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The State Forests in Poland and the European Integration. From Competition to Regulation

1. The subject in outline

The legal and real status of the State Forests company in Poland has been symptomatic for a type of problems Polish enterprises controlling huge areas of land may encounter following our country's accession to the European Union. Moreover, this reveals barriers faced by such companies – difficulties that, until mid-Nineties, were paid little or no attention. This concerns, first of all, provisions of modern competition law putting a serious onus upon monopolists. Just as large infrastructure-related companies operating in power industry, telecommunications or railroad transport, the State Forests have experienced a difficult legal situation implied by general systemic transformation. The company was established at a time when problems of competition and prohibitions imposed by competition law had been regarded of relatively minor social importance. At present, as a result of both the process of European integration and general trends in development of modern law, the same entity has to operate in legal conditions it hasn't been adapted to. The principal problem the State Forests should expect in the near future is escalation of complaints and claims against its behaviour as the largest and in practice monopolistic source of wood supply in Poland. A number of serious arguments seem to suggest that one can hardly regard this problem in terms of deliberate infringements of competition law on the part of the company. Rather than that, the problem reflects general conflict between the old and the new social-and-economic system.

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2. Legal conditions

Legal conditions binding in the field of forestry have mainly resulted from the Act of 1991 on Forests[1] as well as from the Nature Protection Act of 1999,[2] the Environment Protection and Shaping Act of 1998,[3] the Protection of Farming and Forest Lands Act of 1995[4] as well as other acts and regulations.

Apart from national law, legal situation of forestry has also been the subject of regulations of the Community law and of a certain number of acts of international law, such as the Rio de Janeiro Convention on Biological Variety of 1992, the Convention on Protection of Global Cultural and Natural Heritage of 1972, the Convention on Protection of European Wildlife (Fauna and Flora) and Its Natural Habitat of 1979 (the Bern Convention) and Forestry Rules adopted in 1992 by UNCED during the Rio de Janeiro Earth Summit. In the wake of those meetings a number of co-ordinating bodies have been established in the area of forestry, such as the Committee of the 3rd Pan-European Ministerial Conference dealing with Forests Protection.

One should also take into account such acts whose legal status could prove of interest to a sources-of-law theorist, such as, for instance, assumptions of forestry policy or an instruction for forests protection [IFP]" Those acts have been issued by the Board of Directors of the State Forests. It is obvious that they haven't fit in the system of sources of law established and concluded by Article 87 of the Constitution of 1997. However, their binding force, to some extent "beyond the system" a pivot of which is formed by the State Forests could hardly be denied. They haven't been acts of a plant administration since the State Forests are not a plant. Nor can they be regarded as company inner acts, due to the scale on which they operate, although from the point of view of the theory of law a scope of an organisational unit influence is irrelevant.

Equally interesting is legal nature of planning acts in forestry, in particular in that their status is binding, rather than just serving as a guideline, as has been increasingly practised. The Act on Forests regulates that matter in its Article 18 which provides for a plan of a forest arrangement prepared for a ten years period – and only in exceptional cases, when justified by particular condition of a forest, including occurrence of losses or an elementary calamity, for a shorter period. Thus the Act has reinforced a long-perspective nature of plans, with a reservation made in Article 23(1) that they may undergo changes only on an exceptional basis, in relation with a loss or an elementary calamity that has happened.

[1] Uniform text, O.J.L., 1991.101.444.
[2] O.J.L., 1999.114.492 with later amendments.
[3] Uniform text, O.J.L., 1994.49.196.
[4] Uniform text, O.J.L., 78.16.1995.

Plans may have a simplified form where they concern forests beyond the State Treasury property or forests belonging to the Farming Property of the State Treasury.

