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The Legal Basis for Protection against Road Traffic Noise: An Outline of the Issue. Part One

Prawne podstawy ochrony przed hałasem drogowym. Zarys problematyki. Część pierwsza

ABSTRACT

The article presents a multi-faceted analysis of legal regulations relating to protection against road traffic noise. The problem of this kind of noise is topical and very important. The development of traffic networks, the growing number of cars on Polish roads and the development of towns and cities mean that more and more people are exposed to harmful noise from roads. In view of this, it is necessary to establish whether the legislation provides for adequate protection against road traffic noise. In the first part of the article, the author justified the need to discuss this issue, referred to the concept of noise, the permissible levels of environmental noise, as well as the entities obliged to provide protection against road traffic noise. He paid particular attention to the noise standards in force in Poland, indicating that they are too high and do not allow for a proper acoustic climate.

Keywords: road traffic noise; protection against road traffic noise; legal regulations; noise standards; acoustic climate

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INTRODUCTION

The development of civilisation has its pros and cons. On the one hand, everyday life may seem easier. There is no shortage of goods that can be purchased, it has never been so easy to get information and to move in the history of mankind. Owing to the development of medicine, people can live longer and more comfortably. The question is, do we actually live better than before? When watching documentaries about primitive cultures, one gets the impression that members of tribal communities are happy, even though they do not have what people in our civilisation circle do. They do not have as many desires as we do because they do not have as many opportunities. They do not live under permanent stress, as they are not focused on gainful work to enable them to buy a new phone, TV set or car. These people do not create the problems we face.

One of the problems created by the development of civilisation is traffic noise associated with the movement of various means of transport. Noise accompanies us in many spheres of life. This noise is caused by us – people. It is us who drive cars, fly planes, organise concerts or use industrial machines. We do this to make life more comfortable. Very often, however, we are not aware of the destructive impact of living in noisy conditions on our physical and mental health.[1] The World Health Organization notes that environmental noise is one of the most important environmental risks to health and continues to be a growing concern among policy-makers and the public alike.[2]

This study provides a concise discussion of legal regulations in force in Poland aimed at protecting the environment against the negative effects of noise. The focus is on road traffic noise which originates from public roads and whose source is vehicle traffic on these roads. Of all types of environmental pollution, it affects

[1] Nonetheless, Poles have recently begun to notice that environment protection is the area in which Poland has many problems to solve. See M. Stefaniuk, *Environmental Awareness in Polish Society with Respect to Natural Resources and Their Protection (Overview of Survey Research)*, "Studia Iuridica Lublinensia" 2021, vol. 30(2), p. 365. For the negative effect of noise on human health, see *Guidelines for community noise*, eds. B. Berglund, T. Lindvall, D.H. Schwela Geneva 1999, https://apps.who.int/iris/bitstream/handle/10665/66217/a68672.pdf?sequence=1&isAllowed=y (access: 12.3.2022), pp. vii–xiii; A. Bortkiewicz, N. Czaja, *Pozasłuchowe skutki działania hałasu ze szczególnym uwzględnieniem chorób układu krążenia*, "Forum Medycyny Rodzinnej" 2018, no. 2, pp. 43–48; I. Leśnikowska-Matusiak, A. Wnuk, *Wpływ hałasu komunikacyjnego na stan środowiska akustycznego człowieka*, "Transport Samochodowy" 2014, no. 3, p. 38; K. Pawlas, *Hałas jako czynnik zanieczyszczający środowisko – aspekty medyczne*, "Medycyna Środowiskowa" 2015, no. 4, pp. 51–55; P. Marczak, *Zagrożenie hałasem. Wybrane zagadnienia*, Warszawa 2012, https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/30/plik/ot-612_inter.pdf (access: 12.3.2022), pp. 5–7.

[2] World Health Organization, *Environmental Noise Guidelines for the European Region*, 2018, https://www.euro.who.int/__data/assets/pdf_file/0008/383921/noise-guidelines-eng.pdf (access: 12.3.2022), p. vii–xiii.

