

ORIGINAL PAPER

Forest land purchasing by forest districts of the Regional Directorate of the State Forests in Toruń in the light of applicable legal regulations

Adrian Talaśka⁽¹⁾, Roman Jaszczak⁽²⁾, Anna Ankudo-Jankowska⁽³⁾✉, Krzysztof Adamowicz⁽³⁾

⁽¹⁾ Rytel Forest District, Rytel-Dworzec 4, 89-642 Rytel, Poland

⁽²⁾ Department of Forest Management Planning, Faculty of Forestry and Wood Technology, Poznań University of Life Sciences, Wojska Polskiego 71c, 60-625 Poznań, Poland

⁽³⁾ Department of Forestry Economics and Technology, Faculty of Forestry and Wood Technology, Poznań University of Life Sciences, Wojska Polskiego 71c, 60-625 Poznań, Poland

ABSTRACT

This study defines the role of the pre-emption right established in the Forest Act affects the management of land in organisational units of the State Forests National Forest Holding (the State Forests). For this reason, land purchase transactions, based on the provisions of the Forest Act by forest districts of the Regional Directorate of the State Forests (RDSF) in Toruń between 2016 and 2022 were analysed.

The share of the area of pre-empted plots to the total area of plots purchased by the forest districts (Wup) was calculated. The land pre-emption indicator (Wwp) was used to determine the degree to which forest district managers exercised their rights resulting from the Forest Act. Three groups of parameters were considered in the geospatial analysis of the purchased land (the location, the spatial effects of the purchased plots on assets in the forest district and assessment of the plot suitability for forest).

The research showed that the average percentage of the area of plots pre-empted by the State (the right of acquisition) in relation to the total area of land purchased by the RDSF in Toruń amounted to 20.1%. The research also showed large differences in the value of the Wup index between the forest districts ($0.00% < Wup < 83.47%$). The indicator of the share of pre-emptions in relation to the number of notifications received was less spatially diversified ($0.00% < Wwp < 9.26%$).

The geospatial analysis showed that the location and size of the plots were important factors determining the decision to exercise the pre-emption right. In almost 93% of the cases, the boundaries of purchased plots were adjacent to the forest district or were located less than 50 m away from the boundaries of the nearest forest complex. Over 98% of the purchased plots met the area criteria for creating sub-compartments specified in the Forest Management Planning Instruction. More than a third of the cases the plots were mainly purchased to regulate the boundaries of properties so as to align borders between fields and forests.

The forest districts based their purchases of land on the procedure resulting from the provisions of the Forest Act, which specifies general principles of land acquisition. The right of pre-emption

✉e-mail: anna.ankudo-jankowska@up.poznan.pl

Received: 15 May 2024; Revised: 25 July 2024; Accepted: 17 September 2024; Available online: 17 October 2024

 Open access

©2024 The Author(s). <http://creativecommons.org/licenses/by/4.0>

(and the right of acquisition) were exercised to a lesser extent, but when choosing the land, the forest districts were guided by identical criteria to those indicated in the Forest Act.

KEY WORDS

forest land, inventory, management of forest land, pre-emption right, State Forests National Forest Holding

Introduction

As of 31 December 2022 the forest area in Poland was 9,275,000 ha, which corresponded to a forest cover of 29.7% (Statistics Poland, 2023). Most of this area was occupied by public forests – 7,491,000 ha, including state-owned forests – 7,386,000 ha, of which 7,134,000 ha, *i.e.* 76.9% of the total forest area, was managed by the State Forests National Forest Holding (the State Forests). Due to such a significant share the state-owned forests were classified as strategic national resources, in accordance with Section 3, Article 1 of the Act of 6 July 2001 on preserving the national character of the strategic natural resources in Poland (Ustawa, 2001). According to Article 3 of the aforementioned act, the national strategic resources are not subject to ownership changes. This means that legal transactions of forest land are restricted and subject to the provisions of special acts. These are, for example, the regulations specified in the Forest Act of 28 September 1991 (Ustawa, 1991) or in special laws, such as the Act of 10 April 2003 on special rules for the preparation and implementation of investments in public roads (Ustawa, 2003). It is noteworthy that the legislator indicates that strategic natural resources should be managed in accordance with the principle of sustainable development for the benefit of the general good. Thus, entities managing these renewable resources (including forests) are obliged to maintain, expand and improve them. These obligations correspond directly to the principles of forest management specified in Article 8 of the Forest Act, *i.e.* the principle of universal forest protection; the principle of sustainable forest maintenance, the principle of continuity and sustainable use of all forest functions, and the principle of increasing forest resources.

According to Article 35, Section 1 of the Forest Act, the forest district manager, who is the head of the basic organisational unit of the State Forests, is authorised to represent the state in the management of land resulting from the civil law. This means that the forest district manager is authorised by law to exercise ownership rights over the managed properties on behalf of the State Treasury, in accordance with the regulations specified in Articles 37-40a of the Forest Act, in the chapter 6a entitled ‘The Management of State-Owned Property by the State Forests Holding’. The Act of 13 April 2016 amending the Forest Act (Ustawa, 2016) introduced provisions regulating two similar rights vested in the State, represented by the State Forests. These provisions refer to land that is not state-owned if a natural person, a legal person or an organisational unit to which the law grants legal capacity intends to sell it. This is the right of pre-emption if forests and forest lands are sold and the right to acquire land upon payment of the equivalent of money when the legal form of the transaction is an agreement other than sale (*e.g.* an exchange agreement, a donation agreement) or a unilateral legal act (*e.g.* a waiver of shared ownership of forest land) (Chmielewski, 2020). The forest district may initiate the land purchase procedure after it has received a sale offer directly from the owner or as a result of talks with the owners of land that is desirable for purchase by the forest district. The latter option indicates that the forest district manager takes the initiative to increase the area of forest resources managed by the district and it is promoted in the internal legal regulations of the State Forests (Zarządzenie, 2021). According to the Forest Act, forest district managers of the State Forests may purchase forests, land for afforestation or other land if they have a written consent of the Director General of the State Forests, if it is justified by the needs of forest management and does not violate the interests

of the state (Chmielewski, 2020). According to Article 37 Section 2 of the Forest Act, a forest or land for afforestation may be acquired especially in three specific cases, *i.e.*: when its borders are directly adjacent to land managed by the State Forests, when the acquisition of land will lead to the abolition of co-ownership or when the purchase of land will contribute to regulation of the border between a field and forest.