3. Dominant position of the State Forests

The State Forests have dominant position on wood market. They supply wood to *circa* 30 thousand entities. At present this situation has given rise to a lot of controversy in local scale, especially after 2001 when serious turbulence in the area of trade in wood (which had operated relatively well until that time) were observed. Problems regarding actual and legal status of the State Forests have probably been aggravated by difficult situation of timber industry in general and sawmills in particular (their average profitability in 2002 amounted to minus 1.6 per cent). The above data should not be treated as entirely reliable as they have come from representatives of the "injured" sector. According to the State Forests, an actual condition of the sector should be presented in a more positive light. For example, according to K.Tomaszewski, difficulties experienced by sawmills arise from "an unreasonably high exchange rate of Polish Zloty", rather than from the policy carried on by the largest wood supplier in Poland.[5]

Conflicts between the seller of round timber and sawmills have already led to confrontations several times. Disputes were examined by the Office for Competition and Consumer Protection as well as by the Antimonopoly Court[6]. It should be underlined that the very fact of having dominant position in market is not prohibited by Polish or by the EU legislation. Nor it is questioned by the interested parties. The problem is that, according to some parties involved in the market, the State Forests have repeatedly abused that position and this is forbidden in line with provisions of Article 8 of the Competition and Competitor Protection Act.[7]

Abuse of dominant position held in the market is also prohibited under Article 82 of the Treaty Establishing the European Community and the prohibition contained in its provisions covers such activities as may affect trade between Member States on the common market or on its substantial part. Due to the structure of trade in wood in the EU it will be difficult to avoid conflicts in that field, let alone on grounds of territory, since the territory of Poland may

[5] Interview, "Gazeta Wyborcza", 12.04.2001.

[6] Among those suing the State Forests were the sawmill company Tartaki Wielkopolskie and Furniture Manufacturing Company "Besta". In the latter case claims regarded burdensome terms of sale transaction, giving privileged treatment to some companies and practising bound sales. Complaints in those cases were directly against RDLP (Regional State Forests Boards of Directors) and Senior Forest Offices.

[7] O.J.L., 2000.122.13.19.

easily be regarded as a "substantial part" of the common market. However, one should remember that the argument is not so much about the area as about important functional bounds among a number of market elements, that, combined, make up a necessary homogeneity of market of a given commodity or service.

The Treaty imposes no limits as to a form in which a dominant position is abused. Virtually any market behaviour which meets requirements expressed in the Article 82 may be regarded as such abuse. In paragraphs (a) – (d) of that Article no more than examples of possible abuses are listed. They are as follows:

- imposing, either directly or indirectly, unfair purchase or sale prices or other unfair terms of a trade deal,
- restricting production, markets or technological progress with detriment to consumers,
- imposing different terms to trade partners in similar transactions thus creating unfavourable terms of competition to those partners,
- forcing bound transactions, that is making contract conclusion dependent on acceptance by contractors of additional services that have no relation altogether with the scope of contract, either with respect to trade habits or to the contract scope itself.

Because the company in consideration owns a vast majority of forest land in Poland, it can be said that it has been a natural monopolist,[8] just as Polish Power Supply Networks are in the power industry sector or Polish Telecommunication (TP SA) in the telecommunications sector. The State Treasury has been, at present, the owner of 80 per cent of all forests in Poland and the State Forests deliver as much as 93 per cent of round timber processed in Poland. Rather than from legal warranties, such situation has resulted from historical circumstances that can only be overcome by a deep and far-reaching privatisation reform, which is in not advisable on grounds of protection of resources. In the European Union Member States which feature a significant share of private property of forests, efforts dictated by the need to ensure protection of forest substance (resting in private hands) have been funded by taxpayers.

The situation in which the State holds a strong share in forests ownership structure is not new. It should be said in defence of the State Forests that the wood market hasn't been free market in the meaning that supply of wood may be trimmed to demand in line with basic rules of market economy. In this sector the supply is regulated under the so-called "annual cut quota"[9] defined in Article

[8] More about the notion of monopoly – see: A.Cieśliński, *The Community commercial law*, Warsaw 2003, p.507-508.