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the greatest number of people. According to the data of the European Environment Agency, in EU member states (these figures still include the United Kingdom) at least 109 million people are exposed to harmful noise from roads (78.2 million in urban areas and 30.6 million outside these areas).[3] In comparison, noise from railways affects approx. 21 million, noise from airports approx. 4 million and industrial noise approx. 0.8 million people in the EU.[4] In Poland, the number of people exposed to harmful road traffic noise was at least 6.6 million in 2017, i.e. approx. 17% of the country's population (4.4 million in urban areas and 2.2 million outside these areas).[5] Particularly exposed to this type of noise are inhabitants of major cities. For example, in 2017, it was 766 thousand people in Warsaw (approx. 44% of the population), in Krakow – 313 thousand (approx. 41%) and in Wroclaw – 312 thousand (approx. 50%).[6] There are also cities where more than half of the population is exposed to harmful road noise (Sosnowiec – approx. 74%, Kielce – approx. 61%, Białystok – approx. 58%, Rzeszów – approx. 55%).[7] As far as other types of noise are concerned, harmful railway noise affected approx. 0.42 million, air traffic noise – approx. 60 thousand, while industrial noise – approx. 19 thousand Polish inhabitants.[8] It is estimated that long-term exposure to environmental noise (i.e., road traffic noise and other types of this pollution listed above) causes 12 thousand premature deaths and contributes to 48 thousand new cases of coronary artery

[3] European Environment Agency, *Exposure of Europe's population to environmental noise*, https://www.eea.europa.eu/data-and-maps/indicators/exposure-to-and-annoyance-by-2/assessment-4 (access: 12.3.2022). This is noise of at least 55 dB, as measured by the L_{den} indicator referred to in Article 3 (f) of the 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJ L 189/12, 18.7.2002, as amended), hereinafter: Directive 2002/49/EC. L_{den} is a noise indicator for the day, evening and night time, used to determine the general annoyance (i.e., the degree of community noise annoyance as determined by means of field surveys – Article 3 (c) of Directive 2002/49/EC). Point 49 of the Annex to Decision No. 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354/171, 28.12.2013) states that "Available data on long-term average exposure show that 65% of Europeans living in major urban areas are exposed to high noise levels, and more than 20% to night time noise levels at which adverse health effects occur frequently". Footnote 60 to point 49 explains that "high noise levels" are defined as noise levels above 55 dB L_{den} and 50 dB L_{night}. It should be noted that the World Health Organization's Regional Office for Europe recommends that road traffic noise should be kept below 53 dB according to the L_{den} indicator, as road traffic noise higher than that has effects detrimental to health. See World Health Organization, *op. cit.*, p. xvi.

[4] European Environment Agency, *Exposure of Europe's population…*

[5] European Environment Agency, *Poland noise fact sheet – 2021*, 8.12.2021, https://www.eea.europa.eu/themes/human/noise/noise-fact-sheets/noise-country-fact-sheets-2021/poland (access: 12.3.2022).

[6] *Ibidem*. Author's own calculation.

[7] *Ibidem*. Author's own calculation.

[8] *Ibidem*.

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disease annually in Europe.[9] In 2017, road traffic noise in Poland caused irritation (understood as a permanent health problem rather than a temporary irritation) in approx. 950,000 people, sleep disorders – in approx. 250,000, and coronary artery disease in approx. 2,600.[10] It was the cause of at least 795 premature deaths.[11]

These statistics illustrate the significance of the problem of harmful road traffic noise. At the same time, there are no studies that would comprehensively address the most important legal aspects of the issue. This issue is more attractive to exact sciences scholars (technical issues of protection against noise, e.g., related to the types and arrangement of acoustic barriers) and medical sciences scholars (impact of noise on human health). However, technical issues are secondary to legal regulations, and medical research abstract from legal solutions, focusing on the negative effects of exposure to noise. In this state of affairs, it is necessary to take a comprehensive look at the problem from the point of view of a lawyer.