The aim of the study was to determine the role and importance of exercising the powers of forest district managers introduced into the legal system by the Act of 13 April 2016 amending the Forest Act (Ustawa, 2016), *i.e.* the right of pre-emption and the right to acquire land upon payment of the money equivalent. The study was based on analysis of all land purchase transactions made by forest districts of the Regional Directorate of the State Forests in Toruń between 2016 and 2022. The issue analysed in this study is both topical and important from the point of view of optimal and well-thought-out management of forest properties by managers of forest districts of the State Forests, aimed at increasing forest resources owned by the state.

The following questions were formulated to achieve the aim of the study:

1. What role does the pre-emption right exercised by forest district managers play in the management of state-owned forest resources managed by the State Forests?
2. Which criteria do forest district managers follow when they decide to exercise the rights referred to in Article 37a of the Forest Act?
3. Having analysed the collected source material and current legal regulations, is it possible to find solutions supporting forest district managers in their decisions to use the right of pre-emption of forest land?

Material and methods

The research was conducted in 27 forest districts of the Regional Directorate of the State Forests in Toruń. The forest districts of the Regional Directorate of the State Forests in Toruń manage a total area of 457,072.83 ha, including 434,379.04 ha of forests (forest land, non-forest land, and land related to forest management) (LPIR-4, 2022). The forest cover of the Kuyavian-Pomeranian (Kujawsko-Pomorskie) Voivodeship (a unit of territorial division in Poland), which is the largest part of the administrative area of the Regional Directorate of State Forests in Toruń, amounts to 23.5%. It is smaller than the average forest cover in Poland and the distribution of forests is uneven. The share of private forests in the total area of forest land in the Kuyavian-Pomeranian Voivodeship is 11.3% – 48,600 ha (Statistics Poland, 2023).

Our study was based on source data from the Department of Forest Resources Management of the Regional Directorate of State Forests in Toruń – the ‘Land E-Register’ application, which was then supplemented with data included in the Public Information Bulletin of the General Directorate of the State Forests. The data received from the Regional Directorate of the State Forests in Toruń were used to calculate the ratio between the area of pre-empted plots and the total area of plots purchased by the forest districts (W_{up} , formula 1). The data were also used to calculate the degree to which heads of the forest districts exercised their rights referred to in Article 37a of the Forest Act. The percentage indicator of exercising the pre-emption right was used (W_{wp} , formula 2). The terms *pre-emption* and *right of pre-emption* should be understood jointly as both rights arising from the provisions of Article 37a of the Forest Act.

$$W_{up} = \frac{Pdp}{\sum Pd} \cdot 100\% \quad (1)$$

$$W_{wp} = \frac{P}{N} \cdot 100\% \quad (2)$$

where:

- Wup – indicator of the share of pre-empted land [%],
- Pdp – area of pre-empted land [ha],
- $\sum Pd$ – total area of land purchased by the forest district [ha],
- Wwp – pre-emption right exercise rate [%],
- P – number of cases of exercising the pre-emption right,
- N – number of notifications received from notaries.

Then, the source data were used for an analysis of the pre-empted plots. The analysis included 82 plots of land, which were assessed according to three groups of criteria: the location of the plots in relation to the forest complexes in the forest district, the spatial effects of the plots on the assets in the forest district, and the suitability of the plot for forest management, determined on the basis of its area.

The Quantum GIS (Open Source Geospatial Foundation) software, version LTR 3.16.10 Hannover, and the Cadastral Parcel Location Service plug-in (GUGiK ULDK) version 1.9.2. were used to determine the location of pre-empted cadastral plots in relation to the boundaries of forest complexes of individual forest districts. A set of adjacent forest patches separated by an appropriately narrow strip of non-forest land, *e.g.* road infrastructure, was treated as a forest complex (Budniak, 2020); following Zielony and Rabenda (2008), 50 m was assumed as the criterion for the distance between forest patches within one complex. A polygon layer in the ESRI Shapefile format, in the PUWG 1992 (EPSG 2180) coordinate system was created. The location of each cadastral plot under analysis was determined according to the following criteria:

- direct proximity of the purchased plot to land managed by the forest district (B);
- the purchased plot is separated from the forest district complex by a road plot (public road) (D);
- the plot is located at a distance of less than 50 linear meters from the border of the nearest forest complex (<50);
- the plot is located at a distance of 50-100 linear meters from the border of the nearest forest complex ($\geq 50 < 100$);
- the plot is located at a distance greater than or equal to 100 linear meters from the border of the nearest forest complex (≥ 100).

In order to determine the spatial effects of pre-emption of cadastral plots, each of the plots was characterised in terms of the effect of their acquisition by forest districts on the course of the boundaries of land managed by the State Forests. The effect was analysed by adding one of the following features to the table of attributes of the polygon layer:

- the connection of forest complexes (the acquisition of the plot by the forest district resulted in the connection of forest complexes which were more than 50 m apart),
- the creation of an enclave of lands belonging to the State Forests (the acquisition of the plot resulted in the creation of an enclave of lands managed by the State Forests located among lands owned by other parties),
- the creation of an enclave of foreign-owned land (the acquisition of the plot resulted in the creation of an enclave (semi-enclave) of privately owned forest land),
- the liquidation of an enclave (the purchased property was an enclave (semi-enclave), the acquisition of the plot resulted in the consolidation of land managed by the State Forests),
- the enlargement of the adjacent forest complex (the purchased plot is directly adjacent to or located within 50 m from the border of the land owned by the State Forests),

- the regulation of property boundaries (the acquisition of the plot resulted in equalisation of the boundaries of land managed by the State Forests, and regulated the course of the border between fields and forests).

