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THE REQUIREMENT OF OBTAINING AN ENVIRONMENTAL DECISION IN THE CASE OF AN INVESTMENT CONCERNING A ROAD RECONSTRUCTION – CASE STUDY

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ABSTRACT: The goal of this article is to present the procedure for obtaining an environmental decision using the example of an investment involving the reconstruction of a road. The case study concerned the reconstruction of a public municipal road No. 178044N Prostki – Ostryków – Lipińskie Małe, Prostki municipality, Etcki powiat, Warmińsko-Mazurskie voivodeship of the length of 4308.50m against legal regulations of obtaining environmental decisions. Through the interpretation of legal regulations, it was established that the described investment – under certain conditions – does not require obtaining an environmental decision. Based on literature studies, basic concepts and activities pertaining to the procedure of obtaining environmental decisions in Poland were presented. Moreover, the conclusions obtained as part of the research may prove useful to public investors who are obligated to verify their investments in terms of their legal compliance during the planning stage.

KEYWORDS: decision, environment, procedure, evaluation

Introduction

The investment process in Poland consists of several stages. Some of them are obligatory, while others depend on the type of construction goals that were undertaken. The latter is the so-called environmental proceedings, nevertheless, the assessment of whether their investment will have an environmental impact must be carried out by each investor intending to commit to an investment in Poland, to confirm or eliminate the need to conduct an environmental impact assessment for the project under development.

Environmental proceedings are based on predicting potential environmental risks at the investment planning stage, as well as the scale of these risks, and – as a result – counteracting or limiting these threats and minimizing the negative impact of the planned investment. It is an administrative procedure initiated at the investor's request and concluded with the issuance of a decision on environmental conditions for the investment's development.

Investments in the field of road infrastructure undoubtedly affect the environment, both at the construction and operation stages. In most cases, the impact is mostly negative, such as destruction of plant and animal sites, fragmentation of these habitats, landscape fragmentation, changes in hydrological processes, increased noise levels or the need to demolish existing buildings (Karlson, Mörtberg, Balfors, 2014; Broniewicz, Ogrodnik, 2020). Of course, the number and scale of this impact depend directly on the location and the parameters of a given investment.

Due to the enormous socio-economic importance of road investments and their potential impact on virtually all components of the environment (fauna and flora, atmospheric air, acoustic climate, landscape, etc.), environmental proceedings play a unique role in this group of investments.

The main objective of this paper is to present the procedure for obtaining environmental decisions, based on the example of an investment pertaining to road reconstruction. The work consists of a theoretical part, in which literature studies have been conducted primarily in the field of the selected provisions of the Construction Law. In the empirical part, a case study was presented, which concerned an investment pertaining to a reconstruction of a public municipality road No. 178044N Prostki – Ostrykół – Lipińskie Małe, Prostki municipality, Ełcki powiat, Warmińsko-Mazurskie voivodeship with a length of 4,308.50 m. The author of this article participated in court proceedings concerning this investment, in which a dispute arose as to the need to obtain an environmental decision for this type of project. The current authorities of the municipality were of the opinion that an environmental investigation was necessary in this case, whereas the previous administration decided to the contrary. On the other hand, the provisions on obtaining

an environmental decision for road reconstruction are imprecise to the degree that makes it impossible to – after only a cursory reading – support any of the two positions. Hence arose the need for an in-depth analysis of the problem to dispel doubts and avoid similar problems in the future, especially as road investments in municipalities are usually the most frequently undertaken, due to their importance and value for local communities.

Literature review

The main research problem discussed in this paper concerns the investment pertaining to the reconstruction of a municipal road. Therefore, during the first stage, it was necessary to determine whether this type of investment requires a building permit. According to Art. 28 sec. 1 of the Act from May 21, 2019, Construction Law (Journal of Laws from 2019, item 1186 – hereinafter referred to as Construction Law), construction works in Poland can generally commence on the basis of a building permit. It is a principle, from which there are exceptions specified in further provisions of the Construction Law. Exceptions were introduced because, in accordance with the will of the legislator, building permits are required for the most complex projects, whereas those with a lower degree of complexity only need to be reported, or can even be implemented without notifying the architectural and construction authorities (responsible for accepting building permit applications and notifications – Articles 82-82b of the Construction Law).

