Prawo weterynaryjne *Veterinary law*

Current standards of animal species protection according to jurisprudence

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Summary

The article analyses the impact of the judiciary's legal interpretation and certain extralegal conditions affecting this process on the actual status of animal species protection. Strict species protection is found not to be absolute or unconditional. Exceptions and derogations possible under national and European law are determined. Court decisions are proven to play a significant role in the application of these exceptions, overseeing administrative decisions. Assumptions of different goal values and different techniques of legal interpretation are observed as crucial factors influencing the shape of legal norms. Certain legal and extra-legal factors affecting legal interpretation and the differentiation of animal species protection are demonstrated.

Keywords: species protection, adaptive population management, legal interpretation, conservation law, human–wildlife conflict

Wildlife often comes into unintentional conflict with the human population. Elks get into road accidents or destroy young tree stands; wolves kill and eat farm animals; beavers build dams and flood agricultural or recreational areas, and undermine flood embankments; European bison, deer, or wild boars destroy crops and forest plantations, and can also be aggressive towards humans (12, 14, 29, 35). An extreme and anecdotal example of the conflict between wildlife and human infrastructure was the recent (22 March 2026, 7.30 AM, in Witowo, on the border of the Białowieża Forest) collision of a group of European bisons with an Intercity train IC1116 called „Żubr" (Polish for: European bison) on the Białystok–Warsaw railway route (19). Resolving human–animal conflicts and managing wildlife populations is a difficult task for public authorities and scientists, especially for species strictly protected by law, such as the European bison and wolves.

Court decisions play a significant role in the application of the nature conservation law, overseeing administrative decisions regarding derogations from the normative prohibitions. The research aims to determine whether and how the interpretation of the law influences the shape of legal norms derived from animal species protection regulations, and whether this influence is significant, meaning whether it has real consequences for the conservation status of animals, and the adaptive management of protected populations. Analysis of Polish and European legal norms regarding the conservation and management of protected species populations provides a basis for assessing their practical application in court decisions. Thus, this study aims to determine the actual status of species protection in terms of the "law in action". Legal and extralegal factors, threats, and positive aspects are identified and analyzed when considering specific cases. Certain *de lege lata* and *de lege ferenda* postulates are presented.

Material and methods

Polish (31, 32, 37-40), international (2), and European (1, 3-7, 30) legal acts on species protection were examined and compared with an analysis of the selected case law of Polish (24, 41) and European (8, 9) courts regarding administrative derogations from strict species protection. An extensive review of case law preceded the preparation of the article. Cases of European bison culling in Poland were examined, as well as cases of wolves discussed in the European legal system, as representative cases for strictly protected animals. Judgments with the most extensive legal justification and argumentation were selected. Discussed cases constitute representative examples of a line of case law that has already been formed. The obtained results were compared with selected extra-legal conditions of the analyzed problem.

Results and discussion

The conducted research enabled the determination of legal norms and legal reasoning, resulting in the development of species protection law in Poland. It was found that the current standards of legal protection of wildlife in Poland are disputable, and the actual level of effective nature conservation could be improved. At the same time, the idea of classical species protection and the form of legal interpretation used could be indicated as the causes of this state of affairs.

The current status of species legal protection is determined by the Nature Conservation Act, 2004 (38), accompanied by implementing provisions (31, 32), as well as the European (1, 3-7, 30) and international law (2).

It was revealed that in Poland, strict legal protection of animal species is organized under Art. 49 of the Nature Conservation Act (38) and §§ 1-2 of the implementing ministerial regulation (32). These regulations implement Art. 12 of the Habitats Directive (6). Intentional killing, capture, keeping, or trade are strictly prohibited and penalized (2, 6, 32, 38).

Nevertheless, the Habitats Directive, 1992 (6) was found to be of particular importance, as it significantly determines many aspects of the protection of individual species across Europe (it also allows the authors to analyze European case law concerning other European countries). The research results indicate that this Directive is very casuistic, as it contains lists of species in its annexes, each with a different protection regime. The most important from the point of view of the current research are Annex IV, which establishes strict protection (killing prohibition), and Annex V, which permits use (e.g., hunting) under legal control. It was, however, observed that the Directive is also quite abstract and general, and leaves a significant margin of legislative and decision-making freedom to individual countries.

Strict legal species protection does not mean an absolute and unconditional one. Exceptions are possible under Art. 56 of the Nature Conservation Act (38), and under Art. 16 of the Habitats Directive (6). Thus, in justified cases (such as an animal being subject to a disease or injury, causing damage, or posing a threat to human safety), sanitary or reduction culling as part of population management is acceptable. Obtaining the individual administrative consent decision, in accordance with Art. Sections 52 and 56 of the Nature Conservation Act (38) is needed (8, 9, 24, 41).

