *Zagadnienia Sądownictwa Konstytucyjnego*, nr 2 (4) / 2012, pp. 81-94. ISSN: 2082-5692. Among important constitutional regulations that relate to the environment, such as art. 5 referring to the principle of sustainable development, attention should be paid to the environmental protection obligation imposed not only on public authorities (Art. 74) but also on everyone, and therefore of a universal nature (Art. 86). The preventive instrument, which is the EIA, adequately implements constitutional regulation.

Comparative research on solutions related to the environmental impact assessment adopted in other countries has resulted in the preparation of two scientific articles. The first is the Assessment of the impact of undertakings in Italian law - selected issues, [in:] *Prawo i polityka ochrony środowiska w teorii i praktyce*, collective work edited by A. Barczak, A. Ogonowska, Szczecin 2016, pp. 147-156, ISBN: 978-83-7972-070-5, ISSN: 0860-2751. Second - Strategic assessment of the environmental impact of plans and programs in Italian law - comparison of solutions adopted in Polish law, [in:] *Values in spatial planning*, collective work edited by Z. Cieślak, A. Fogel, Institute of Spatial Management and Housing, Warsaw 2010, pp. 117-130, ISBN: 83-86309-55-5. They show the existing differences in the approach to solutions used in the Italian legal system.

Strategic impact assessment issues has been analysed in other articles as well. In the Influence of International Regulations On Spatial Planning Power In Poland - "GIS ODYSSEY 2018" Italy 10th to 14th of September 2018, Perugia Conference proceedings, pp. 279-284 (during indexing in databases SCOPUS, co-authored by W. Federczyk), we presented the impact that international law regulations on strategic evaluation and mediation have on the local planning process. The next article is entitled: Are environmental impact assessments an instrument that can shape spatial order? [in:] *Restrictions in the development and development of land and the spatial order. Provisions separate from the act on spatial planning and development*, collective work ed. A. Fogel, Institute of Spatial Planning and Housing, Warsaw 2014, pp. 115-124; ISBN: 978-83-86309-74-0. Considering the connection of the strategic assessment with environmental protection in the first place, assigning it the role of an instrument shaping spatial order should be considered too far-reaching.

Monographic publications mention the protection of the environment in the investment process, Wolters Kluwer, 2015, p. 326; ISBN: 978-83-264-9158-0 (co-authored by: Anna

Fogel, Wojciech Federczyk). It contains an analysis of selected legal environmental problems that may arise in the investment process.

A separate area of my research is about access to information about the environment. The results of research conducted in this field were presented in three articles: Relations of access to information about the environment and personal data protection, taking into account the international context, [in:] *Internet Informacja przestrzenna Spatial Information*, collective work edited by G. Szpor and K. Czaplicki, CH Publishing Beck, pp. 51-60, ISBN: 978-83-815-8157-8; Public access to environmental issues. [In:] *Security and Globalization in the Context of European Integration. Legal Aspects*, collective work edited by P. Sobczyk, Verlag Kovac, Hamburg 2017, pp. 79-90, ISBN: 978-3-8300-9738-9; ISSN: 1613-09-79; Open access to information about the environment - a new phenomenon in public administration? *Prace studialne Warszawskiego Seminarium Aksjologii Administracji, Volume IV New phenomena in public administration*, collective work edited by Z. Cieślak and A. Kosieradzka-Federczyk, Warsaw 2015, pp. 133- 144, ISBN: 978-83-61551-11-9 .

The results of scientific interests related to environmental protection include further publications: Common environmental obligations in the light of selected constitutional regulations, [in:] *Dobra publiczne w administracji*, collective work edited by M. Woźniak and E. Pierzchała, Adam Marszałek Publisher, University Opolski 2014, pp. 189-196, ISBN: 978-83-8019-078-8; Decentralization of tasks in the field of nature protection; *25 lat funkcjonowania samorządu terytorialnego w Polsce – teoria i praktyka*, collective work edited by K. Popik, B. Szmulik and M. Mazuryka, Innovatio Press Wydawnictwo naukowe, Lublin 2018, pp. 71-81; ISBN: 978-83-64527-34-0 and one of the last - Challenges of public administration in the field of climate policy, [in:] *Stulecie polskiej administracji. Doświadczenia i perspektywy*, collective work edited by W. Federczyk, National School of Public Administration, Warsaw 2018, pp. 117-131, ISBN: 978-83-61713-07-4.