RESEARCH METHOD AND STRUCTURE OF THE STUDY

The above-mentioned issues have been analysed using the dogmatic-legal method. It should be noted, however, that these issues are discussed in a multi-faceted way, i.e., the analysis does not boil down only to environmental protection law, but also construction law and spatial development law. Such a comprehensive and not selective reference to the issue of protection against road traffic noise is justified by the fact that it is still valid in the sense that it is not related, for example, only to the stage of designing or construction of the road, but also appears in the context of, e.g., noise prevention strategy, as well as when the actual noise exceeds the volumes permitted by law.

Given the complexity of the problem and the volume of the text involved, it needed to be split into two parts. This first part is a general introduction to the issue of road traffic noise. It discusses the concept of noise, legally defined environmental noise limits, as well as entities required to provide protection against road traffic noise. It is therefore the "general part of the noise prevention law". The second part deals with detailed regulations on combating road traffic noise.

[9] European Environment Agency, *Environmental noise in Europe – 2020, EEA Report No 22/2019*, 2020, https://www.eea.europa.eu/publications/environmental-noise-in-europe (access: 12.3.2022), p. 6. However, the report points to the fact that these estimates probably underrepresent the actual scale of the problem (*ibidem*).

[10] European Environment Agency, *Poland noise fact sheet*...

[11] *Ibidem*.

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LEGAL BASIS FOR PROTECTION AGAINST ROAD TRAFFIC NOISE

1. Concept of noise

The Act of 27 April 2001 – Environment Protection Law[12] defines noise as sounds with frequencies ranging from 16 Hz to 16 000 Hz. The literature on the subject rightly considers it a definition which creates unnecessary confusion and is of little use; the only conclusion that can be drawn from it is to limit the application of the Environment Protection Law to sounds audible by human ear.[13] Noise, which is a civilisational problem against which people must be protected, is a certain nuisance. So the notion of this concept in the general language is that noise is uncoordinated loud sounds, loud clatter, snap, tumult, uproar, clamour, or patter.[14] A definition corresponding to the essence of the problem is contained in Directive 2002/49/EC. In accordance with Article 3 (a) of Directive 2002/49/EC, "environmental noise" is unwanted or harmful outdoor sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic, air traffic, and from sites of industrial activity.[15] Looking from this perspective and considering the terminology used in the Environment Protection Law, I am interested in noise that constitutes pollution, and thus in accordance with Article 3 (49) of the EPL it is an emission, which may be harmful to human health or the environment,[16] may cause damage to the material goods, may impair the aesthetic qualities of the environment or may interfere with other legitimate uses of the environment.

2. Permissible environmental noise levels

It should first be noted that, in accordance with the general principle laid down in Article 112 of the EPL, protection against noise involves ensuring the best possible acoustic state of the environment, in particular by: (1) keeping the noise

[12] Consolidated text, Journal of Laws 2021, item 1973, as amended, hereinafter: the EPL.

[13] J. Jerzmański, [in:] M. Górski, M. Pchałek, W. Radecki, J. Jerzmański, M. Bar, S. Urban, J. Jendrośka, *Prawo ochrony środowiska. Komentarz*, Warszawa 2019, introduction to Title II of Division V of the Act, marginal number 1.

[14] *Hałas*, [w:] *Słownik języka polskiego*, ed. W. Doroszewski, https://sjp.pwn.pl/doroszewski/halas;5432541 (access: 12.3.2022).

[15] A similar definition of noise to this contained in the dictionary was also adopted in the Regulation of the Council of Ministers of 30 September 1980 on the protection of the environment against noise and vibration, no longer valid (Journal of Laws 1980, no. 24, item 90). Noise was defined in this legal act as vibrations spreading through the air in the form of acoustic waves with frequencies and intensities inflicting a nuisance on people and the environment.

