

Migrations and the environment – selected legal aspects

Migracje a środowisko – wybrane aspekty prawne

Миграция и окружающая среда – избранные правовые аспекты

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Summary: The article analyses the environmental aspects of migration in the context of their environmental causes and effects, focusing, however, on the effects. It was recognized that negative changes in the environment are becoming a more and more frequent cause of migration and may lead to a very wide range of migration, which would be very difficult to control. This will, among other things, have environmental effects in countries targeted by migrants. These effects are considered, using the example of Poland and the need to provide migrants with appropriate living conditions, based on legal regulations relating to the provision of drinking water, sewage disposal and municipal waste management. Such situations should be considered by the state by preparing appropriate action strategies, determining the sources of their financing, and introducing the necessary legislative changes.

Key words: migration, environment, effects of migration

Streszczenie: Artykuł analizuje aspekty środowiskowe migracji w kontekście środowiskowych przyczyn i skutków migracji. Uznano, że negatywne zmiany w środowisku stają się coraz częstszą przyczyną migracji i mogą prowadzić do migracji o bardzo szerokim zasięgu, bardzo trudnych do kontrolowania. Spowoduje to m.in. skutki dla środowiska w krajach dla emigrantów docelowych. Skutki te są rozpatrywane na przykładzie Polski i konieczności zapewnienia migrantom odpowiednich warunków bytowych na podstawie regulacji prawnych odnoszących się do zapewnienia wody do picia, odprowadzania ścieków i postępowania z odpadami komunalnymi.

Słowa kluczowe: migracje, środowisko

Резюме: В статье анализируются экологические аспекты миграции в контексте экологических причин и последствий миграции. Признано, что негативные изменения в окружающей среде становятся все более частой причиной миграции и могут привести к очень широкому масштабу миграции, очень трудно поддающейся контролю. Это вызовет, помимо прочего, влияние на окружающую среду в странах назначения. Эти последствия рассматриваются на примере Польши и необходимости обеспечения мигрантам адекватных условий жизни на основе правовых норм, касающихся обеспечения питьевой водой, удаления сточных вод и обращения с бытовыми отходами.

Ключевые слова: миграция, окружающая среда

Introduction

The expression “migrations and the environment” includes in its content many different issues that can be considered from different points of view: primarily the causes of migration (changes in the environment as a cause of migration) and the environmental effects of migration. These issues have been a subject of universal interest lately, which is reflected in popular and scholarly publications. The author’s intention is to highlight only selected and rarely identified aspects of the problem and to establish their main legal basis under Polish domestic law. It seems that the environmental effects of all migrations, including those caused by changes in the environment, are such less frequently raised problem.

1. Threats to the environment as a cause of migration

Migrations are a common occurrence and naturally, not new. On the contrary, there were different reasons for migrations in different historical periods. Due to increased economic migrations to Poland over recent decades, this phenomenon has been subject to numerous analyses, taking into account its demographic effects.¹ It has been emphasized in the literature that, starting from the 1980s, there has been an increased number of migrants looking for “a better place to live”, but the decision to leave one’s country of origin has always been complex, based on many premises and determined by personality.²

There have been and still are different reasons for migrations, including detrimental changes in the environment in territories inhabited by future migrants,³ which was emphasized recently by K. Groszkowska.⁴ The significance of this cause has been growing gradually, yet until practically the end of the last century, it had

¹ See e.g., D. Kałuża-Kopias, *Demograficzne skutki międzynarodowych migracji w wybranych krajach Unii Europejskiej ze szczególnym uwzględnieniem Polski*, Studia Ekonomiczne 2014, no. 167, pp. 32–42 and literature cited there.

² See e.g., J.J. Bogardi, F. Renaud, O. Dun, K. Warner, T. Afifi, *Environmental Migration: An Overview and Policy Recommendation*, in: *Migration, Development and Environment: Migration Process from the Perspective of Environmental Change and Development Approach at the Beginning of 21st Century*, eds. R. Stojanov, J. Novosak, Cambridge 2008, pp. 3 ff.