The analysis revealed that the fundamental axiological basis of all the regulations discussed, as well as the dominant direction of their interpretation, is the classic concept of nature conservation, which primarily assumes the preservation of all individuals of endangered animal species. However, it was established that the Polish legal system also allows for different, more innovative interpretations of species protection regulations. These are based on more advanced interpretation methods, according to which the goal of protection is to ensure the existence of healthy, well-adapted, and self-sufficient populations. Species protection law, by its very nature, requires the use of adaptive management methods and the prioritization of the quality of wild animal populations over their sheer numbers. Only some interpretations adopted by administrative bodies or courts remain rooted in the older conservation paradigm and are based on a more rigorous approach.

An analysis of national case law (24, 41) regarding the admissibility of derogations from the statutory ban on killing strictly protected species has led to several key conclusions. The grounds recognized by the General Director for Environmental Protection and administrative courts (24, 41) as justifying the application of the procedure provided for in Article 56 of the Nature Conservation Act (38) include, in particular: disease, injury, or aggressive behavior of animals; the need to protect a significant public interest; damage to agriculture and forestry; population growth outside of its appropriate range; and the lack of alternative solutions that would achieve the intended goal without negatively impacting the species' population.

An analysis of the case law allows us to conclude that culling protected species is treated as an exceptional measure, permissible only in strictly defined cases. The dominant interpretation of Article 56 of the Nature Conservation Act remains the classic conservation model, according to which culling is an instrument for population protection and management, not a tool for population reduction. At the same time, courts (24) consistently assume that the primary object of protection is the species population, not individual individuals, pointing out that the elimination of individuals can, in certain situations, serve to preserve the species as a whole (24, 41). Court arguments also emphasize the importance of disease prevention and reducing animal suffering.

Case law also indicates that damage caused to agriculture and forestry can constitute a standalone premise justifying the issuance of a permit derogating from protective prohibitions. This means that a reduction cull of European bison is permissible also for economic reasons, not just health-related ones. At the same time, it emphasizes the need to conduct a thorough assessment of the planned cull's impact on the local population of the species.

According to the established position of administrative courts (24), when issuing a decision derogating from protective prohibitions, the General Director for Environmental Protection is obligated to demonstrate the existence of specific threats, the lack of effective alternative solutions, and to analyze the impact of the planned actions on the population of the given species (38).

In practice, administrative decisions specifying a maximum limit of individuals to be culled, for ex-

ample, "up to 20 individuals" also prove permissible. However, such decisions remain controversial and may be subject to judicial review. They require particularly careful justification based on scientific data. Furthermore, more important than individual animal identification is a precise definition of the maximum number of individuals covered by the decision, along with the conditions for its implementation.

As demonstrated, Art. 56 of the Nature Conservation Act (38) provides a basis for applying exemptions from strict protection in practice and flexibly, while maintaining control over legality by administrative courts. However, the quality of the justification for the decision and of the demonstration of compliance with the statutory requirements are crucial in the context of European bison culling. Analyzed judgments (24, 41) are significant for the practical application of species protection regulations. Polish administrative courts correctly pointed out that the nature conservation system provides flexible mechanisms that enable responding to conflicts between species protection and economic interests. However, the authorization of "limit" decisions, which limit the level of individualized interference with a protected population, may be controversial. This could lead to a weakening of the standard of species protection, especially if the authority does not specify the criteria for selecting individuals for elimination. On the other hand, the position adopted by the Polish Supreme Administrative Court reflects the realities of managing large mammal populations. It enables effective administrative action in situations requiring a rapid response.

The perspective of the case law of the Court of Justice of the European Union (CJEU) is crucial because it limits the freedom of national legislation that, at first glance, appears to be granted by the Habitats Directive (6). Representative examples of European judicature (8, 9) were chosen and examined from a comparative legal perspective. The arguments drawn therein and the CJEU's reasoning presented can also be applied to the species tradition analyzed in this study. Examination of the case law showed that the CJEU has specified in detail the principles of functional interpretation set out in the Habitats Directive.

First of all, the CJEU pointed out that any derogations are an exception, not a rule, which implies their very strict interpretation. This is in line with the classic legal interpretation directive, which prohibits the expanding interpretation of exceptions.