According to the legal definition, a building permit is an administrative decision allowing for the commencement and conduct of the construction process or the performance of construction works other than the construction of a civil structure. Construction works other than construction include works pertaining to, *inter alia*, reconstruction, assembly, renovation, or demolition of a building object (Niewiadomski, 2021).

A building permit may be issued after the project's environmental impact assessment has been carried out and the investor has obtained permits, approvals or opinions of authorities required by specific regulations, including decisions on environmental conditions for the implementation of the investment (Strzelczyk, 2019).

That is why, whether the reconstruction of a municipal road requires a construction permit and whether the requirement to obtain an environmental decision is in force, always depends on the procedure of obtaining a construction permit. Considerations should begin with the definition of a municipal road. According to Art. 2 clause 1 point 4 and Art. 1 and Art. 4 sec. 1 point 2 of the Act from March 21, 1985, on public roads (Journal of

Laws from 2013, item 260 – hereinafter referred to as the Public Roads Act), a municipal road is a structure together with road-like engineering structures, equipment and installations, constituting a technical and operational entity, intended for road traffic, located within a road lane, which can be used by anyone, in accordance with its intended purpose, within the limitations and exceptions specified in relevant acts.

However, according to Art. 3 point 7a of the Construction Law, redevelopment is defined as “performance of construction works that result in operational or technical parameters of an existing object being changed, except for characteristic parameters such as cubature, building area, height, length, width or number of storeys. In the case of roads, changes in characteristic parameters are allowed within the scope that does not require changes to the boundaries of the road lane. The reconstruction of a road is also defined as: “performance of work that results in an increase in the technical and operational parameters of the existing road, which do not require changing the boundaries of the road lane” (Article 4 (18) of the Public Roads Act).

Taking into account the above legal definitions, we should therefore state that the reconstruction of roads in Poland (including municipal roads), in accordance with Art. 29 sec. 3 point 1 lit. 2 of the Construction Law, does not require a building permit. However, it requires issuing a notification. The reconstruction of the municipal road No. 178044N Prostki-Ostryków-Lipińskie Małe in the municipality of Prostki, therefore, belongs to the category of projects that only require notification, as this investment is limited to the reconstruction (not construction) of a road, with the provision that, if the reconstruction included a change in the boundaries of the road lane, it would be necessary to obtain a construction permit.

The term “road lane” is defined in Art. 4 point 1 of the Public Roads Act, and it is described as land separated by borderlines together with the space above and below its surface, on which the following are located: the road and construction facilities and technical equipment related to the management, security and service of traffic, as well as devices designed to meet the requirements of road management. The term “road lane” is therefore much broader than “road”. Voivodeship Administrative Court in Krakow, in its judgment from January 7, 2010, file ref. Act I SA / Kr 1666/09 indicated that a road has to constitute a structure, but the road lane is a land on which that structure is located. In addition, the Supreme Administrative Court in a judgment from January 13, 2009, file ref. II GSK 614/08 stated that: “Taking into account the functional role of a road lane – in the context of its scope, both above and below the designated area – it should be stated that these boundaries define facilities and devices used to achieve objectives pertaining to driving, securing and managing traffic, as well as road management. “The boundaries of

the road lane should be clearly delineated with borderlines on the land plan. Therefore, to present the boundaries of a road lane, it is necessary to submit a land plan with clearly marked boundary lines of this land (judgment of the Supreme Administrative Court in Warsaw from June 17, 2008, file reference: II GSK 171/08). It is not sufficient to define the strip of land only with the boundaries of registration plots (Sadkowski, 2017). The road, as a structure, must therefore be built on specific land. The construction of a road requires the acquisition of appropriate land, necessary for its foundation, along with other facilities needed for road traffic. This area is what is defined as a road lane (Morawiec, 2013).

It is undeniable that the undertaking that is subject to this analysis did not interfere with the boundaries of the road lane. This was apparent not only from the master map attached to the design documentation (included in the case files) but also from the lack of objections raised by the County Administrative Office in Ełk (acting as an architectural and construction administration body). The investment was submitted for construction pursuant to Art. 29 sec. 3 point 1 lit. 2 of the Construction Law by the previous municipal authorities and the County Administrative Office did not raise any objections. If the reconstruction reported to the County Administrative Office required a building permit (and thus interfered with the road lane), the County Administrative Office would be obligated to raise an objection to the notification (Article 30 (6) (2) of the Construction Law), which was not done in the analyzed case.