³ The previous most characteristic reason was loss of livelihood obtained through agricultural activity on territories affected by gradual steppe-formation and desertification.

⁴ Cf. K. Groszkowska, *Migranci czy uchodźcy? Prawne aspekty ochrony osób migrujących ze względu na negatywne zamiany środowiska naturalnego*, Studia BAS 2019, vol. 4, no. 60, pp. 241–259.

not been dominant, and it had not been the major reason for large-scale (especially spatial range-wise) migratory movements. It is still not the case yet, though for some time now the literature has seen studies pointing to the potential threats resulting especially from climate change, in the context of these changes becoming a reason for mass migratory movements. The United Nations High Commissioner for Refugees (UNHCR) has flagged up in UN documents that, for example, in 2050, this might cause the migration of 50 to 200 million people.⁵

These predictions, based on analyses from the turn of the century and from the first decade of this century,⁶ have recently found new arguments to prove this to be the case, following the development of research on climate change and its potential range. As early as in the 1980s, environmental changes were recognized as an essential reason for migration that demonstrates an upward trend, which allowed the UNEP (United Nations Environmental Program) to formulate a definition of an “environmental migrant” in its research.⁷ This definition emphasizes the very aspect of the problem addressed in the title of this study, i.e. migration as an effect of detrimental environmental changes, which is treated as the main effect, but which, in practice, is not the only one. N. Myers uses the term “environmental refugee”, thus highlighting that it denotes those who are forced to leave their current place of living against their will as a result of loss of a secure livelihood because of drought, soil erosion, desertification, deforestation and other environmental problems, together with the associated problems of population pressures and profound poverty thus created.⁸ On the basis of the research he referred to, the author believed that as early

⁵ M.M. Naser, *Climate Change, Environmental Degradation, and Migration: A Complex Nexus*, William & Mary Environmental Law and Policy Review 2012, vol. 36, no. 3, p. 713.

⁶ See e.g., T. Afifi, K. Warner, *The Impact of Environmental Degradation on Migration Flows across Countries*, United Nations University, Institute for Environment and Human Security, Working Paper No. 5/2008, Bonn 2008. The need for more comprehensive research on the issue was signalled too, since studies thus far had been rather dispersed and specific relevant methodologies for such research were offered – see: E. Piguet, *Linking Climate Change, Environmental Degradation, and Migration: A Methodological Overview*, Wiley Interdisciplinary Reviews: Climate Change 2010, vol. 1, no. 4, pp. 517–524, https://www.researchgate.net/publication/50246408_Linking_Climate_Change_Environmental_Degradation_and_Migration_A_Methodological_Overview [access: 15.03.2021].

⁷ “Environmental migrants – those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption [...] that jeopardized their existence and/or seriously affected the quality of their life”. T. Afifi, K. Warner, *The Impact of Environmental Degradation...*, p. 4.

⁸ N. Myers, *Environmental Refugees: A Growing Phenomenon of the 21st Century*, The Royal Society 2002, vol. 357, p. 610, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1692964/pdf/12028796.pdf> [access: 15.03.2021].

as in 1995, the number of such migrants (refugees) was over 25 million,⁹ which, however, proved too far-reaching a prediction then.

More recent research, summarized recently by W. Staszewski,¹⁰ emphasises the likelihood of real and growing occurrence of this relationship, especially in the context of consequences of climate change. This leads to a concept of constructing the term “climate change refugee”, understood as any person who has been forced to leave their home or their country due to the effects of major climatic incidents, and therefore has been forced to rebuild their lives in a different place.¹¹ It must be emphasized that these are still just hypotheses for the future, mainly in the sense of the mass scale of such migration, which, to a smaller extent, is already happening today. However, the research on this problem is still rather fragmentary,¹² and although it acknowledges its likelihood, its realization depends on numerous factors, not only environmental.¹³ The potential mass scale of this type of migration today has mainly media significance; however, should it occur in the future, it could naturally cause many different problems.