Moreover, the cited judgment indicated that "prevention" in the general sense is not enough. A general goal (e.g., improving public sentiment towards wildlife) is insufficient; a specific and documented threat must exist. The authority deciding to apply a derogation in a specific case must also demonstrate a lack of alternatives (no other measures such as fencing or pecuniary compensation). This evidentiary threshold must be regarded as very high.

Another requirement, as indicated in case law, for the legality of derogatory measures is that the decision be based on scientific data, current population data, and an analysis of the impact of culling. In particular, elimination must not affect the so-called favorable conservation status: culling must not worsen the overall condition of the species' population. It must be neutral or positive for the entire population.

In light of such European case law, the scope for applying derogations from species protection provided for in Art. 16 of the Habitats Directive (6) and its national implementation (6) is significantly narrower: requiring a strict interpretation of the conditions, demonstrating the absence of alternatives, and basing decisions on scientific data. This may conflict with the more liberal practice of Polish national authorities and administrative courts (24). Therefore, national decisions to cull "up to 20 individuals" may be considered problematic. They may be considered borderline to the CJEU standard, or even contrary to it, if they fail to identify specific threats or specific harm. Similarly, the national administrative authority is obligated to demonstrate that culling is necessary because no other management methods exist.

This leads to the conclusion that there is a potential tension between national practice and the European standard. While national statutory acts allow for a fairly broad application of derogations, the CJEU requires a very restrictive approach. In extreme cases, decisions of the General Director for Environmental Protection could be challenged at the European level.

It was found that case law is primarily based on linguistic interpretation, with limited use of functional, teleological, and systemic interpretations. In general, courts fail to consider non-legal aspects of the problem being analyzed, such as economic, ethical, ecological, and other issues. This is particularly true of Polish administrative courts and authorities.

It can be assumed that courts leave the involvement of these factors to the lawmaking stage, limiting their role and responsibilities to legislation. But is this a correct position?

The CJEU appears to be a much more restrictive court than Polish administrative courts, which are more liberal and grant broad discretion to public administration bodies. However, this is a superficial observation, as the nature of case law stems primarily from the organizational regime and structure of individual courts, as well as the scope of their cognition and jurisdiction. In Poland, the administrative courts are exclusively courts of law, not courts of fact; they only control the legality of the decision (compliance with the law, correctness of the procedure, completeness of the justification) and evaluate procedural matters, and not the purposefulness of the decision or the accuracy of environmental assessments. Meanwhile, the CJEU focuses primarily on whether national legal acts and their application in administrative decisions fully

implement the objectives set by the Directive (6). Thus, teleological and functional interpretation methods can be and are applied.

A model case should include the identification of specific individuals, demonstrate that all available alternatives have been exhausted, and be based on a detailed scientific analysis. Derogations from species protection permitted under national law should be interpreted in light of the restrictive standards set by the CJEU's case law, particularly with respect to the culling of strictly protected species such as the European bison.

Different factors affecting the status and scope of legal protection, as well as the processes of legal interpretation and application, can be identified. Not all of them will be discussed in this analysis. Nevertheless, the authors would like to draw attention to the most important factors currently influencing the model of interpretation and application of law, or that may do so in the near future. Foundations of the current legal protection's impact will be particularly emphasized.

As already stated, the species' legal protection status across Europe is fundamentally shaped by the Habitats Directive (6), which affects the level of protection afforded to various species in diverse ways. The Directive precisely defines the levels of species protection and the grounds for exemptions and derogations (Art. 16), but leaves individual countries broad discretion in applying these exceptions. This legislative and decision-making discretion leads to disputes, such as those over the regulation of protected animal populations.

The current species conservation practice in Poland is not entirely satisfactory. The most severe obstacle to changing the discussed conservation model is the symbolic role of certain species (such as wolves or the European bison) as monuments to restituted species, as well as the outdated philosophy of species protection. In the authors' opinion, however, the symbols cannot dominate the scientific approach.

In fact, the formation, interpretation, and application of law and jurisprudence are influenced by many factors.

The history of Polish nature conservation law is among the earliest, conscious, and targeted species- and habitat-protection activities in the world (22, 33, 34). For instance, the origins of beaver protection date back to the 11th century, and European bison – to the 16th century (10, 15, 22, 23, 25, 27-29, 33, 34). The regulations discussed were not limited to prohibiting animal killing. Habitat protection was also crucial; the forest complexes (such as the Białowieża Forest) were protected as valuable ecosystems. Moreover, severe criminal repressions were established, including mutilation and the death penalty. However, the aforementioned historical regulations primarily aimed at strict protection against the exploitation of economically valuable resources, not at nature conservation or species protection. Protection of habitats and species was motivated by the desire to preserve valuable elements of state resources and national treasures. Current law continues these legal traditions, but its regulations are based, at least in part, on different factual and axiological foundations.