Pursuant to Art. 30 sec. 6 point 2 of the Construction Law, architectural and construction administration authorities are obligated to raise an objection if:

- the application concerns construction or performance of construction works that are required to obtain a building permit,
- the construction or performance of construction works covered by the notification violates the provisions of the local spatial development plan, stands against the decisions on development conditions, or is in breach of other acts of local law or other provisions.

The notification is a *sui generis* application for tacit approval by the authorities of the construction project that is subject to that notification. In this situation, the silence of the authorities, i.e., failure to raise an objection (which takes the form of an administrative decision), entitles the notifying party to commence construction works. The architectural and construction administration body that received the notification is required to assess the project from the point of view of its legal compliance (Niewiadomski, 2021).

Environmental impact assessment in the case of road reconstruction

As indicated above, in the case of the investment pertaining to the reconstruction of the municipal public road No. 178044N Prostki – Ostrykół – Lipińskie Małe, Prostki municipality, Ełcki powiat, Warmińsko-Mazurskie voivodeship with a length of 4,308.50 m, according to Polish architectural and construction administration authorities, no construction permit was required. Moreover, according to the County Administrative Office in Ełk, it did not require obtaining an environmental decision.

According to Art. 30 sec. 2a of the Construction Law, the notification must be accompanied by, inter alia, permits, arrangements, and opinions. The obligation stems from the provisions of separate acts, in particular the decision on environmental conditions.

The responsibility of the County Administrative Office in Ełk was, therefore, to verify the notification in terms of its compliance with the law. If it was found that any of the attachments is missing, it was the obligation of the Office to impose on the investor; by way of a decision, the obligation to supplement the notification with the necessary documents within a specified period (Article 30 (5c) of the Construction Law). Then, in case of a failure to deliver such supplements, the County Administrative Office would be obligated to raise an objection regarding the documentation submitted by the investor (judgment of the Provincial Administrative Court in Bydgoszcz from February 4, 2020, II SA/Bd 1046/19). This was not done, however, which effectively served as an administrative sanction of the fact that the reconstruction of that road (in the scope indicated in the application) does not require an additional procedure that would conclude with an environmental decision. The new authorities of the Prostki municipality did not agree with this interpretation.

Therefore, the key research problem of this article was to verify the correctness of the actions undertaken by the County Administrative Office, within the discussed scope and to answer the question whether reconstructing a road in Poland does not, in fact, require an environmental assessment of the investment.

Generally speaking, in Poland, the assessment of whether a given investment requires environmental proceedings is based on two legal acts:

- the Act from October 3, 2008, on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments (Journal of Laws from 2020, item 283 – hereinafter also u.i.o.ś.),

- Regulation of the Council of Ministers from September 10, 2019, on projects that may have a significant impact on the environment (Journal of Laws of 2019, item 1839 – hereinafter also: Regulation).

Pursuant to Art. 71 sec. 1 u.i.o.ś., the decision on environmental conditions specifies the environmental conditions of the project. The pending proceeding regarding its issuance concerns the planned project and is focused on determining whether the investment – in the scope described by the investor in the application – poses a threat to the environment and whether it meets the requirements and parameters of environmental protection (Tomaszewska, 2018). Moreover, pursuant to Art. 72 sec. 1a, and sec. 3 u.i.o.ś., the decision must be issued prior to the notification of the execution of construction works, and such a decision constitutes a required motion that supplements such a notification.

Obtaining an environmental decision is required only for the projects that (Art. 71 (2) of the Environmental Protection Act):

- typically have a significant impact on the environment,
- may potentially have a significant impact on the environment.

Consequently, it should be determined whether the reconstruction of a municipal road falls into one of the two categories: projects that typically have a significant impact on the environment, and projects that can potentially have a significant impact on the environment. The above-mentioned regulation, which contains a list of projects belonging to both categories, is particularly helpful in that regard.

The Regulation in § 2 sec. 1 indicates a list of projects that typically have a significant impact on the environment, while in § 3 par. 1 it describes investments that potentially have a significant impact on the environment. The fact that both lists are closed sets does not require further comment (Siwkowska, 2018).