[9] Senior forest officers enjoy some more independence in the area of use of resources, but they too have to observe annual balances (plans) defined by Regional State Forests Boards of Directors for individual Senior Forest Offices.

6(1.9) of the Forests Act. This market rigidity may be taken even further in the future, at least theoretically, in the light of the debate on social role of the State Forests that has taken place at present. Essentially, the issue comes down to the question whether the task of that institution should actually be more about protection of forest resources from use than about its use. This was the course taken during the 5th Interministerial Conference held with representatives of Canada, China, Japan, USA and other countries, during which the need to ensure multi-functional forest economy was emphasised, *i.e.* the role reaching far beyond that of wood supplier, and to provide for balanced development of forest resources. The author finds no reason to hide his support for the latter idea. The State Forests should absolutely have a status comparable to that of a public utility enterprise, assuming they should be an enterprise at all – the question considered in more detail below. Even at present forest economy largely relies upon forest resources which are cut due to forest protection or cleaning reasons (preventing diseases, fire, removal of losses caused by natural calamities).

A public-and-legal nature of the State Forests was underlined as early as in 1924 when they were established by a regulation of the President of the Republic of Poland. Initially, the status of an enterprise they have been given at that time stirred up protests. It was regarded incompatible with protective, public-and-legal rather than purely economic nature the enterprise should have. Such opposition was understandable since, despite the fact that forest economy accounted for no more than 18 per cent of gross income of the State Treasury, it was believed that the fundamental task of such an enterprise should consist in "ensuring long-lasting nature of use of resources for the benefit of the whole society and future generations", rather than an immediate and short-sighted profit.[10] Soon after that the State Forests acquired a status of a part of the administration body, in which a public-and-legal relations of employment applied.

At present the State Forests have a hybrid character. A substantial part of the Forests Act in fact deals with the concept of protection of resources more than it does with their use in an economic meaning. Article 7 of the Forests Act deserves particular attention in this respect as it orders that planned forest economy has to be carried on. Goals and tasks it mentions reach far beyond any sort of short-term benefit. Among such goals concern for climate, air, water and soil quality is mentioned along with that for ecosystems, for preservation of natural variety and of beauty of the landscape. Only one in five subparagraphs of Article 7(1) deals with economic matters. To this one should add principles of universal (*i.e.* irrespective of a form of ownership) protection of forests, permanent nature of their preservation as well as continuity and balanced

[10] A.Szujecki, *Nie wylać dziecka z kąpielą* (*Don't throw out the baby with the bath water*), http://www.oikos.net.pl/las_polski/11_2002/polityka_lesna.htm

utilisation of all their functions, provided for in Article 8. The State-owned forests, on the virtue of Article 26(1), are accessible to people with exceptions defined in subsequent provisions of the same Act. Then, provisions of Article 38(1) imply the principle of non-disposability of State-owned forests which can be an object of legal trade only in exceptional cases.

An advantage, evident in those provisions, of protective elements fitting in a broadly-understood domain of public law, prompts one to conclude that the State Forests, from the point of view of the scope of their activity, tend to gravitate towards the status of a State administration body than to that of an enterprise.