Social influence and attitude are crucial factors in legal interpretation and in shaping the future of legal provisions. However, issues such as the ethical views on the absolute inappropriateness of killing animals and the need for unconditional species protection are beyond the scope of this analysis. The authors merely wish to highlight the existence of such, and less radical, ethically motivated voices in the current public debate.

Undoubtedly, all protected animal species can cause harm and damage, which influences human perceptions of their protection. For instance, an uncontrolled increase in animal populations causes serious damage to agriculture and forestry; it increases the risk of accidents, which is becoming a significant social and economic problem (42), and alters public perception and approach to protected species. The sphere of human–animal conflicts results from growing wildlife populations. This leads to increased public negative assessment of species protection, polarization of attitudes, and, at the same time, publicist or political calls to ease or abolish species protection. An ambivalent attitude towards animals is evident (14, 21, 29). Thus, social tension between species protection and the need to control animal populations is emphasized. In the authors' opinion, this is a crucial extra-legal factor in species protection that simultaneously influences future legal norms.

It was deterined that the motivations for animal protection are and were diverse: in the past, the dominant reasons were, inter allia, religious, cultural, economic, hunting, entertainment, aesthetic, prestigious, representative, diplomatic, and political (10, 11, 15, 20, 22, 33, 34); while contemporary (that is, in legal acts from the second half of the 20th century) factors such as ecological motivation, concern for biodiversity, counteracting environmental degradation, human responsibility for the environment, dominate (11, 15, 16-18, 21, 22). Culture-protective motivation, treating animal protection as an element of broadly understood heritage protection, should also be noted (13, 22). Such an axiological shift can be referred to as a transition from utility protection to conscious environmental and ecological protection.

This does not mean, however, that contemporary nature conservation law has only such sources, and a philosophical and scientific foundation. Economic motivations are equally important and increasingly evident. Although in the 20th century and at the beginning of the 21st century, the protection of European bison, beaver, and elk in Poland resulted from the need to prevent their extinction, economic and social factors are increasingly important today (42). In the authors'

opinion, it is an often-repeated cliché that, for centuries, nature conservation was subordinated to human economic and political interests, and it was only in the 20th century that a modern concept of environmental protection began to develop, grounded in science, ethics, and responsibility to future generations. This is a superficial perspective. Even today, economics and politics, the utilitarian benefits derived from protecting species and habitats, are crucial, yet non-exclusive. It is therefore pointed out that the current motivations for animal species protection are primarily complex, multi-factorial: ecological and economic (26).

This proves that the motivations for nature conservation are variable; they depend on changes and evolution, from actions motivated by economic interests and the prestige of the government, through attempts to save endangered species, to contemporary population management (16, 22). These motivations are crucial because they significantly influence the processes of creating, interpreting, and applying law, as well as the case law.

The approach to animal protection has evolved significantly and requires further development. Therefore, it is worth noting that nature conservation today is not limited solely to prohibitions, but requires active and conscious environmental management through active human intervention, which is a key direction in contemporary nature conservation. Following the changes in social attitudes towards protected wildlife, a return of economic and social interests in scientific and legal conservation strategies, and in the axiology of law can be observed. Future law should take into account a wide range of motivations and balance a variety of interests. Species protection is not a completed process but requires continuous monitoring and human involvement (27, 36). Managing conflicts is a key element of effective nature conservation. Preventing future damage requires flexible solutions rather than standard methods (17).

Conclusions. The current research demonstrates the impact of the court's legal interpretation and certain extra-legal conditions affecting this process on the actual status of animal species protection. Assumptions about different goal values or different interpretive techniques shape the contours of legal norms. Real consequences for the conservation status of animals determined in the current study include the admissibility of culling protected animals, or the lack of this derogatory empowerment. Both Polish and European legal acts are grounded in the same axiological basis and adopt analogous standards and methods for nature conservation and management. Nevertheless, as shown, courts reach different conclusions in their analyses and interpretations of the law, which, in turn, results in different standards of protection.

Legal and extra-legal factors coexist and influence each other; courts and other public authorities do not operate in a "pure legal vacuum," and are susceptible to taking into account public sentiments, threats, and positive aspects of animal species protection. Possibilities for adaptive management of protected wildlife populations should be discussed in the future, including the acceptance of different paths of legal interpretation of current legal provisions.

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