Waste management legal problems were analysed in two articles: Administrative functions in waste management on the example of a commune, [in:] *Prawne aspekty gospodarowania zasobami środowiska. Oddziaływanie na zasoby środowiska*, collective work edited by B. Rakoczy, A. Szalewska, K. Karpus, Toruń, pp. 255-266, ISBN: 978-83-72-85-770-5; and referring to EU law - European Union Priorities in Waste Management, *Współczesne Problemy Zarządzania*, 1/2013, pp. 47-63, ISSN: 1689-7293.

To articles containing legal and international analyzes, the ones listed above should be joined by others - they concern the following issues: forest protection and linking tourism with the subject of protected areas. They have been included in the following articles: Legal international protection of forests - selected aspects, *Studies Ecologiae et Bioethicae* (submitted for printing June 2018, accepted for publication) and Tourism and protected areas in the perspective of international conventions for environmental protection, *Studies Ecologiae et Bioethicae* (submitted to printing in 2018, accepted for publication).

Another scientific character from the aforementioned is the commentary to the Act of 13 April 2007 on preventing environmental damage and repairing it (electronic publication at Lex.pl), Wolters Kluwer, 2013 (cooperation with W. Federczyk), comprehensively explaining the issue of this law.

My scientific researches contains also articles related to public law, including problems important from the perspective of administrative and constitutional law. The results of the research are presented in the following publications:

- Glossary to the judgment of the Supreme Administrative Court of 7 October 2014, Ref. act II OSK 846/14 Designation of the body in the act of local law and the general norm, *Gdańskie Studia Prawnicze. Przegląd orzecznictwa*, 2016, No. 1, pp. 15-26; ISSN: 1734-1582
- Legal aspects of the professional ethos of public administration employees (co-authored by W. Federczyk, A. Syryt), [in:] *Służba publiczna Etos pracy urzędników w Polsce*, collective work edited by S.H. Zaręba, M. Zarzeckiego, Warsaw 2015, pp. 37-54, ISBN: 978-83-62793-14-3
- Competition proceedings on the selection of projects for co-financing from the EU funds and the Code of Administrative Procedure, *Prace studialne Warszawskiego Seminarium Aksjologii Administracji*, Volume III Szkice z zakresu procedury administracyjnej, collective work edited by K.A. Wąsowski and K. Zalańska, Warsaw 2014, pp. 117-130, ISBN: 978-83-89937-71-1
- Does the division into public and private law still remain useful? Remarks on the example of the position of local self-government units (co-authored by W. Federczyk), [in:] *Jedność norm i wartości*, *Zbiór studiów dedykowanych Prof. M. Gintowt-Jankowicz*, *Krajowa Szkoła Administracji Publicznej*, Warsaw 2014, pp. 219-228, ISBN: 978-83-61713-85-2
- Selected tasks of Presidents of the Republic of Poland and the Italian Republic in the jurisprudence of constitutional courts, [in:] *Instytucja Prezydenta w Polsce i we Włoszech*,

collective work edited by J. Kielin-Maziarz, J. Wawrzyniak, Wolters Kluwer, 2014, pp. 234-249, ISBN: 978-83-264-3296-5, ISSN: 1897-4392

In total, the current scientific achievements include 36 scientific publications.