4. Organisational structure of forestry

A structure of organisation of forestry has been multi-layered and varied in terms of status of units that manage the forest substance. Its supervising body is a Minister competent in the field of environment. Certain functions have been reserved to the Minister exclusively, such as giving protection clause to forests on the basis of Article 16(1) of the Forests Act, approving plans of forest maintenance for forests belonging to the State Treasury property or simplified plans of forest maintenance. A competent Minister shares other supervising functions with local governors in the scope defined in the Act and with province governors in relation to forests other than owned by the State Treasury. Moreover, local governors enjoy competence as regards non-State owned forests since it is them who, through decisions, define duties of forests owners. Article 13(3) may be seen as an illustration of competence distribution among local and province governors as it divides the scope of competence according to a criterion of forest area: making decisions permitting replacement of forest with farming land lies in local governors competence in relation to forests up to 10 ha large, while in relation to larger ones the same decision lies with the province governor. The function of supervision over plans of forest maintenance has been shared as well, being the task of a Minister as a superior body of State administration as well as province and local governors, depending on particular type of plan or a form of ownership. Also competent to influence decision-making process are commune councils, for example where they submit opinions regarding giving certain categories of forests protection status. Senior forest officers have been the most important link in the system of forest administration. They make decisions which – in my opinion – have in fact been equivalent to administrative acts, for example decisions defining tasks in the field of forest economy for fragmented land belonging to resources of the Farming Property of the State Treasury.

There is no doubt that the State Forests have been an enterprise as understood by both domestic and Community competition law,[11] although they aren't one in the light of the Forests Act. The same thing may be said about senior forest offices. The notion of enterprise, developed for use of competition law has been broader than in the understanding of the Commercial Activities Law Act.[12] The Forests Act does not use the term enterprise in relation to the State Forests at all. In the chapter entitled Państwowe Gospodarstwo Leśne Lasy Państwowe (the State-owned Forestry Farm State Forests), in Article 32(1) the Act defines it as "a State-owned organisational unit having no legal personality", representing the State Treasury in the field of property it manages. It is composed of the following organisational units:

- State Forests Board of Directors. This body, while seemingly of collegial nature, is in fact a single-person body, as each time the Act mentions specific scope of competence, it entrusts General Director with them. Moreover, the Act provides explicitly in Article 33(1) that the managing function rests with General Director;
- Regional State Forests Boards of Directors. (RDLP);
- Senior Forest Offices, and
- Other organisational units having no legal personality.

Both General and regional Boards of Directors may undergo further transformation (appointment, mergers, divisions, defining new territorial range) by a Minister competent for environment protection, by regulations or upon motion from General Director. Senior Forest Offices and other organisational units having no legal personality, instead, are subject to transformation by General Director upon motion from regional Boards of Directors.

Regarding the legal status of General Director it should be added that this body is vested with very broad scope of competence as regards management of the State Forests, however, with only a minor degree of independence from government administration bodies. This is best evidenced in the way he is appointed/dismissed. Competence in the field of personal supervision belong to the appropriate Minister dealing with environmental issues. There's no legal barriers allowing General Director to carry on an independent policy of forest substance management contrary to the Minister's intent which is illogical considering that it is General Director that supervises the work of Senior Forest Office which, at least in theory, have been independent.

[11] More about the notion of enterprise – see: *Europejskie prawo gospodarcze w działalności przedsiębiorstw* (*European Commercial Law in Enterprises Activity*), ed. K.Sobczak, Diffin 2002, p.57ff.

[12] About the notion of enterprise in the Community law – see for example: M.A.Dauses, *Prawo gospodarcze Unii Europejskiej* (*The European Union Commercial Law*), Warsaw 1999, p.905.

Personal issues apart, the scope of competence of General Director is, as mentioned, surprisingly broad. Its review prompts one to wonder whether we really have to deal with a unit which is not a sectoral body of economic administration in real and legal sense. General Director's powers include:

- representing the State Treasury in civil-and-legal relations within the area of his competence,
- representing the State Treasury in cases resulting from regulatory proceedings carried on under provisions of Acts on relationship of the State and Churches and other religious associations,
- appointment, co-ordination of and supervision over regional Boards of Directors and managers of other organisational units dealing with State-owned forests having national coverage,
- management of land and other real estates acquired or rented in direct control of Senior Forest Offices for needs of General Board of Directors and joint enterprises implemented by organisational units subject thereto,
- establishing, dividing and dissolving organisational units having national coverage subject thereto,
- initiating, organisation and co-ordination of projects aiming at protection of forests, rational forest economy and development of forestry,
- organisation of planning of forests maintenance and of forecasting in forestry,
- supervision and co-ordination of tasks in the area of staff training for forestry,
- dissemination of forestry-related knowledge,
- initiating and financing of research in the area of forestry and supervision over the way the research results are used,
- making up for financial deficits in Senior Forest Offices and in regional Board of Directors resulting from varying conditions of forest economy,
- organisation of joint projects among different organisational units of the State Forests,
- personal competencies, *i.e.* the right to appoint and dismiss his deputies in agreement with a Minister competent in the area of environment, the right to appoint and dismiss General Inspector of Forest Services, directors of regional Board of Directors of the State Forests and managers of organisational units having national coverage.