[16] Pursuant to Article 3 (39) of the EPL, the environment is the entirety of natural elements, including those transformed as a result of human activity, in particular the surface of land, fossils, water, air, landscape, climate and other elements of biodiversity, as well as the interactions between these elements.

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level below or at least at the permitted level; (2) reducing the noise level to at least acceptable when not kept at the permitted level.

Permissible levels of environmental noise are set out in the Annex to the Regulation of the Minister of Environment of 14 June 2007 on permissible noise levels in the environment.[17] Permissible levels of environmental noise caused by different groups of noise sources, excluding noise generated by take-offs, landings and overflights of aircraft, and by power lines (Tables 1 and 3 of the Annex), and permissible levels of environmental noise generated by take-offs, landings and overflights of aircraft, and by power lines (Tables 2 and 4), were determined separately. On the other hand, in the first group of noise sources, noise levels vary depending on whether roads and railways or other noise-generating facilities and activities are concerned, while in the second group of noise sources, different noise levels are set for noise resulting from aircraft take-offs, landings and overflights and for noise from power lines. Permissible noise levels also vary depending on the purpose of the protected area (e.g., the lowest permissible levels are set for the "A" protection zone of health resorts and non-urban hospital areas, and the highest for areas in the inner city zone of cities with population over 100,000[18]). And last but not least, permissible noise levels vary depending on the noise indicator used. The relevant indicators from the point of view of establishing and controlling the conditions of the use of environment for one day are L_{AeqD}[19] and L_{AeqN}[20] (this refers to the application of specific solutions to protect against noise, e.g. noise barriers, etc.), while from the point of view of conducting long-term policy in the field of noise protection the indicators L_{DWN}[21] and

[17] Consolidated text, Journal of Laws 2014, item 112, hereinafter: the RPNLE.

[18] City centre areas in cities of above 100,000 residents are compact building pattern areas with a concentration of administrative, commercial and service facilities. In the case of cities with districts with more than 100,000 inhabitants, a city centre area can be defined in these districts if it is characterized by compact building pattern with a concentration of administrative, commercial and service facilities.

[19] This is the equivalent A sound level for the time of day, understood as the time interval from 6:00 AM till 10:00 PM (Article 112a (1) (b) first indent of the EPL).

[20] This is the equivalent A sound level for the time of night, understood as the time interval from 10:00 PM till 6:00 AM (Article 112a (1) (b) second indent of the EPL).

[21] This is the long-term average sound level A expressed in decibels (dB), determined in accordance with ISO 1996-2:1987 in all days of the year (understood as the specific calendar year with regard to sound emission and the average year with regard to meteorological conditions), taking into account the time of day (understood as the time interval from 6:00 AM till 6:00 PM), the time of the evening (understood as the time interval from 6:00 PM till 10:00 PM) and the time of night (understood as the time interval from 10:00 PM till 6:00 AM); this indicator is used to determine the overall noise nuisance (Article 112a (1) (a) first indent of the EPL). The method of determining the value of this indicator was specified in the Regulation of the Minister of Climate of 30 May 2020 on the method of determining the value of the L_{DWN} noise indicator (Journal of Laws 2020, item 1018).

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L_N[22] are taken into account (this refers to the preparation of strategic noise maps and programmes for environment protection from noise, which will be discussed in the second part of the article).