In order to determine the suitability of the plots pre-empted by forest districts for forest management, they were grouped into 7 classes according to their area (class 1: <0.5 ha; class 2: 0.50-1.0 ha; class 3: 1.0001-2.0 ha; class 4: 2.0001-5.0 ha; class 5: 5.0001-10.0 ha; class 6: 10.0001-20.0 ha; class 7: >20.0001 ha). If the transaction covered adjacent plots, recorded in one land register, they were treated as one plot, in accordance with the land register model.

Results

The research showed that between 2016 and 2022 the forest districts of the Regional Directorate of the State Forests in Toruń purchased land properties with a total area of 977.9758 ha for the state, to be managed by the State Forests. More than a half of the forest district area was purchased in 2022 (Table 1). In comparison with 2021 (163.6949 ha), the area of land purchased in 2022 (495.1716 ha) increased noticeably. This increase resulted directly from the involvement of forest district managers in increasing forest resources. Thus, they fulfilled their obligations arising from Order No. 79 of the Director General of the State Forests of 30 December 2021 on the principles of increasing forest resources through the acquisition of forests and land for afforestation by the forest districts of the State Forests (Zarządzenie, 2021). The percentage of the area of land pre-empted by the state between 2016 and 2022 in relation to the total area of land purchased (*Wup*) by the Regional Directorate of the State Forests in Toruń amounted to 20.1% on average. This means that in general, the forest districts based their land purchase transactions on the pro-

Table 1.

The area of land purchased by the Regional Directorate of the State Forests in Toruń in 2016 according to the legal basis of the purchase

Legal basis for land acquisition	Purchase (Article 37 of Forest Act)	Pre-emption (Article 37a of Forest Act)	Total	Share [%]	<i>Wup ratio</i> [%]
Year					
2016	7.8500	5.5200	13.3700	1.4	41.3
	7.8200	5.5200	13.3400		
2017	11.1629	13.2600	24.4229	2.5	54.3
	11.1629	13.2600	24.4229		
2018	50.7675	0.0000	50.7675	5.2	0.0
	50.4409	0.0000	50.4409		
2019	177.2368	0.0000	177.5876	18.1	0.0
	173.1298	0.0000	176.4806		
2020	49.3391	3.9730	53.3121	5.5	7.5
	44.1124	3.7250	47.8374		
2021	102.3988	61.2961	163.6949	16.7	37.4
	94.0706	59.2461	153.3167		
2022	382.1922	112.9794	495.1716	50.6	22.8
	371.7681	106.5793	478.3474		
Total	780.9473	197.0285	977.9758	100.0	20.15
	752.5047	188.3304	940.8351		

Source: own research.

cedure resulting from the provisions of Article 37 of the Forest Act. The right of pre-emption was exercised to a lesser extent. Only in one case the forest district manager exercised the right to purchase land by paying the money equivalent, as written in Article 37a Section 2 of the Forest Act.

The forest districts of the Regional Directorate of the State Forests in Toruń were considerably diversified both in terms of the number of concluded conditional sales transactions and the area of land they purchased. This may have been caused by the specificity of individual forest districts, *i.e.* their location, proximity of larger urban centres, or the area of private forests within their administrative range. Pursuant to the provisions of Article 37a of the Forest Act, the forest districts of the Regional Directorate of the State Forests in Toruń purchased land consisting of 82 plots with a total area of 197.0285 ha, including 188.3304 ha as the area used for forest management, registered in the e-land registry (Table 1).

During the period under analysis, the following forest districts purchased land with the largest total area: Rytel (95.9160 ha), Przymuszewo (90.3789 ha), Szubin (82.6724 ha), Dobrzejewice (82.8449 ha) and Skrwilno (81.5800 ha). In total, it was 44% of the total area of land purchased by the Regional Directorate of the State Forests in Toruń between 2016 and 2020. The Przymuszewo, Rytel and Szubin forest districts were affected by the windfall disaster of 11 August 2017. At the same time, the damage also affected forests that were not owned by the State Treasury. After cleaning the disaster-affected areas, private owners decided to sell unforested forest area intended for renewal. The above-mentioned forest districts exercised their pre-emptive rights and acquired forest properties constituting forest areas without stand. Skrwilno, Szubin and Dobrzejewice are forest districts with a large administrative scope, in addition to the main and compact forest complexes, these forest districts have many smaller, fragmented forest complexes. In such a situation, the acquisition of real estate favours land consolidation and levelling the field-forest boundary, which facilitates the conduct of rational forest management. The following forest districts did not exercise the right of pre-emption even once during the research period: Miradz, Runowo, Zamrzenica, Lutówko, Cierpiszewo, and Trzebciny. However, they purchased land with a total area of 75.3648 ha for the state, in accordance with Article 37 of the Forest Act (Table 2). No land was purchased in the Cierpiszewo Forest District.

On 13 April 2016 the Forest Act regulating the pre-emption and acquisition rights of the State Forests was amended. The new law came into force on 30 April 2016. Between that date and the end of 2022, the forest districts of the Regional Directorate of State Forests in Toruń received a total of 3,206 notifications of conditional sales transactions, including one notification of a donation agreement (Table 2). During that period the Skrwilno Forest District received the most notifications from notaries – 420, *i.e.* 67 notifications per year. The average annual number of notifications in the Regional Directorate of the State Forests in Toruń was 458. On average there were 17 notifications per forest district per year.

The managers of 21 forest districts of the Regional Directorate of the State Forests in Toruń exercised the rights pursuant to Article 37a of the Forest Act in 57 cases. There were 56 transactions resulting from the pre-emption right referred to in Article 37a Section 1 of the Forest Act. There was one transaction in the Rytel Forest District in which the right to purchase land was exercised upon payment of the equivalent of money. Our analysis revealed a large variation in the Wup index value between the forest districts ($0.00\% < Wup < 83.47\%$). The following forest districts had the largest share of the area of pre-empted land in the total area of acquired land: Solec Kujawski (83.5%), Toruń (83%), and Czersk (56.4%). There was less variation in the ratio of the share of pre-emptions to the number of notifications received ($0.00\% < Wwp < 9.26\%$). The

Table 2.