These problems will surface in a situation where migrations will have a transnational and, in large part, transcontinental character. The literature shows that migration for environmental reasons have so far been restricted to domestic movements and have been caused by incidents such as environmental changes triggered by the implementation of gigantic infrastructure development projects (the most high-profile recent example concerns migrations in China, caused by the construction of the so-called Three Gorges Dam Project), by local environmental disasters related to industrial failures or the intensity of the impact of specific industrial facilities (mainly chemical-processing plants in the cases of Bhopal and Seveso, and nuclear power facilities associated with the Chernobyl or Fukushima disasters)

⁹ Ibidem, p. 609.

¹⁰ Cf. W. Staszewski, *Causes of Contemporary Migrations*, Journal of Eastern Europe Research in Business and Economics 2021, pp. 1–8, <https://ibimapublishing.com/articles/JEERBE/2021/325285/> [access: 15.03.2021].

¹¹ Cf. I.I. Berchin, I.B. Valduga, J. Garcia, J.B.S.O. de Andrade Guerra, *Climate Change and Forced Migrations: An Effort towards Recognizing Climate Refugees*, Geoforum 2017, vol. 84, p. 149.

¹² This subject has been addressed in the Polish literature i.a. by P. Krajewski, *Migracje i migranci środowiskowi – konsekwencje zmian środowiska przyrodniczego*, Studia Prawnoustrojowe 2019, no. 46, pp. 145 ff., <https://czasopisma.uwm.edu.pl/index.php/sp/article/view/5326/4092> [access: 15.03.2021].

¹³ For example, authors of one of the most recent studies demonstrate that, at the time the research was being conducted, air pollution as a push factor for migration was greatly associated with educational attainment – higher educated individuals found this aspect important more often. Cf. X. Xu, K. Sylwester, *Environmental Quality and International Migration*, Kyklos. International Revue for Social Sciences 2016, vol. 69, no. 1, pp. 157–180, <https://onlinelibrary.wiley.com/doi/full/10.1111/kykl.12107> [access: 15.03.2021].

and by deforestation of large areas for wood utilization or agricultural reasons (Amazon forests). These experiences show that in such situations, migration is a logical, common, and almost instant response to sudden changes in the environment or to ecological disasters. In turn, when looking to the future, the potentially most important threat involves climate change, that has a negative impact on large areas and that is likely to bring diverse effects for the whole environment.¹⁴

Environmental changes that result from climate change may take the form of long-term processes extended in time, giving a chance for at least partial adaptation, and thus reducing potential migrations. However, rapid and sudden changes causing mass migratory movements in a short time among people affected by them are also possible, which also needs to be considered. The world has recently witnessed such significant rapid and thus surprising flows associated with emigration from the Middle East caused by acts of war, reinforced by African refugees for whom it was environmental causes that were one of the most important reasons for taking the decision to migrate. The mass scale of such movements may trigger various problems.

2. Threats to the environment as a consequence of migration

One such problem is the second aspect of the issue referred to in the title. Migration may be caused by environmental changes, but they themselves may also cause various problems,¹⁵ including environmental consequences. The greater, the more mass scale the nature of such movements, the greater the problem. Migrants cause environmental burdens in their new place of residence. Therefore, they should be encumbered with the consequences resulting from the basic principle of current environmental law: the “polluter pays” rule. If migrants do not know the laws in

¹⁴ Cf. G. Hugo, *Migration, Development and Environment*, Munich 2008, p. 34, http://www.ciesin.columbia.edu/repository/pern/papers/hugo_statement.pdf [access: 15.03.2021]; an extensive typology of environmental phenomena and changes that may result in migratory processes – see p. 23.