It should be stressed that the permissible noise levels laid down in the aforementioned Regulation are contrary to the recommendations of the World Health Organization.[23] They were drastically increased in 2012.[24] The justification for this change was shocking: "As the reason for the proposed changes, it should be pointed out the observed sharp increase in traffic intensity recorded in recent years and the high values of forecasts in this regard, on the other hand, the trend of enclosing heavy-traffic roads with residential development. When implementing new urgent construction projects, the road administrator faces difficult problems, often impossible to solve despite spending huge amounts of money on noise protection devices (mainly acoustic barriers). The possibility of locating residential buildings in the direct vicinity of the road and the effects of its operation, i.e. within the zone of acoustic impact significantly exceeding permissible values, causes that even many kilometres of expensive acoustic barriers built with meeting the highest technical parameters is not able to ensure compliance with the applicable noise standards and leads to continual protests. A similar situation occurs in the case of railway lines. Currently, the highest environmental protection costs in construction projects concern mainly two environmental aspects: noise and nature protection. Where it is necessary to apply acoustic protection on existing or reconstructed roads and railway lines, very expensive construction of acoustic barriers usually remains the only feasible solution. The fact that it is impossible to 'shift' the road or railway line away from residential buildings (especially in the centres of large cities) and the proximity of legally protected buildings make it necessary to place exceptionally high (several metres high) acoustic barriers, which cause irreversible disfigurement of architecture and landscape, as well as disturbance in urban development pattern. At the same time, such high barriers are rare in other countries". In the impact assessment, it was added: "The entry into force of the proposed regulation will have a positive impact on the public finance sector, including the state budget and budgets of local government units. It should be noted that currently, whenever it is necessary to apply acoustic protection on existing or reconstructed roads and railway lines, very expensive construction of acoustic barriers usually remains the only feasible solution. According to the estimates

[22] It is a long-term average sound level A, expressed in decibels (dB), determined in accordance with ISO 1996-2:1987 during all the nights (understood as the time intervals from 10:00 PM till 6:00 AM) during the year (understood as a specific calendar year with regard to sound emissions and the average year with regard to meteorological conditions); this indicator is used to determine sleep disorders (Article 112a (1) (a) second indent of the EPL).

[23] Cf. World Health Organization, *Environmental Noise Guidelines*..., pp. xvi–xvii.

[24] Regulation of the Minister of the Environment of 1 October 2012 amending the Regulation on permissible noise levels in the environment (Journal of Laws 2012, item 1109).

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of the General Directorate for National Roads and Motorways, the increase in the permissible environmental noise level caused by roads or railways, as proposed in the draft regulation, may result in the reduction of the length of acoustic barriers by approx. 30% and reduction of construction costs for such barriers by approx. 25% as compared to the assumed costs resulting from the currently applicable provisions".[25] To put it briefly, for the draft proponent, public finances are more important than human health and life. The problem was solved not by prohibiting the construction of new roads or the increase in traffic on existing roads in the vicinity of residential development areas, nor by prohibiting such development in areas where harmful traffic road noise exists, but by raising the permissible noise levels. The problem was thus solved ostensibly, in statistics, but not in reality. This situation can be compared to the large decrease in crimes against property that occurred in 2013 and 2014.[26] Overnight, Poland became a country where road traffic noise standards are not breached as frequently as before, so most people (theoretically) live in peace and noise does not affect their health in a harmful way. The statistics on the number of people at risk of being affected by harmful noise cited above are based on noise levels that are anyway much lower than the Polish standards in this respect. This means that if we take into account noise levels that exceed those permitted in Poland, rather than noise actually harmful to health, it would turn out that in Warsaw, for example, not 44% of the population is exposed to harmful noise, but – let us say – 10% to 20%. It is said that if you do not know what the point is, follow the money. In this case, the draft proponent did not even try to conceal it.

In view of the foregoing, I believe that the currently applicable Regulation on permissible levels of environmental noise is contrary to Article 68 (4) and Article 74 (1) and (2) of the Polish Constitution[27] and, as such, should be amended, taking into

[25] See Explanatory memorandum to the draft amendment of the Regulation on permissible noise levels in the environment of 6 September 2012, https://legislacja.rcl.gov.pl/docs//515/61550/61552/61553/dokument47210.pdf (access: 12.3.2022).