As one compares legal status of General Board of Directors (and, in fact, that of General Director in person) with a status of a Senior Forest Office (and the position of Senior Forest Officer) it is astonishing that the Act emphasises independence of carrying on forest economy by the latter while it omits that power on the superior organisational level in forestry. It should be added, however, that this independence has not been protected with any particular

guarantees so in fact it remains just declaratory, especially considering strong personal submission.

Another peculiar characteristics is that Senior Forest Offices were afforded, under Article 35(1.2) the status of basic unit which is related with charging them with responsibility for condition of forest. This is a serious premise for a final conclusion regarding the need to organisationally separate them from the State Forests and to vest each of the units with a different legal status.

A legal status of competence at the level of Senior Forest Offices largely reflects the same that has been said about General Board of Directors. A Senior Forest Officer:

- represents the State Treasury in civil-and-legal relations within the area of his competence,
- directly manages forests, land and other real estate governed by the State Forests,
- appoints and dismisses his deputies in agreement with a Director of a regional Board of Directors, appoints and dismisses the chief accountant of a Senior Forest Office, supervision officers and forest officers,
- initiates, co-ordinates and supervises activities of a Senior Forest Office employees,
- defines organisation of a Senior Forest Office, including such division into Forest Offices as to ensure proper task performance by forest officers, employs and dismisses a Senior Forest Office employees, provides property protection and counteracting forest destruction and damage,
- assists owners of other-than-State-owned forests advising them in the area of forest economy and provides them, against payment, with quickset of trees and forest shrubbery as well as specialised forestry equipment. In exceptional, justified cases (supported by a positive opinion from a village superior or a town president) he may do that free of charge,
- organises sale of wood on the basis of a contract with an owner of an other-than-State-owned forest and performs other commercial tasks.

It should be observed that a significant part of powers enjoyed by both General Director and a Senior Forest Officer have been "soft" competencies, such as training, economic, commercial or administrative powers, including superiority/subordination relations with staff. However, there is also a substantial number of purely administrative powers. What distinguishes Boards of Directors and Senior Forest Offices from administrative bodies is mainly the fact that the former ones haven't been directly included among bodies of administration by provisions of the Act.

It can be concluded from an analysis of a legal status of the above-mentioned entities that a legislator should have gone one step further and provide – or rather legally ensure – under the Act, independence of Senior Forest Offices which has in fact been mentioned in Article 34(1). A strategy of development of State forestry in Poland should reach further in the area of independence of Senior Forest Offices which, at present, number 439.

A course for transformation in the forestry system, described this way, is of key importance in the context of accusations against the State Forests raised with respect to antimonopoly legislation. The State Forests have already learned to argue that in fact they enjoy no monopolistic position in the field of sale of wood because each Senior Forest Office holds tenders for sale of wood independently. Furthermore, highest quality wood has been sold in auctions at upset prices adapted to local market conditions. So far, this independence has been incomplete and neither fits a theory of bodies of administration (independence of such a body should be supported with legal guarantees) nor to that of en enterprise (the Act has not given a status of enterprise to the State Forests; they haven't got legal personality; there are no actual legal mechanisms of liability for financial results). On the other hand, long-term objectives and tasks, the scope of responsibility and that of competence of those bodies are far too serious for their present status of organisational units with no legal personality to be preserved any longer. It seems that General Board of Directors should be awarded the status of a specialised body of State administration. Giving such a status thereto together with an attribute of independence, just as in the case of Senior Forest Offices, would imply far-reaching consequences since, as a result, the board of the State Forests would become akin to a so-called regulatory body (further explained below).