I am also a co-editor of two monographs: *Prace studialne Warszawskiego Seminarium Aksjologii Administracji*, Tom IV Nowe zjawiska w administracji publicznej, (co-editor Z. Cieślak), Warsaw 2016, ISBN: 978-83-61551-11-9 and *Prace studialne Warszawskiego Seminarium Aksjologii Administracji*, Tom V Ochrona środowiska a działalność inwestycyjna Aspekty prawne (co-editor Z. Cieślak), Warsaw 2015 ISBN: 978-83-61551-20-1. They are related to the nationwide scientific conferences co-organized by me "New phenomena of public administration", 2014 Warsaw and "Environmental protection in the perspective of investment activity", 2016 Warsaw. Both organized as part of the scientific cooperation of the University of Information Technology and Management in Warsaw and the Warsaw Seminary of Axiology Administration.

Another type of scientific activity is the participation consisting in the presentation of papers at national and international conferences and seminar. A total of 11 conferences: presentations at three international conferences (in Italy, Austria, Poland). The remaining are national conferences, including the presentation of the paper at the Congress of Environmental Protection Law Departments (9-11.05.2016) and seminar.

I also participated in a research team implementing the international project "Law, economy and technology for crime prevention" co-financed by the Justice Fund. The program was carried out with the participation of experts from renowned scientific centres - IESE Business School (IESE), Harvard Business School (HBS), SRI International (SRI, formerly: Stanford Research Institute) and Massachusetts Institute of Technology (MIT). The main goal of the program was to undertake research on the causes of crime in Poland and in the world as well as methods of limiting risk factors for its occurrence in four key areas of the Polish economy: insurance sector, financial sector, energy sector and people management in organizations. My participation consisted in scientific consultations of four reports prepared as part of the project.

My didactic and popularization achievements include conducting didactic classes (lectures, monographic lectures, seminars) for students of environmental protection and an all-university lecture available to all UKSW students. The subject of lectures is: environmental law,

international environmental law, administrative law and environmental protection authorities, Environmental Law. As part of my seminar on Environmental Protection Law last year, 6 students were promoted. Taking into account the seminar at the School of Information Technology and Management in Warsaw, over 30 diploma theses have been prepared under my supervision.

As part of the Erasmus + program, I conducted lectures in Italian language during the summer semester of the 2015/2016 academic year at the Faculty of Law of the University of Siena (Universita 'di Siena). The subject matter of the lecture concerned the Polish administrative proceedings.

I would like to add, as a part of my scientific activity the participation in the Warsaw Seminary of Axiology Administration. For a dozen or so years (about 15) since its creation, it has gathered scientists interested in phenomena occurring in administrative law and administration. Seminar created on the initiative of dr hab. Z. Cieślak, has become a forum for researches for the exchange of views (as part of conferences, seminars, scientific publications) about administration. As part of my activity, I prepared two conferences and co-edited two scientific publications. Currently, after establishing the WSAA Foundation, I am a member of the Foundation's Council.

Another type of dissemination activity are publications in the field of environmental law, in the part concerning waste management by territorial self-government, mainly municipalities and the voivodeship prepared for Wolters Kluwer. In total, I prepared about 20 such studies having the character of practical comments, addressed mainly to the local government. They present both the interpretation of existing legal regulations, as well as the analysis of the positions of administrative bodies and the jurisprudence of administrative courts in this regard.

I am also a author of expert opinions on Polish law and comparative law, prepared at the request of public and social institutions.

I also include the position of national expert of the European Commission for Environmental Impact Assessment and Strategic Environmental Impact Assessment (2011) and participation in the team established within the Ministry of the Environment representing Poland in two cases before the Aarhus Convention Compliance Committee in Geneva. Participation included co-

editing of positions, as well as representing the country during the hearings before the Committee.

6. Scientific and academic plans

My immediate professional plans remain in field of environmental protection tools and are connected to environmental impact assessment family tools. They concern the area of strategic impact assessment. Despite the formal closeness, the differences between the impact assessment prepared for individual projects and the strategic assessment remain significant, which can be seen in the aspect of the role that this instrument plays in the decision-making process and, consequently, in environmental protection.

Apote Kowenoko -
Fadlyh