[26] However, this decrease was not caused by law enforcement activities much more effective as compared to previous years, but by a shift of the boundary between the punishability as a felony or as a misdemeanour in certain types of offences. This was so, because on 9 November 2013 an amendment to the Code of Infractions entered into force, thereby the value of the object of such type of crime (theft, misappropriation, fencing and destruction, damage or rendering other's property unusable) was raised from PLN 250 to one-fourth of the minimum wage. The minimum wage amounted to PLN 1600 in 2013 and PLN 1680 in 2014, i.e., its one-fourth exceeded PLN 250 in these years by 60% and 68% respectively. A criminal act, which one day was a felony, the next day became a petty offence. A similar effect was achieved by reducing to the status of an infraction (by the same law amending the Code of Infractions) the act of driving in an intoxicated state or under the influence of a similar substance on a public road, in a residential area or in a driving zone for non-mechanical vehicle. This change, however correct, led to a sharp decrease in the number of offences against safety in transportation.

[27] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended). Pursuant to Article 68 (4) of the Polish Constitution, public authorities are required to prevent the negative health consequences of degradation of the environment, while

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account in particular the recommendations of the World Health Organization, which are based on scientific research on the impact of noise on human health conducted for many years. It is also contrary to the provision contained in Article 113 (1) of the EPL. Pursuant to it, the issuer of the regulation should be guided by the need to ensure appropriate protection for the environment against noise and take account of the provisions of European Union law on the assessment and management of environmental noise. It should be noted that the preamble to Directive 2002/49/EC states that it is part of Community policy to achieve a high level of health and environmental protection, and one of the objectives to be pursued is protection against noise. This idea is further developed in Article 1 (1) of Directive 2002/49/EC, according to which it aims to define a common approach intended to avoid, prevent or reduce on a prioritised basis the harmful effects, including annoyance, due to exposure to environmental noise. To that end, the following actions shall be implemented progressively: "(…) (c) adoption of action plans by the Member States, based upon noise-mapping results, with a view to preventing and reducing environmental noise where necessary and particularly where exposure levels can induce harmful effects on human health and to preserving environmental noise quality where it is good". The Regulation on permissible noise levels does not ensure adequate protection of the environment and thus fails to meet the objectives of Directive 2002/49/EC. As argued in the report of the Polish Supreme Audit Office: "The introduction of changes as to the permissible levels of environmental noise by the Minister of Environment on 23 October 2012 did not promote effective protection of the inhabitants of large urban areas from noise. The permissible long-term levels of environmental noise, which serve the purpose of drawing up acoustic maps and environmental noise protection programmes were raised for noise-sensitive developed areas (excluding spa and hospital areas) by amounts ranging from 5 to 10 dB, up to 64 to 70 dB for the L_{DWN} indicator and from 59 to 65 dB for the L_N indicator. These standards concerned traffic noise, i.e. the main source of noise in metropolitan areas, and are in contradiction with the National Environmental Policy and the recommendations of the World Health Organization (WHO), which assume that the environmental noise in the daytime should not exceed 50–55 dB during the day and 40–45 dB at night. It should be noted that an increase of approx. 3 dB translates into a twofold increase in the perceived intensity of sound, and an increase of 10 dB translates into a tenfold increase in its intensity. (…) Raising the acceptable long-term noise standards had negative effects on the protection of the metropolitan area residents from traffic noise and had a negative impact on the second stage of acoustic mapping and updating or drawing up noise

according to Article 74 (1) and (2), public authorities must pursue policies ensuring the ecological security of current and future generations and protection of the environment is the duty of public authorities.

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protection programmes. Once the standards were raised, the population at risk of excessive noise automatically decreased, especially in smaller urban areas (between 100 and 250 thousand inhabitants)".[28]