According to the author of this study, the following provisions of this law should be subject to analysis:

- § 2 (1) point 31: (construction of) motorways and expressways,
- § 2 clause 1 point 32: (construction of) roads different than those mentioned in point 31, not less than four lanes and of length not less than 10 km in a single section or a route change or the extension of an existing two-lane road to at least four lanes along with a distance no shorter than 10 km in a single section,
- § 2 clause 2: included among projects that typically have a significant impact on the environment are ones involving the extension, reconstruction or assembly of implemented or completed projects listed in:
 - paragraph 1, if this extension, reconstruction or assembly reaches the thresholds specified in sec. 1, provided they have been specified,

- § 3 clause 1, if this extension, reconstruction or assembly results in reaching the thresholds specified in sec. 1, provided they have been specified,
- § 3 clause 1 ones not meeting the thresholds referred to in § 3 subpara. 1, provided they have been specified, if the extension, reconstruction or assembly will result in reaching the thresholds specified in par. 1.
- § 3 clause 1 pt. 62: (construction of) paved roads with a total project length exceeding 1 km, other than those mentioned in § 2 par. 1 paragraphs 31 and 32 or bridges along the road with a hard surface, with the exception of the reconstruction of roads or bridges used to service power substations and located outside the areas covered by the various forms of nature protection referred to in article 1. 6 sec. 1 points 1-5, 8 and 9 of the Act from April 16, 2004, on nature protection (Journal of Laws from 2020, item 55 – hereinafter: the Nature Conservation Act).

When analyzing the wording of the above regulations in terms of the investment pertaining to the reconstruction of the public municipal road No. 178044N Prostki – Ostrykół – Lipińskie Małe, Prostki municipality, Ełcki powiat, Warmińsko-Mazurskie voivodeship with a length of 4308.50 m, the following conclusions can be drawn:

- § 2 (1) (31) of the regulation will certainly not apply in this case. The analyzed investment does not pertain to an expressway or a motorway – the subject of the investment is a road which does not meet the requirements of either a motorway or an expressway. A motorway is a road intended exclusively for motor vehicle traffic: equipped with at least two permanently separated one-way carriageways, with multi-level intersections and including all land and water transport routes that cross it, equipped with passenger, vehicle and parcel service facilities intended exclusively for users of that motorway (Article 4 (11) of the Act on public roads). On the other hand, an express road is a road intended exclusively for motor vehicle traffic, equipped with one or two carriageways, with multi-level intersections and including other land and water transport routes that intersect it, with the exceptional admission of single-level intersections with other public roads, equipped with passenger, vehicle and parcel service facilities intended exclusively for users of that expressway; (Article 4 (10) of the Act on Public Roads). What is equally important, the municipality cannot be the manager of motorways or expressways, ergo: it does not perform the function of an investor in this respect (Art. 19 (2) in conjunction with Art. 20 (3) of the Act on Public Roads); therefore, it cannot move for their reconstruction.

- There also exists a lack of premises to apply § 2 para. 1 point 32 of the regulation to the subject of this paper, due to the fact that the planned road section is 4308.50m in length, so it is shorter than the minimum indicated in the provision, i.e. 10 km (10,000 m). The provision will also apply only to roads with at least four lanes, while road no. 178044N Prostki – Ostrykół – Lipińskie Małe, according to its design documentation, is only a two-lane road.
- It is the opinion of the author that there are also no grounds to apply the disposition of § 2 sec. 2 of the regulation, although the interpretation is not as obvious as in previous cases. The regulation mentions reconstruction, which is relevant to the case of this investment. However, a reference is also made here to the thresholds measured in kilometers and indicated in the regulations discussed above. Therefore, if the municipal road was to be subject to a single rebuild (in accordance with the design documentation) over a section longer than 10 km, then it would be necessary to obtain an environmental decision.

By applying the principle of elimination, it should be concluded that the most likely application is the disposition of § 3 para. 1 point 62 of the regulation. The circumstances indicated in the discussed paragraph will be applicable in the case of an investment pertaining to the reconstruction of a municipal road in a section shorter than 10 km, and thus:

- Municipal road No. 178044N Prostki – Ostrykół – Lipińskie Małe is made of a hard (asphalt) surface. Its reconstruction was designed in such a way that the new surface would also be a bituminous one. The concept of a road with a hard surface should be understood as a road made of hard materials and one that uses relevant technology which impacts the hardening of the road. Therefore, it will not be only understood as a road whose types of surfaces are listed in Art. 2 point 2 of the Road Traffic Law (bituminous, concrete, paver blocks, clinker or paving stone, and concrete or stone-concrete slabs). A different assessment of this issue would lead to the possibility of easily circumventing the requirement to obtain an environmental conditions decision for projects including the construction of a hard surface road, since the types of road surface other than those listed in the Road Traffic Act would exclude such a requirement (judgment of the Provincial Administrative Court in Kraków of August 7, 2017 II SA / Kr 608/17).
- The total length of the reconstructed road is 4,308.50m. Thus, the condition of the project's length being more than 1 km (1000 m) was also met.