¹⁵ At the moment, societal negative perception concerns mainly consequences related to a weakened sense of security of those who have lived in a given territory before. This is supported by research that demonstrates a greater number of criminal acts in migrant circles, including those related to terrorism, which has become clearly noticeable recently, but has also been pointed to before. Cf. F.B. Adamson, *Crossing Borders: International Migration and National Security*, International Security 2006, vol. 31, no. 1, pp. 165–199; the author points out that migration flows affect at least three core areas of national security: state's overall capacity and sovereignty, the balance of power, and the nature of violent conflict, which requires that a relevant security policy be drawn up, implemented and monitored.

force that endorse this rule, and if there are no such rules in the previous place of residence, this might become a psychological burden and may result in difficulties in integration. Such consequences have already been emphasized in the literature, though relatively rarely. Nevertheless, scholars have identified cultural reasons for a greater negative environmental impact among migrants; for example, a lack of environmental awareness or previous habits.¹⁶ In-depth sociological research on this issue has not been carried out; in Poland, the reason is probably the still small range of the problem.

Environmental burdens are quite an obvious consequence of migrants' need to use environmental resources in the new place of stay and of increased pressure on the environment caused in this place by the satisfaction of their basic life needs, such as drawing drinking water, or satisfaction of other vital needs, which, in effect, involves sewage disposal, production of waste, fuel combustion for heating purposes, and other similar activities. With relatively low numbers of migrants dispersed throughout the territory of a given country, these problems are somehow blurred: a few or a dozen people in one municipality will not cause a more significant local burden. However, with greater numbers of migrants, these burdens may be perceived as major, especially since practice shows that those from other cultural circles tend to isolate: it is enough to refer to the German experience. Integration and adaptation to the new lifestyle in such closed communities, also in the context of observance of environmental protection requirements, become much more difficult.

In Polish conditions, meeting vital needs, such as access to drinking water,¹⁷ sewage disposal or maintaining places of residence clean and in order, including the collection and management of municipal waste generated by members of local communities, rests with the municipality and is treated as the municipality's own responsibility; thus, it is financed through its own funds, and therefore financed from its own resources, which is worth emphasizing. However, regulations addressing these issues are not local, but based on statutory laws largely in agreement with the European Union law.

In Poland, matters of collective water supply and collective wastewater disposal are now subject to the act of 7 June 2001.¹⁸ Pursuant to this act, collective water supply and collective wastewater disposal are the municipality's own task, which may also be performed by an inter-municipality association or in the form laid down

¹⁶ See e.g., G. Hugo, *Migration, Development and Environment...*, p. 41 ff. and the literature cited there.

¹⁷ According to Statistics Poland's 2018 Statistical Yearbook, average water use in Poland for this purpose was approximately 30m³ per capita per year and is similar to the EU average.

¹⁸ The Act of 7 June 2001 on collective water supply and collective wastewater disposal, Journal of Laws [Dziennik Ustaw] 2020 item 2028.

in an inter-municipality agreement. Water supply or wastewater disposal may be done based on a water supply or wastewater disposal agreement, executed between a water supply and sewerage company and a customer. A water supply and sewerage company is obliged to execute a contract for water supply and waste water disposal with a person whose real estate is connected to the network and who submitted a written request for such agreement to be executed. Water collection (wastewater disposal) without a valid contract is deemed as misdemeanour under law and is punishable by a fine. The terms and conditions for providing these services should be laid down in the rules and regulations for water supply and wastewater disposal adopted by a municipality council based on a draft drawn up by a water supply and sewerage company. Such rules and regulations constitute an act of local law. Prices for the services are fixed in special “Tariffs for collective water supply and collective wastewater disposal”. These tariffs must be approved by way of a municipality council resolution. These formal requirements for migrants will be implemented in various ways: people staying in special centres will not be directly burdened with them, but others will be.