3. Entities obliged to provide protection against road traffic noise

Environmental protection is one of the main responsibilities of local government.[29] An embodiment of this rule is Article 139 of the EPL, pursuant to which compliance with environmental requirements related to the operation of roads must be ensured by road operators. As a rule, public road operators are: 1) for national roads – the General Director for National Roads and Motorways; 2) for regional roads – the board of province; 3) for district (*powiat*) roads – the board of district; 4) for municipal roads – the mayor (village mayor, town mayor, city president) (Article 19 (2) of the Act of 21 March 1985 on public roads[30]). Within the limits of cities with the status of a district (*powiat*), the administrator of all public roads is, as a rule, the city president (Article 19 (5) of the APR). Article 139 of the EPL is linked with Article 20 (13) of the APR, according to which preventing adverse environmental changes that may arise or arise as a result of the construction or maintenance of roads is the responsibility of the road operator. Therefore, those bodies are responsible to ensure the best possible acoustic state for the environment, in particular by maintaining a noise level below or at least at the permissible sound level or by reducing the noise level to at least the permissible one when it is not complied with (Article 112 of the EPL). Very often, the fulfilment of duties in this area is assigned to the budget units of local government. According to Article 21 (1) of the APR, the road operator referred to in Article 19 (2) (2) to (4) and (5), may perform its duties with the help of an organisational unit being the road management body, established respectively by the regional assembly, the district council or the municipal council; where such a unit has not been established, the tasks of the road management body is to be performed by the operator.

Nonetheless, it should be noted that neither the bodies listed in Article 19 of the APR nor the organisational units established in accordance with Article 21 (1) of

[28] Najwyższa Izba Kontroli, *Ochrona mieszkańców dużych miast przed hałasem. Informacja o wynikach kontroli*, LBI-4101-11-00/2013, https://www.nik.gov.pl/plik/id,7116,v,artykul_10179.pdf (access: 12.3.2022), pp. 28–29.

[29] See Article 7 (1) (1) of the Act of 8 March 1998 on municipal government (consolidated text, Journal of Laws 2021, item 1372, as amended), Article 4 (1) (13) of the Act of 5 June 1998 on district government (consolidated text, Journal of Laws 2022, item 528), and Article 14 (1) (8) of the Act of 5 June 1998 on regional government (consolidated text, Journal of Laws 2022, item 547).

[30] Consolidated text, Journal of Laws 2021, item 1376, as amended, hereinafter: the APR.

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the APR have legal capacity, and therefore may not be a party to civil proceedings.[31] This remark is important, because if these entities fail to perform their duties, and therefore do not provide protection against noise in acoustically protected areas, people exposed to excessive road noise can "force" the performance of these obligations only through civil lawsuits.[32] Therefore, the problem arises of how to determine the entity to be sued in such a case.

CONCLUSIONS

To conclude with, it should be stated what lessons can be learned from the analysis of the provisions of the "general part of anti-noise law". It is certainly clear that the legislation in this regard is fairly precise. It is known what noise and its aggravated form, i.e. pollution, are. It is also known that protection against noise specifically consists in keeping the noise level below or at least at an acceptable level, or in reducing the noise level at least to an acceptable level when it is not complied with. Noise standards are set out clearly in the Annex to the Regulation of the Minister of the Environment of 14 June 2007. Nor is there any doubt as to which entities are required to address adverse environmental changes which may arise or which actually arise as a result of the construction or maintenance of roads, and to comply with the environmental protection requirements related to the operation of roads.

However, people residing in places particularly exposed to road traffic noise (e.g., residents of large cities, residents of areas located near motorways, residents of villages with linear arrangements developed along a main road) may ask themselves: If it is so good, why is it so bad (so loud)? Leaving aside the issue of possible non-compliance by certain operators with the obligations to ensure an appropriate acoustic climate, attention should be paid to the defectiveness of the provisions that are the starting point for protection against noise, namely those defining permissible levels of environmental noise.

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[31] The capacity to be a party to civil proceedings is vested in natural persons, legal persons, as well as organisational units which are not legal persons to whom the law confers legal capacity (Article 64 (1) and (11) of the Code of Civil Procedure).