Therefore, it should be considered whether, in such a case, an investment pertaining to the reconstruction of the public municipal road No. 178044N Prostki – Ostrykół – Lipińskie Małe, Prostki municipality, Ełcki powiat, Warmińsko-Mazurskie voivodeship of the length of 4308.50m actually meets the requirement of § 3 par. 1 point 62 of the said regulation. If that is the case, then it is a project that has a potentially significant impact on the environment, i.e., it is necessary to obtain an environmental decision and possibly to conduct a full environmental impact assessment. Assuming that the above thesis is true, it should also be stated that the ruling of the architectural and construction administration authority (County Administrative Office in Ełk), which sanctioned the above investment without the requirement to submit an environmental decision was incorrect.

In the opinion of the author of this article, however, the action of the County Administrative Office in Ełk was correct, with certain reservations that should be made as part of this study.

The provisions of § 3 sec. 1 point 62 of the regulation exclude the need to obtain an environmental decision in the case of road reconstruction (or bridge structures) used for servicing power substations and located outside of areas covered by forms of nature protection, referred to in Art. 6 sec. 1 points 1-5, 8 and 9 of the Nature Conservation Act, i.e., national parks, nature reserves, landscape parks, protected landscape areas, Natura 2000 areas, ecological sites, and nature and landscape complexes.

The difficulty in interpreting the above provision is rooted in need to determine whether the two cases should be interpreted jointly or separately. The understanding of the above provision is at least ambiguous, i.e.

- investments pertaining to the reconstruction of roads are exempt from the obligation to obtain an environmental decision, provided that the following conditions are jointly met:
 - they are used to service power substations, and
 - are located outside of areas covered by the forms of nature protection referred to in the Nature Conservation Act,
- investments pertaining to the reconstruction of roads are exempt from the obligation to obtain an environmental decision, provided that one of the two conditions is met:
 - they are used to service a power substation,
 - they are located outside of areas covered by the forms of nature protection referred to in the Nature Conservation Act.

Selecting the appropriate interpretation of the wording of the above provision is not an easy task, especially since there are no publications on this subject. The judicial practice also failed to develop a position on the discussed

matter. However, in the opinion of the author of this article, one should support the second of the presented positions, due to the arguments given below.

The presented position is supported primarily by the logical and purpose-based interpretation of the provision in question. It should not be forgotten that the investment analyzed in the article pertains only to the reconstruction of a road, not its construction. The very construction of the road No. 178044N Prostki – Ostrykół – Lipińskie Małe had to be preceded by obtaining an environmental decision. The planned reconstruction does not extend beyond the existing road lane. Therefore, there is no change in the scope of the investment's impact, which would require its reverification in terms of environmental solutions, subject to the reconstruction carried out in the areas covered by the forms of nature protection referred to in the regulation.

The separate nature of both conditions may also be demonstrated by the application of a systemic and functional interpretation of the wording of the regulation. If it were to be said otherwise, this provision would most likely not apply. It is difficult to find an investment which would meet both conditions jointly, pursuant to the provisions of the Nature Conservation Act, which:

- prohibit the construction or reconstruction of buildings and technical devices in national parks and nature reserves, except for facilities and devices serving the purposes of the national park or nature reserve – Art. 15 sec. 1 of the Nature Conservation Act,
- generally, prohibit the implementation of projects in areas of a landscape park and in areas of the protected landscape that may significantly affect the environment – Art. 17 sec. 1 of the Nature Conservation Act,
- prohibit the performance of earthworks that permanently deform the topography in the areas of nature and landscape complexes and ecological areas, – Art. 45 sec. 1 of the Nature Conservation Act.

The above regulations effectively prohibit locating buildings, such as power substations, in areas of natural value. There is also no functional connection between the operation of a power substation and the areas covered by forms of nature protection. At the same time, it is logical that the reconstruction of a road located within the area of, e.g., a national park, requires an environmental procedure due to the principle of inviolability of naturally valuable areas.