The area of land [ha] purchased by the forest districts in the Regional Directorate of the State Forests in Toruń, including the share of pre-empted land (W_{wp} , %) and the rate to which the right of pre-emption was exercised (W_{wp} , %) between 2016 and 2022

Legal basis for land acquisition	Land purchased (Article 37 of Forest Act)	Pre-empted land (Article 37a of Forest Act)	Total	W_{wp} ratio	Number of notary notifications received (N)/ Number of pre-emptions (P)	W_{wp} ratio
Forest district		area [ha]		[%]		[%]
Brodnica	18.7977	2.5600	21.3577	11.99	169/1	0.59
Bydgoszcz	10.6859	6.9681	17.6540	39.47	110/4	3.64
Czersk	13.3400	5.1010	18.4410	27.66	82/2	2.44
Dąbrowa	10.0462	13.0066	23.0528	56.42	54/5	9.26
Dobrzejewice	79.7849	3.0600	82.8449	3.69	358/1	0.28
Gniewkowo	19.9500	2.8670	22.8170	12.57	94/1	1.06
Golub-Dobrzyń	30.0524	7.5600	37.6124	20.10	143/4	2.80
Gołębki	48.5492	14.8217	63.3709	23.39	114/4	3.51
Jamy	44.8904	3.9100	48.8004	8.01	222/2	0.90
Miradz	5.7200	0.0000	5.7200	0.00	12/0	0.00
Osie	13.5300	4.2982	17.8282	24.11	47/1	2.13
Przymuszewo	78.2077	12.1712	90.3789	13.47	100/3	3.00
Różanna	18.2484	1.8344	20.0828	9.13	110/1	0.91
Runowo	2.5400	0.0000	2.5400	0.00	30/0	0.00
Rytel	85.2051	10.7109*	95.9160*	11.17	61/5***	8.20
Skrwilno	56.5829	24.9971	81.5800	30.64	420/9	2.14
Solec Kujawski	0.3600	1.8175	2.1775	83.47	36/1	2.78
Szubin	79.1024	3.5700	82.6724	4.32	87/1	1.15
Tuchola	20.7819**	16.2400	37.0219	43.87	81/5	6.17
Włocławek	34.8358	2.5894	37.4252	6.92	241/2	0.83
Zamrzemica	28.3329	0.0000	28.3329	0.00	79/0	0.00
Żółędowo	4.7016	2.8700	7.5716	37.90	120/1	0.83
Lutówko	24.6019	0.0000	24.6019	0.00	26/0	0.00
Toruń	7.8500	38.3500	46.2000	83.01	186/2	1.08
Woziwoda	30.0800	17.7254	47.8054	37.08	97/2	2.06
Cierpiszewo	0.0000	0.0000	0.0000	0.00	22/0	0.00
Trzebciny	14.1700	0.0000	14.1700	0.00	105/0	0.00
Total	780.9473	197.0285	977.9758	20.15	3206/57	1.78

* Including the right to purchase (2.0700 ha)

** Including free land acquisition (6.2946 ha)

*** Including one case of the right to purchase

Source: own research.

highest value of the W_{wp} index was recorded in the Dąbrowa (9.26%), Rytel (8.20%) and Tuchola (6.17%) forest districts (Table 2).

The geospatial analysis of 82 cadastral plots pre-empted between 2016 and 2022 by the forest districts of the Regional Directorate of the State Forests in Toruń showed that their location was an important determinant leading to the purchase transaction. In nearly 93% of the cases (76 plots), the boundaries of the purchased plot were directly adjacent to the land owned by the forest district or less than 50 meters away from the boundaries of the nearest forest complex (Fig. 1). Only in 6 cases (about 7%), the purchased plots were located at a distance exceeding 50 m. They formed

new forest complexes, which were enclaves of state-owned forest land located among foreign-owned land in the forest district (Fig. 1, 3).

The area of the pre-empted plots ranged from 0.2966 ha to 23.60 ha. The average area was 3.4566 ha. Most of the plots were not larger than 5.0 ha (86%). One plot was smaller than 0.50 ha (0.2966 ha). It was adjacent to the boundaries of the forest complex in the forest district, so its purchase enabled the regulation of boundaries of the property. The area of over 98% of the purchased plots met the criteria for making sub-compartments for forest management (Fig. 2), as specified in the Forest Management Planning Instruction for the State Forests (IUL, 2012).

The analysis of the spatial effects of pre-emption (and the right of acquisition) showed that more than a third of such transactions mostly led to the regulation of property boundaries and

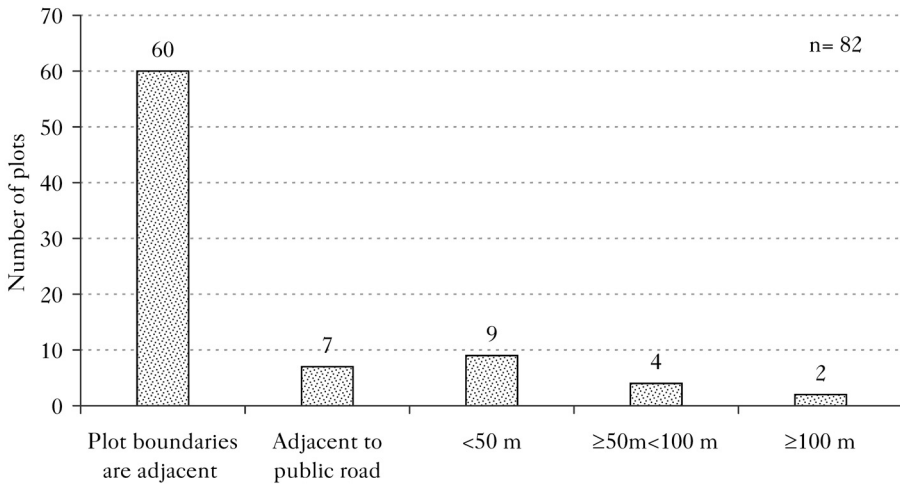


Fig. 1.