What remains most unclear is the question about the status of regional Boards of Directors in the future. There is not much provided about them in the Forests Act. It seems that the most reasonable solution would be that to make them representations of the General Board of Directors. With that solution it would be possible to preserve uniform scopes of powers on both the central and regional level in management in the field of forestry, maintaining, at the same time, current control (up to the limit to which powers of General Board of Directors are delegated down) over territorial matters.

5. The need to appoint a forestry regulatory body

The idea to appoint a body that would be independent both from timber industry and from the State Forests has already been considered in the Polish Economic Chamber of Timber Industry. Such a body would act as mediator and make binding decisions, for example regarding prices of wood. Considering the

hitherto-existing legal pre-conditions and practice of Polish forestry, this concept may seem quite revolutionary, however, the commercial law taken into account as the whole – even if only in relation to the area of Poland – it becomes clear that the concept of "regulation" is not brand new. The first sectoral regulatory in Poland was the position, established in 1997, of the President of the Office for Power Industry Regulation. Since that time other similar bodies appeared, acting more or less as regulatory bodies. Among them the position of the President of the Office for Telecommunication and Postal Services Regulation has most features of "pure and genuine regulator", other typical examples being the Council for Monetary Policy and the National Council for Radio Broadcasting and Television. However, those entities, and the Council for Monetary Policy in particular, haven't had sectoral coverage. Similar observation holds true as regards the second of the above-mentioned bodies whose activity is largely supra-sectoral, for example through performance of censorship functions (in a way inconsistent with the Constitution, in my opinion), while its legal status and independence from other State bodies, except for the Sejm, reach far beyond what could be useful for forestry as a pattern to model upon.

Just a six years period over which regulation has existed in Poland is relatively not long as seen in perspective of European economic law which assimilated the idea of economy regulation several dozens of years after its introduction in the United States.

A *Ratio legis* for appointment of regulatory bodies in the USA was different than in Europe. In relation with development of new industries such as construction and maintenance of motorways, telecommunications or power engineering, a need has arisen to establish specialised administration bodies. In fact, there were no major obstacles to do that, save for an anxiety that subordinating them to the President would result in undermining the principle of triple division of authority. Since, there was a fear in the Congress that this way the President's rule would overshadow the other ones, it was decided that new bodies would be independent from executive authorities. As a guarantee of their independence a rule was adopted that officers of regulatory commissions cannot be dismissed before the end of their terms of office. Appointment such reputable persons as experienced judges in order to raise the level of independence and prestige of regulatory bodies was another typically American feature.

In Europe where situation matured to adopt a new form of administration no sooner than after the World War 2, it was believed that independence of regulatory bodies was, more than anything else, in the interest of impartiality in management of sectors, admittedly, mainly infrastructural ones early on. The idea was to set administration free of political pressures influencing economic decisions. The need to ensure independence of regulatory bodies in Poland has been justified in a similar way. The notion of "regulation", conceived in a

specific way (not as a form of issuing legal norms) an act of balancing interests of large and small entrepreneurs and consumers under conditions of dominance of one or several enterprises acting as natural monopolists was understood as well. This process of providing balance among contradictory interests was entrusted to bodies independent from governmental administration and from political pressures related therewith. Rather than in issuing provisions, methods of such balancing consisted in granting concessions for business activity in such a way that they defined a large number of parameters of an entrepreneur's activity. Moreover, regulatory bodies had other non-normative measures at hand, enabling them to influence business conditions, for example pricing of goods and services or defining their parameters, as well as dissolving disputes among market participants.[13]