[32] The question of the claiming of one's rights by people at risk of road traffic noise will be mentioned in the second part of the article. Given that this text (both parts thereof) is an attempt to synthetically yet systematically capture public road noise protection regulations, a broader discussion of the civil law possibilities of "forcing" compliance with the obligations to ensure an adequate acoustic climate requires a separate study discussing exclusively the remedies that can be used by people exposed to noise. I have already written such a paper as part of my research project. See P. Poniatowski, *(Niewystarczające) środki ochrony prawnej przysługujące osobom narażonym na ponadnormatywny hałas drogowy*, "Transformacje Prawa Prywatnego" 2021, no. 3, pp. 49–79.

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The question must be asked: What is the purpose of road traffic noise protection? The answer is simple. It is about ensuring that people can use the places where they live as intended (e.g., leisure or work at home or in the garden), as well as protection of human health affected by noise. As indicated above, the regulations on noise standards in force in Poland are contrary to the recommendations of the World Health Organization, which were developed on the basis of research conducted around the world on the impact of environmental noise on people, their mental well-being and health. They are also contrary to the Polish Constitution (Article 68 (4) and Article 74 (1) and (2)) and are even incompliant with the statutory authorisation under which they were issued (Article 113 (1) of the EPL).

Ensuring proper acoustic climate, i.e. one which meets the objectives of noise protection, is impossible without changes to the permissible levels of environmental noise. In view of the above, it is reasonable to postulate to lower the Polish noise standards at least to the values recommended by the World Health Organization. Without this, even when public entities perform correctly the noise protection obligation, this can only lead to formal compliance with the requirements of the law, in particular the Environmental Protection Law. In fact, however, this will only be an illusion, as the real problem will remain unsolved. From this perspective, even the standards originally provided for (before the amendment of 23 October 2012) in the Regulation of the Minister of Environment of 14 June 2007 on permissible levels of noise in the environment were too high. Another questionable issue that should be addressed is differing noise standards depending on the type of acoustically protected area. After all, the impact of noise on human psyche and physical health is the same regardless of where one lives. Why should a person living in a multi-dwelling unit be less protected than an inhabitant of a single-dwelling house? Why is a village resident (to be precise, using the words of the RPNLE, a homestead development resident) exposed to more noise (in comparison with a person living in an area of single-family housing)? How does this situation relate to the equality before the law declared in the preamble and Article 32 (1) of the Polish Constitution? Of course, sometimes it is very difficult to provide protection against noise (e.g., when acoustic protection of buildings located on the border of a road in the city centre is concerned). Is this, however, a reason to raise noise standards for such areas (the RPNLE refers to city centre areas of cities with population over 100,000)? Or maybe in such cases one should do everything possible to eliminate the noise, and if it is impossible to reduce its level to be compliant with the standards, to pay compensation to the owners of buildings located in such places? As can be seen, many questions arise, but will the Polish legislature look into them?

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ABSTRAKT

Przedmiotem artykułu jest wieloaspektowa analiza regulacji prawnych odnoszących się do ochrony przed hałasem drogowym. Problem hałasu tego rodzaju jest aktualny i bardzo istotny. Rozwój sieci komunikacyjnych, zwiększająca się z roku na rok liczba samochodów jeżdżących po polskich drogach oraz rozwój miast powodują, że coraz większa liczba ludzi narażona jest na szkodliwy hałas pochodzący z dróg. W takim stanie rzeczy konieczne jest ustalenie, czy przepisy prawa przewidują odpowiednią ochronę przed hałasem drogowym. W części pierwszej artykułu autor uzasadnił potrzebę omówienia wzmiankowanej problematyki, odniósł się do pojęcia hałasu, dopuszczalnych poziomów hałasu w środowisku, a także podmiotów zobowiązanych do zapewnienia ochrony przed hałasem drogowym. Szczególną uwagę poświęcił obowiązującym w Polsce normom hałasu, wskazując, że są zbyt wysokie i nie pozwalają na zapewnienie właściwego klimatu akustycznego.

Słowa kluczowe: hałas drogowy; ochrona przed hałasem drogowym; regulacje prawne; normy hałasu; klimat akustyczny