The location of plots in relation to the forest complex of the forest district (pre-emption)

Source: own research.

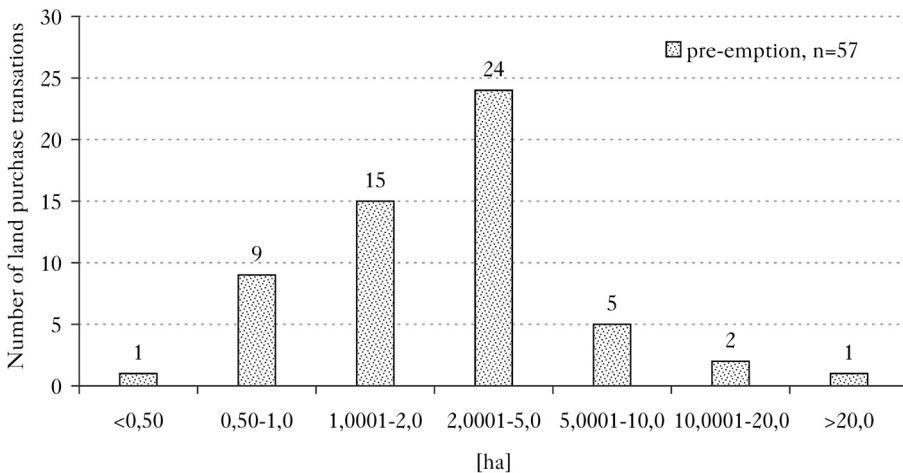


Fig. 2.

The distribution of the area of land pre-empted between 2016 and 2022 vs the legal basis for the purchase [ha]

Source: own research.

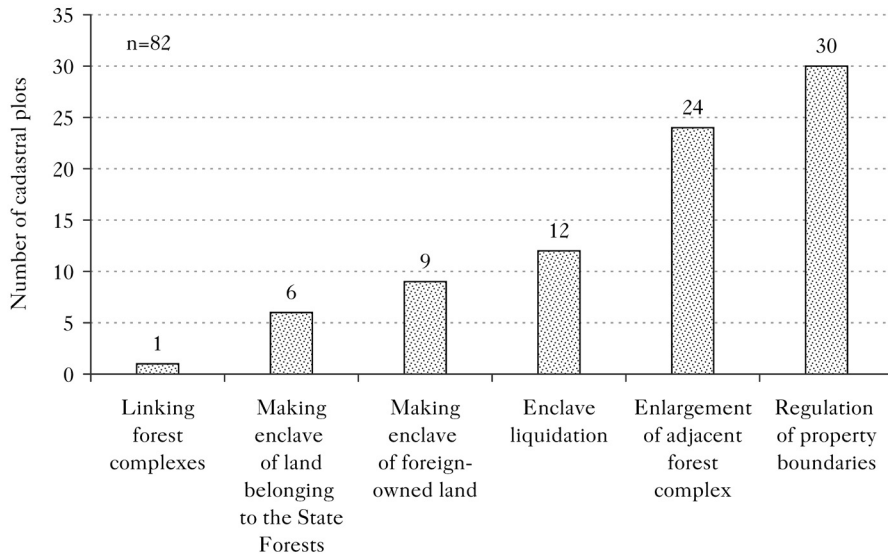


Fig. 3.

The spatial effects of the pre-emption of individual plots

Source: own research.

the alignment of the border between fields and forests (Fig. 3). If the distance of the purchased plot of land from the boundaries of the forest complex in the forest district did not exceed 50 m, the purchase transaction was treated as enlargement of the existing forest complex. During the period under analysis, there were 12 cases of pre-emption where the transaction resulted in liquidation of enclaves of foreign-owned land located among the land managed by the State Forests. Such actions should be rated positively, as they lead to the consolidation of land managed by the State Forests and the unification of forest management methods.

Discussion

The regulations concerning the management of forest land are the largest group of regulations in Chapter 6a of the Forest Act, which provides for the management of state-owned property managed by the State Forests. These issues were discussed in numerous studies on the forest law (Tyburek, 2010; Habuda and Radecki, 2016; Leśkiewicz, 2019; Chmielewski, 2020). The amendments introducing the right of pre-emption and the right of acquisition for the state represented by the State Forests to the Forest Act raised doubts among lawyers and were analysed in studies by Maj (2016), Mikołajczuk and Biernacki (2016), Wićcek (2017), and Bieluk (2018). As results from our analysis, between 2016 and 2022, the forest districts of the Regional Directorate of the State Forests in Toruń used the right of pre-emption to varying degrees. The average share of pre-empted plots was 20.15% and ranged from 0% to 83.5% depending on the forest district. It is noteworthy that the right of pre-emption of forest land can also be found in the legislation of other European countries. Nichiforel *et al.* (2020) reviewed changes in the legislation concerning property rights in European countries. They found restrictions on the sale of forest land in the legal systems of six countries. In North Macedonia, Serbia, and Lithuania the right of pre-emption is granted to the nearest neighbour of the forest land for sale. In 2012 France introduced the right of pre-emption for the state or the nearest neighbours of forest land for sale. Since 1990