Moreover, the combination of both exclusions with the conjunctive functor (conjunction) “and” does not mean that they should be understood as only applied jointly. According to the principles of legal logic: “conjunction is true only if both sentences joined by a conjunction (called factors) are true. (...) This means that, for the purposes of analyzing the logical properties of a statement which is a complex sentence, in which the ‘and’ functor appears,

it is not important whether there is any content relationship between the sentences joined by this functor. The sentence 'On September 11, 2001, there was a terrorist attack in New York, and Stanisław August Poniatowski abdicated in Petersburg' is logically true, because both sentences joined by a conjunction functor are true (Lewandowski et al., 2010, pp. 98-99). The Supreme Court also commented on the "and" function in the provision on "weapons and ammunition" – the judgment of the Supreme Court of March 2, 2015, file ref. act IV KK 382/14.

The truthfulness of the thesis pertaining to the "and" conjunction used in the regulation is also supported by the conclusions from the legal inference by analogy with respect to other provisions of the legal act in question, where "and" was also used within the scope of the following exclusions:

- Art. 3 sec. 1 point 6: (construction of) installations using wind energy to generate electricity, located in areas covered by forms of nature protection, (...) with the exception of installations intended exclusively for powering road and railway signs,
- Art. 3 sec. 1 point 31: (construction of) gas transmission installations other than those mentioned in § 2 sec. 1 point 20 and the accompanying compressor stations or pressure reduction stations, with the exception of gas pipelines with a pressure of not more than 0.5 MPa and connections to buildings.

It seems that, when analyzing the above provisions, there is no doubt that the use of the conjunction "and" means that we do not deal with two conditions that must be met jointly to apply for a given exemption. It is difficult to imagine that only the following can take advantage of the exemption from the obligation to obtain an environmental decision:

- wind installations that simultaneously supply power to both road and rail signs,
- gas connection to a building, which also serves as a gas pipeline – which in itself is an absurd statement, in particular, that both terms have separate legal definitions contained in § 2 point 6 and § 2 point 24 of the Regulation of the Minister of Economy from April 26, 2013, on the technical requirements to be met by gas networks and their locations (Journal of Laws from 2013, item 640). In accordance with the above-mentioned regulations, a gas pipeline is used to transport gas, and a connection is used for connecting the gas installation to the gas valve.

Bearing in mind the wording of the above arguments, it is necessary to confirm the thesis that it is not necessary to obtain an environmental decision for the investment pertaining to the reconstruction of the public municipal road No. 178044N Prostki – Ostrykół – Lipińskie Małe, Prostki municipality, Ełcki powiat, Warmińsko-Mazurskie voivodeship of a length of 4,308.50

m, unless it is located within areas covered by the forms of nature protection referred to in Art. 6 sec. 1 items 1-5, 8 and 9 of the Nature Conservation Act (§ 3 section 1 item 62 of the Regulation of the Council of Ministers from September 10, 2019, on projects that may significantly affect the environment (Journal of Laws from 2019, item 1839).

Conclusions

Environmental proceedings are an important element of the investment process in Poland, especially in the case of road investments, due to their socio-economic importance and the scale of their impact. Environmental proceedings are a complex procedure that requires many regulations to be correctly interpreted. In general, the assessment of whether a given investment requires environmental proceedings is based in Poland on two legal acts: the Act from October 3, 2008, on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments (Journal U. from 2020, item 283) and the regulation of the Council of Ministers from September 10, 2019, on projects that may significantly affect the environment (Journal of Laws from 2019, item 1839). The appropriate classification of the project, in accordance with the provisions of the above-mentioned regulations, is of crucial importance.

In the case of an investment selected for this case study, the ruling of the previous authorities of the Prostki municipality shall be deemed correct. This position is also supported by the actions of the architectural and construction administration body (County Administrative Office in Ełk), which did not raise any objections. However, no decision on the environmental conditions for the project was attached to the construction application. The verification of the authority's activities additionally led to the conclusion that the proceedings in this regard, despite the correctness of the decision, were incomplete. There was no unequivocal determination whether the proposed road reconstruction was located in protected areas. Such circumstances could, however, be easily verified by asking the Regional Director for Environmental Protection for information in this regard. According to the author of the article, such an obligation rested with the architectural and construction administration body. Obligating the investor to submit such information would go beyond the scope of Art. 30 sec. 2a of the Construction Law.

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