Some of the provisions of the act also address the issue of the broadly understood protection of water, these are laws that relate to drinking water quality and that establish rules for discharging wastewater into wastewater facilities; these issues are regulated in detail in the Water Law.¹⁹ National Health Inspectorate’s bodies supervise the quality of water intended for human consumption. In Polish conditions, considerably increased needs for the supply of water of adequate quality and for municipal wastewater disposal would certainly be problematic in the context of water supply, due to the capacity of water treatment and water supply systems, as well as in the context of waste water disposal, due to the neglect in infrastructure relating to equipping neighbourhoods with water disposal and treatment systems.²⁰ This can also be a significant financial burden for municipalities burdened with accepting larger numbers of migrants.

A current significant problem in Poland involves the changes in the EU law concerning requirements for ensuring adequate quality of water delivered as part of supplying water for human consumption and water used for similar purposes.²¹

¹⁹ The Act of 1 March 2021 of Water Law, Journal of Laws 2021 item 624.

²⁰ Due to the need to implement EU law requirements, relevant tasks have been carried out organizationally since Poland’s accession to the European Communities, under the so-called National Programme for Municipal Wastewater Treatment (Article 88 et seq. The Act of 1 March 2021 of Water Law, Journal of Laws 2021 item 624).

²¹ At the moment, they are laid down in the provisions of the Regulation of the Minister of Health of 7 December 2017 on the quality of water intended for human consumption, Journal of Laws 2017 item 2294.

These changes result from a new Directive 2020/2184²² and the related obligation to implement it within a prescribed time limit (before 12 January 2023). Generally, the problem lies in small groundwater and surface water resources, including water that meets the criteria stipulated for water supply for human consumption.²³ The meeting of quality-related requirements for water, especially by surface water, has recently improved noticeably; however, many bodies of water used for abstracting water for supply still do not meet the main EU requirement, that is maintaining such quality which minimises the need for purification (Article 70 of the Water Law; Article 7 [3] of the Water Framework Directive).²⁴ Given the generally difficult problem of the quantitative status of waters in Poland and the quality of water supply systems,²⁵ it can clearly be seen that a substantial increase of water users would magnify such problems.

The matter of proceeding with municipal waste looks similar, due to the assumed scope of the study: the issues emphasised are only those believed by the author to be the most important.²⁶ Here too, relevant laws stipulate that the responsibility to organize and maintain the system of municipal waste management rests with the municipality, and it is the municipality's own task (Article 3 [1] of the so-called Cleanliness Act).²⁷ The municipality is responsible for organizing a system that covers collection of municipal waste from residents (that is producers of such waste) and management of collected waste in a way stipulated in general provisions on waste.²⁸ The municipality's responsibility for the organization and proper operation of urban waste management includes the need to organize these systems in a way that takes into account the requirements set by the law (including, in particular, the introduction and enforcement of the obligation for the selective collection of identified fractions of waste) and to direct waste to systems and treatment in

²² Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast) (Text with EEA relevance), OJ L 435, 23.12.2020, p. 1.

²³ At the moment: Regulation of the Minister of Maritime Management and Inland Waterways of 29 August 2019 on the requirements that must be met by surface waters used for supplying water for human consumption, Journal of Laws 2019 item 1747.

²⁴ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, OJ L 327, 22.12.2000, pp. 1–73.

²⁵ Which influences the quality of water available to direct user ("tap water") and which results from recapitalization of these systems and the frequent use in them of materials that negatively impact the quality of this water (e.g., lead water pipes used in older systems).

²⁶ A comprehensive study on the system in force in Poland since 2012, see e.g., *Prawne i organizacyjne obowiązki gmin w postępowaniu z odpadami komunalnymi*, eds. M. Górski, K. Nowacki, Wrocław 2012.

²⁷ The Act of 15 April 2021 on maintaining communes clean and in order, Journal of Laws 2021 item 888.

²⁸ The Act of 15 April 2021 on Waste Management, Journal of Laws 2021 item 779.

specified minimum amounts expressed in percentage of the total waste produced by a given country.²⁹ Failure to comply with the latter may result in municipalities facing financial consequences in the form of administrative fines. Furthermore, the regulations provide for formal obligations that will be applied to migrants in various ways, depending on the formal basis for their residence in a given commune.