the government in Ireland had the right to pre-empt the purchase of forest land, but this right was abolished in 2001. Currently landowners can freely decide to whom and at what price they will sell their forest land. There are similar regulations in Romania (Teodoru, 2022). The law was liberalised in the Czech Republic, but if a plot of land is located in a particularly valuable natural area, *e.g.* in the vicinity of national parks and nature reserves, this property can be pre-empted by the state (Jarský *et al.*, 2015). There have been few studies on the expected effects of these changes on the ownership structure of forests. Polna (2016) observed that the increase in the total forest area in the Wielkopolskie Voivodeship was caused by the afforestation of private agricultural land, the reclassification of non-forest land as forests as a result of natural succession, and disclosure of forested areas in the land register in previous years. According to the researcher, the ownership structure of forests will not change radically in the near future and the share of the State Forests will remain dominant. It is important to note the fact the land purchased by forest districts does not significantly increase the area of forests in Poland. However, it increases the area of state-owned forest resources managed by the State Forests. This fact may be of key importance because state-owned forests are classified as strategic natural resources of Poland. The total area of the real estates acquired under the pre-emption right amounted to 197.0285 ha, of which the area associated with forest management at the time of purchase amounted to 188.3304 ha: forested land – 57 plots (137.2586 ha), other land with forest reclassified as forest – 14 plots (35.8960 ha) and other land with forest to be reclassified as forest – 11 plots (15.1758 ha). The area of forest land, which ultimately constituted an increase in the area of forest land in the overall balance of the country and caused an increase in forest cover in Poland was 8.6981 ha.

The regulations concerning the right of pre-emption of real estate do not specify which criteria the forest district manager should follow when assessing whether the purchase of real estate is justified. According to Article 37 Section 2 of the Forest Act, it is advisable to purchase land that is adjacent to the land managed by the State Forests and to regulate the border between fields and forests. Our research showed that this rule was applied in practice by the forest districts. Over 73% of the plots pre-empted by the forest districts in the Regional Directorate of the State Forests in Toruń between 2016 and 2022 were adjacent to the boundaries of these districts, whereas 11% of the plots were located less than 50 m away from the land belonging to the State Forests and 9% were adjacent to a public road running along the land belonging to the State Forests. Almost 37% of the plots were pre-empted to regulate property boundaries. According to Kędziora *et al.* (2019), the right of pre-emption, understood as a tool for regulating borders between fields and forests, may facilitate the management of state-owned forests, *e.g.* when the co-ownership of land is to be abolished. On the other hand, due to the development and quality of private forest land, when it is purchased by the State Forests, it may be difficult to manage. Jaszczak *et al.* (2018) also observed that private forest owners were mostly interested in gaining profit from the sale of wood or the transformation of forest land into building plots. The researchers also found that private forest owners were reluctant to bear the costs of the renewal, care, and protection of the forest. During the period under analysis, the pre-emption of 12 plots by the forest districts of the Regional Directorate of the State Forests in Toruń resulted in the liquidation of foreign-owned enclaves located among the lands managed by the State Forests. These were positive actions as they led to consolidation of land managed by the State Forests and unified the forest management method.

According to Kędziora *et al.* (2019), thanks to the right of pre-emption exercised by the forest district manager in transactions involving the sale of private forests, pursuant to the amendment

to the Forest Act, it will be easier to consolidate plots and regulate the boundaries of properties. This is desirable both for the forest management and protection. According to Rakoczy (2018), due to the provisions of Article 38 of the Forest Act, which regulates the sale of forests, land, and other real estate by the State Forests, the possibility of forest management is a condition determining land purchase transactions. These transactions depend on the assessment of the suitability of land for forest management. If this view is translated into the general principles of purchasing land, pursuant to Article 37 of the Forest Act, and the right of pre-emption exercised by forest inspectors, pursuant to Article 37a of the Forest Act, it can be assumed that forest inspectors assess the suitability of land for forest management before they submit an application to the Director General of the State Forests for a consent to purchase this land. Their assessment is based on an analysis of the provisions of the simplified forest management plan and a visit to the site for inspection. Out of 82 plots that were acquired through pre-emption, 78 plots were covered by a simplified forest management plan (95%). Our analysis showed that over 98% of the area of land purchased by the forest districts of the Regional Directorate of the State Forests in Toruń met the criteria for making sub-compartments, specified in the Forest Management Planning Instruction of the State Forests (IUL, 2012).

Due to the current regulations regarding the management of state-owned property managed by the State Forests it is necessary to develop systemic solutions. Zygmunt and Głuszak (2014) noticed the need to develop an action programme comprising the goals and strategies of real estate management for enterprises with large real estate resources. This would increase forest resources and improve the quality of forest management. This strategy could be successfully developed by forest districts. An analysis of the land ownership structure in a particular forest district and a qualitative assessment of land suitability for forest management would enable the selection of areas of interest to the forest district authorities. This would improve the decision-making process when the head of the forest district receives a notification of the right of pre-emption. Simultaneously, it is necessary to pay attention to the legal requirements for submitting an application for consent to purchase land and exercise the pre-emption right, pursuant to Article 37e of the Forest Act (Danecka and Radecki, 2021).

Conclusions

The analysis led to the following conclusions, which are also answers to the research questions asked in this study:

- ✦ The land purchases transactions concluded by the forest districts are based on the procedure resulting from the regulations written in Article 37 of the Forest Act (acquisition based on general terms). The right of pre-emption and the right of acquisition are exercised to a lesser extent (20,1% of transactions). Purchasing land in accordance with Article 37 of the Forest Act is important because it organises and regulates properties by aligning the borders and expanding the area of forest complexes and by liquidating enclaves of foreign-owned land.
- ✦ Before forest districts managers exercise the right of pre-emption or the right to acquire forest land, they follow the same criteria as those in Article 37 of the Forest Act. They pay particular attention to the location of the property in relation to the forest complexes in their district, the area of the property, and the possibility of regulating its boundaries (aligning the border between fields and forests).
- ✦ In order to improve the management of land purchased by the State Forests, it be necessary to consider the possibility of implementing information on real estate trade contained in the

Land E-Register into the databases of forest districts and expand this register with the data contained in notifications about the right of pre-emption received by forest districts. This would help to collect data on properties traded on the real estate market and create a database for comparisons and further analyses made by forest districts and superior units.

✦ The low value of pre-emption right exercise rate (*Wwp*) by the forest districts indicates that it would be justified to formulate additional criteria for exceptions to the application of the pre-emptive right based on the intended use of the real estate being sold in the commune's planning documents (local zoning plan, study of the conditions and directions of spatial development of the commune and decisions on development conditions issued on its basis). Developing such a solution and including it in legal regulations would save time and costs for the buyers and sellers.