There's much evidence to suggest that application of a similar model of management to forestry should be seriously considered. At present General Board of Directors of the State Forests, as a natural monopolist, has found itself in conditions of a natural (resulting from the system) conflict with timber industry. At the same time, it is arguable whether there have been premises to accuse it of applying monopolistic practices, considering that its role mainly consists in defining principles of use of forest resources. Forest economy in a business meaning rests first and foremost with Senior Forest Offices which have been independent in that area. It would be sufficient to truly execute the statutory requirement of independence and tear the hitherto-existing organisational rein binding Senior Forest Offices with General Board of Directors. This link should be replaced with an organisational arrangement with SFOs on the one hand, possible vested with a status of enterprises (although this isn't absolutely necessary) and, on the other hand, a regulatory body – in the form of the Board of Directors of the State Forests, having all parties of conflict under its jurisdiction, including sawmills and other enterprises acquiring wood from SFOs. Sure enough, such transformations require involvement of the Sejm as legislator.

A reform of forestry taking the above-described course is not infeasible. In fact, still more can be argued – it is desirable. Poland's accession to the European Union is going to set the State Forests free from accusations regarding exercise of monopolistic practices only to a minor degree. In fact, the State

[13] About European concept of regulation – see: T.Skoczny, *Wspólnotowe prawo regulacji in statu nascendi, Prawo gospodarcze Wspólnoty Europejskiej na progu XXI wieku* (*The EC Regulation Law in statu nascendi, Commercial Law of the European Community at the turn of the 21st Century*), ed. C.Mik, TNOIKI 2002, passim. Also: W.Hoff, *Regulatory authorities in the European Union and in Poland, On the Road to the European Union. Applicant Countries Perspective*, eds. D.Milczarek, A.Z.Nowak, The Warsaw University, Centre for Europe, Warsaw 2003, p.201-202.

Forests, at the background of an immense European market will have an opportunity to indicate a much larger group of entities from which timber industry companies can purchase wood. Where a purchaser of a commodity or services has got choice among a number of suppliers and different terms of delivery, accusations of monopolistic practices can hardly be justified. However, the European integration is going to mitigate the present situation only temporarily. As soon as West-European companies will enter Polish market, they will have the right to benefit from existing heritage of all European competition law. There are two factors that should be considered in this respect. Firstly, the European integration has not pushed national competition law aside. Furthermore, transformation that takes place in *acquis communautaire* proves that the role of national law in this respect may even be strengthened. Secondly, there has been the notion of relevant market that works contrary to the State Forests interests. It means that any area, however small, on which uniform supply and demand forces for a given commodity or service operate, may be regarded common market for the sake of any particular proceeding.[14] Taking wealth of Polish forest resources into account, especially compared to such resources in Europe, it seems that Polish forestry is never going to be insignificant enough to escape size criteria that could have enable it to avoid control on the part of the European Commission which acts, among its other functions, as an antimonopoly body. Whilst fragmentation of timber industry into several hundred Senior Forest Offices operating under a regulatory body supervision neither provides a final solution to the fair competition problem in the sector in question, nor it gives a secure refugee from accusations regarding infringement of competition rules on the part of bodies that manage forest resources, it largely relieves the problem anyway. As an ultimate argument favouring establishment of a regulatory body one should indicate a limited nature of forest resources, an immanent conflict between an urge of industrial exploitation and nature protection. This is a specific variant of a conflict between a producer and a consumer: in this case a collective consumer of forest resources, *i.e*. the society. And that's exactly what regulatory bodies in Europe do: they solve conflicts like this.

[14] More on the same subject – see: W.Hoff, *Wspólnotowe prawo konkurencji* (*The EC Competition Law*), *Integracja Europejska. Wybrane problemy* (*European Integration. Selected Problems*), eds. D.Milczarek, A.Z.Nowak, The Warsaw University, Centre for Europe, Warsaw 2003.