Municipalities are also responsible for conducting educational programmes for residents on correct municipal waste management, especially in terms of selective collection of specified fractions of waste (Article 3 [2] [8] of the Cleanliness Act). Experience shows that the related environmental awareness is not ranked particularly highly in Poland, and the need to coach migrants on complying with these obligations (who come from other cultural circles where such issues are not considered paramount) would undoubtedly bring an array of problems.

The costs of the educational programmes are one of the costs associated with the operation of the entire system of municipal waste management based in general on the self-financing rule, where it is charges paid by residents that are sources of this financing (Article 6 [2] of the Cleanliness Act). In the national scale, the costs of the operation of such systems are constantly growing, which entails increased (substantially, in many cases recently) charges paid by residents. Greater numbers of persons that fall under this system in a municipality naturally increase its costs. Nevertheless, it is difficult to assume that migrants, at least in the beginning, could be charged in full.

The last statement is only a part of problems associated with costs involved in accepting migrants and their adaptation to life in Poland, which, naturally, applies to any migrants, not only environmental ones. The cost of their stay will be primarily borne by local government, which can be clearly seen in the example of environmental costs and must be considered by the central authorities who take decisions on accepting migrants. It seems that these problems must be approached in a systemic way and a relevant central state policy must be drawn up: we cannot assume that we will simply reduce, even drastically, acceptance of migrants. This may prove impossible, given sudden migrations caused by various reasons, including environmental ones, and also due to the EU's relevant policy,³⁰ based on com-

²⁹ This means the achievement of the so-called minimal levels of recovery and recycling stipulated in Article 3a and Article 3b of the Act of 13 September 1996 on maintaining cleanliness and neatness in municipalities, Journal of Laws 1996 No. 132, item 622 as amended (e.g., the achievement, on an annual scale, of the level of preparedness of specified fractions of municipal waste for reuse and recycling, such as paper, metal, plastic and glass, in at least 50% of total weight).

³⁰ The general basis of activity in this regard is laid down here in regulations of Title III in part V of TFEU (Treaty establishing the European Community, Journal of Laws 2004 No. 90, item 864/2 as amended; in particular Article 208) on humanitarian aid.

pliance with the Universal Declaration of Human Rights,³¹ Article 13 in particular.³² However, at the Union level too, we can see for some time now the awareness of the need to be prepared for crisis situations related to uncontrolled migrations of large groups of people.³³ This preparation consists of drawing up relevant action plans and schemes. As of today, it is not possible to indicate the real effects of the indicated problems; according to the author's knowledge, such studies have not been conducted to a greater extent in Poland.

The issues of freedom of migration, of helping migrants and of their status under the law, especially international law, are only signalled due to their importance. They have been addressed in various studies.³⁴

Conclusion

The aim of this study was to highlight a few problems related to the environmental aspects of migration, in particular the environmental effects of migration to the country of destination. The emphasis placed on these consequences does not aim to suggest that acceptance of migrants should be prevented at all costs, as this would be inhumane and, in some situations, also very difficult. Given the above, states should be prepared for such situations, especially as environmental reasons for migration may play an increasing role; basic problems related to such preparations are indicated in the content of the article. However, environmental consequences must be considered when preparing action plans to be used in the event of movement of great numbers of people from other geographical regions.

³¹ United Nations General Assembly Resolution 217 A (III) of 10 December 1948, [https://undocs.org/en/A/RES/217\(III\)](https://undocs.org/en/A/RES/217(III)) [access: 15.03.2021].

³² Article 13: "1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own, and to return to his country."

³³ Cf. Commission Recommendation (EU) 2020/1366 of 23 September 2020 on an EU mechanism for preparedness and management of crises related to migration, C/2020/6469, OJ L 317, 1.10.2020, p. 26.

³⁴ See e.g., P. Krajewski, *Migracje i migranci środowiskowi...*, p. 156 ff. and literature cited there.

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