Author's contributions

Conceptualization – K.A. and A.T.; methodology – K.A., A.T. and R.J.; validation – K.A., investigation – A.T. and A.A.-J.; data curation – A.T.; writing-original draft preparation – A.T. and A.A.-J., supervision – K.A.; funding acquisition – K.A.

Conflicts of interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Funding source

The publication was created as part of the Master of Business Administration studies in the field of forest management at the Poznań University of Life Sciences.

References

- Bieluk, J., 2018. Zakres przedmiotowy prawa pierwokupu i prawa wykupu w ustawie o lasach. In: D. Łobos-Kotowska, P. Gała, M. Stańko, eds. *Współczesne problemy prawa rolnego i cywilnego*. Warszawa: Wyd. Fundacja PAFA, pp. 13-24.
- Budniak, P., 2020. Metoda wyróżniania kompleksów leśnych na podstawie ciągłości obszarów leśnych i zadrzewionych. (Method of forest patches generalisation based on connectivity of forest and other wooded land areas). *Sylwan*, 164 (10): 820-830. DOI: <https://doi.org/10.26202/sylwan.2020073>.
- Chmielewski, J., 2020. Prawo leśne w praktyce. Warszawa: Wyd. Wolters Kluwer Polska, 256 pp.
- Danecka, D., Radecki, W., 2021. Ustawa o lasach. Komentarz. Warszawa: Wyd. Wolters Kluwer Polska, 556 pp.
- Statistics Poland, 2023. Rocznik Statystyczny Leśnictwa (Statistical Yearbook of Forestry). Warszawa, Białystok: Statistics Poland, 348 pp.
- Habuda, A., Radecki, W., 2016. Trwale zrównoważona gospodarka leśna. In: D. Danecka, W. Radecki, J. Rotko, A. Habuda, eds. *Polskie prawo leśne*. Warszawa: Wyd. Difin SA, pp. 196-201.
- IUL, 2012. Instrukcja urzędowania lasu. Część I. Instrukcja sporządzania projektu planu urzędowania lasu dla nadleśnictwa. Warszawa: Centrum Informacyjne Lasów Państwowych, 287 pp.
- Jarský, V., Hrib, M., Riedl, M., Dudík, R., Ventrubová, K., Šišák, L., 2015. Forest land ownership change in Czech Republic. Vienna: COST Action FP1201 FACESMAP Country Report, 62 pp. Available from: https://facesmap.boku.ac.at/library/FP1201_Country%20Report_CZECH%20REPUBLIC.pdf [accessed: 29.02.2024].
- Jaszczak, R., Gołojuch, P., Wajchman-Świtalska, S., 2018. Wybrane zagadnienia zarządzania lasami prywatnymi w Polsce. (Selected aspects of private forest management in Poland). *Sylwan*, 162 (9): 754-762. DOI: <https://doi.org/10.26202/sylwan.2018088>.
- Kędziora, W., Orzechowski, M., Wójcik, R., Wrzosek, E., Borecki, T., 2019. Drzewostany przejęte z Państwowego Funduszu Ziemi – stan i problemy zagospodarowania. (Forest stands acquired from the State Land Fund – the condition and management problems). *Sylwan*, 163 (8): 665-674. DOI: <https://doi.org/10.26202/sylwan.2019002>.
- Leśkiewicz, K., 2019. Prawne aspekty zarządzania lasami Skarbu Państwa. Lublin: Wyd. WSEI, pp. 214-228.
- Maj, K., 2016. Prawo pierwokupu i prawo nabycia za zapłatą równowartości pieniężnej w ustawie o lasach. *Krakowski Przegląd Notarialny*, 1 (3): 63-81.
- Mikołajczuk, G., Biernacki, P., 2016. Prawo pierwokupu oraz prawo nabycia przysługujące Skarbowi Państwa na podstawie ustawy o lasach. *Rejent*, 10 (306): 9-32.

- Nichiforel, L., Deuffic, P., Thorsen, B.J., Weiss, G., Hujala, T., Keary, K., Lawrence, A., Avdibegović, M., Dobšínská, Z., Feliciano, D., Górriz-Mifsud, E., Hoogstra-Klein, M., Hrib, M., Jarský, V., Jodłowski, K., Lukmine, D., Malovrh, Š.P., Nedeljković, J., Nonić, D., Krajter Ostoić, S., Pukall, K., Rondeux, J., Samara, T., Sarvašová, Z., Scriban R.E., Šilingienė, R., Sinko, M., Stojanovska, M., Stojanovski, V., Stoyanov, T., Teder, M., Vennesland, B., Wilhelmsson, E., Wilkes-Allemann, J., Živojinović, I., Bouriaud, L., 2020. Two decades of forest-related legislation changes in European countries analysed from a property rights perspective. *Forest Policy and Economics*, 115: 102146. DOI: <https://doi.org/10.1016/j.forpol.2020.102146>.
- Polna, M., 2016. Zmiany w strukturze własnościowej lasów województwa wielkopolskiego w latach 2001-2106. *Rozwój Regionalny i Polityka Regionalna*, 36: 145-162.
- Rakoczy, B., 2018. Gospodarka leśna i trwale zrównoważona gospodarka leśna w prawie polskim. Warszawa: Wyd. Wolters Kluwer Polska, 176 pp.
- Teodoru, G., 2022. Legal restrictions on the sale of forest land in Romania. Comparative analysis with French law. *Perspectives of Law and Public Administration*, 11 (4): 572-585.
- Tyburek, M., 2010. Status prawny i zadania Państwowego Gospodarstwa Leśnego Lasy Państwowe. In: B. Rakoczy, ed. *Wybrane problemy prawa leśnego*. Warszawa: Wyd. Wolters Kluwer Polska, 134 pp.
- Ustawa, 1991. Ustawa z dnia 28 września 1991 r. o lasach. Dz.U. z 2023 r. poz. 1356.
- Ustawa, 2001. Ustawa z dnia 6 lipca 2001 r. o zachowaniu narodowego charakteru strategicznych zasobów naturalnych kraju. Dz.U. z 2018 r. poz. 1235.
- Ustawa, 2003. Ustawa z dnia 10 kwietnia 2003 r. o szczególnych zasadach przygotowania i realizacji inwestycji w zakresie dróg publicznych. Dz.U. z 2023 r. poz. 162.
- Ustawa, 2016. Ustawa z dnia 13 kwietnia 2016 r. o zmianie ustawy o lasach. Dz.U. z 2016 r. poz. 586.
- Więcek, P., 2017. Pierwokup wobec nieruchomości rolnych i gruntów leśnych: praktyka pierwszych miesięcy obowiązywania przepisów. (Preemption of agricultural real estate and forest land – the practice of the first months of the legislation). *Internetowy Przegląd Prawniczy TBSP UJ*, 6 (36): 115-127.
- Zarządzenie, 2021. Zarządzenie nr 79 Dyrektora Generalnego Lasów Państwowych z dnia 30 grudnia 2021 r. w sprawie zasad powiększania zasobów leśnych w wyniku nabywania lasów i gruntów przeznaczonych do zalesienia przez jednostki organizacyjne Państwowego Gospodarstwa Leśnego Lasy Państwowe (znak spr.: ES.2280.284.2021).
- Zielony, R., Rabenda, M., 2008. Leśny obszar funkcjonalny Puszcza Kozienicka. (Forest functional area Kozienicki Primeval Forest). *Studia i Materiały Centrum Edukacji Przyrodniczo-Leśnej*, 3 (19): 119-129.
- Zygmunt, R., Głuszak, M., 2014. Uwarunkowania gospodarowania nieruchomościami leśnymi w Polsce. (Determinants of the forest property management in Poland). *Świat Nieruchomości*, 1 (87): 29-34.

STRESZCZENIE

Nabywanie nieruchomości leśnych przez nadleśnictwa Regionalnej Dyrekcji Lasów Państwowych w Toruniu w świetle obowiązujących uregulowań prawnych

W pracy określono rolę ustanowionego w ustawie o lasach prawa pierwokupu w zarządzaniu nieruchomościami leśnymi przez nadleśnictwa w świetle aktualnie obowiązujących uwarunkowań prawnych Lasów Państwowych. W tym celu przeprowadzono analizę transakcji zakupów nieruchomości dokonanych w latach 2016-2022 przez jednostki organizacyjne Regionalnej Dyrekcji Lasów Państwowych w Toruniu. Zestawiono informacje dotyczące transakcji nabywania nieruchomości, których podstawą były zapisy ustawy o lasach (art. 37, art. 37a). Dane te poddano analizie w układzie przestrzennym i czasowym (według nadleśnictw RDLP w Toruniu, lata 2016-2022). Następnie na podstawie danych źródłowych przeprowadzono analizę nabytych w drodze pierwokupu 82 działek. Określono powierzchniowy udział działek nabytych w drodze pierwokupu w łącznej powierzchni działek zakupionych przez nadleśnictwa (*Wwp*). Na podstawie wskaźnika wykonania prawa pierwokupu nieruchomości (*Wwp*) określono stopień wykorzystania uprawnień przez kierowników jednostek wynikających z art. 37a ustawy o lasach. W analizie geoprzestrzennej nabywanych nieruchomości uwzględniono 3 grupy parametrów: położenie zakupionych działek względem kompleksów leśnych nadleśnictwa (wyróżniono 5 kryteriów określających położenie

działki), skutki przestrzenne zakupionych działek na stan posiadania nadleśnictwa (6 atrybutów) oraz ich przydatność dla gospodarki leśnej (7 klas powierzchniowych).

Na podstawie badań wykazano, że udział procentowy powierzchni nieruchomości przyjętych w zasób Skarbu Państwa w drodze pierwokupu (i prawa nabycia) w ogólnej powierzchni nieruchomości zakupionych w RDLP w Toruniu w latach 2016-2022 wynosił średnio 20,1% (tab. 1). Wyniki badań potwierdziły również duże zróżnicowanie wskaźnika wartości Wwp między nadleśnictwami ($0,00\% < Wwp < 83,47\%$) (tab. 2). Mniejsze zróżnicowanie przestrzenne wykazywał wskaźnik udziału wykonanych pierwokupów w stosunku do liczby otrzymanych zawiadomień ($0,00\% < Wwp < 9,26\%$).

Analiza geoprzestrzenna wykazała, że położenie działki jest ważnym czynnikiem decydującym o skorzystaniu z prawa jej pierwokupu. W niemal 93% przypadków granice nabywanej działki bezpośrednio sąsiadowały z nadleśnictwem lub znajdowały się w odległości mniejszej niż 50 m od granic najbliższego kompleksu leśnego (ryc. 1). Ważnym czynnikiem w podjęciu decyzji o zakupie nieruchomości była jej wielkość, dająca możliwość prowadzenia gospodarki leśnej. W ponad 98% przypadków nabyte nieruchomości spełniały kryteria powierzchniowe tworzenia wydzieleń określone w Instrukcji Urządzania Lasu (IUL, 2012) (ryc. 2). Analizując skutki przestrzenne realizowanego prawa pierwokupu (i prawa nabycia), stwierdzono, że w ponad $\frac{1}{3}$ przypadków głównym czynnikiem jego wykonania była regulacja przebiegu granic własności, prowadząca do wyrównania granicy polno-leśnej (ryc. 3). Stwierdzono, że nadleśnictwa opierają zakupy gruntów o procedurę wynikającą z przepisów art. 37 ustawy o lasach określających nabywanie gruntów na zasadach ogólnych. Wykonywanie prawa pierwokupu (i prawa nabycia) występuje w mniejszym zakresie, przy czym w wyborze nieruchomości jednostki kierują się kryteriami tożsamymi do wskazanych w art. 37 ustawy o lasach.