

The conclusion of an agreement on cooperation in transboundary waters between Poland and Belarus

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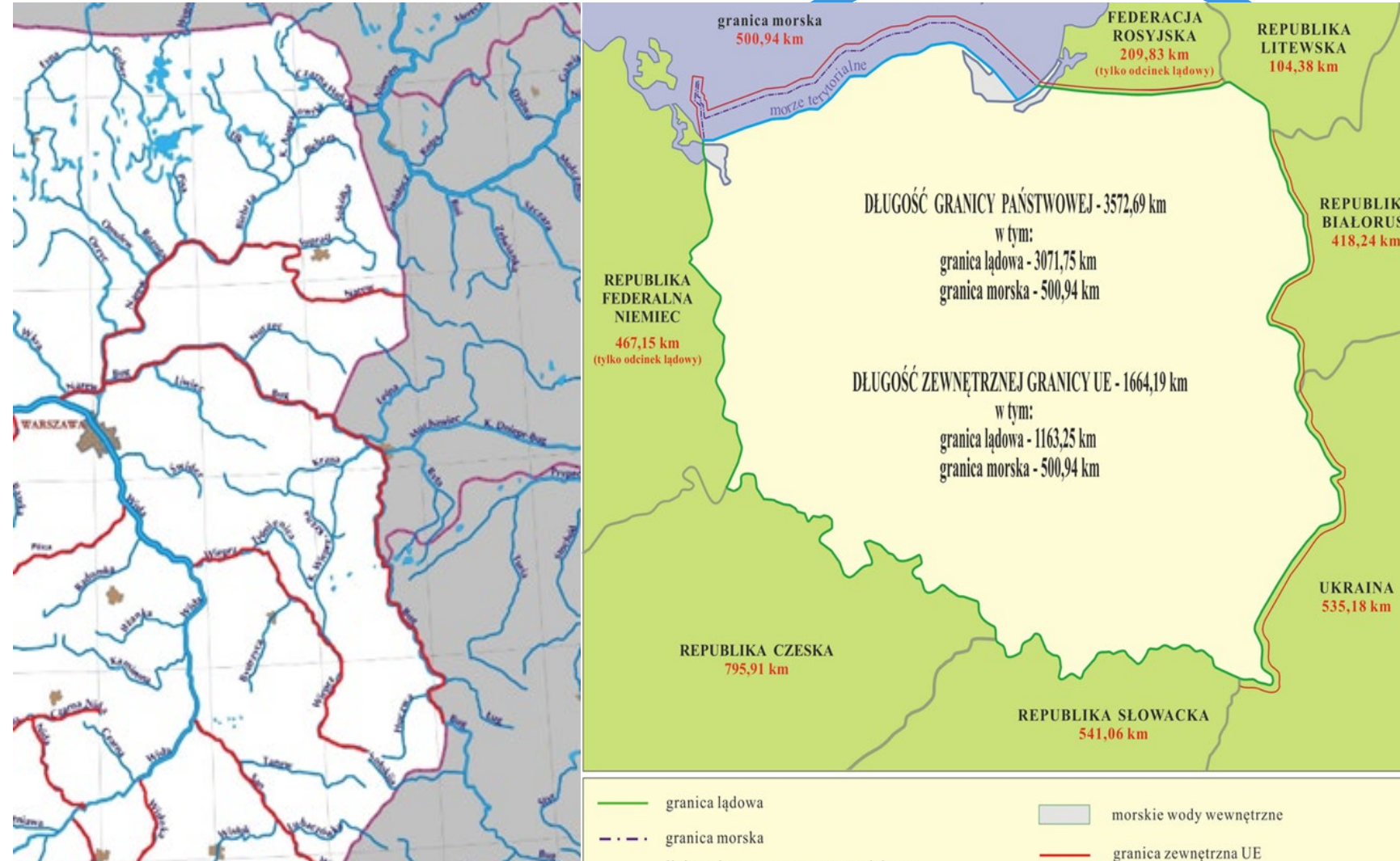
Introduction

The agreement between Poland and Belarus aims to improve the state of border waters affecting the waters of the Vistula river basin and the Baltic Sea

The length of the water section of the Polish-Belarusian border is over 240 km

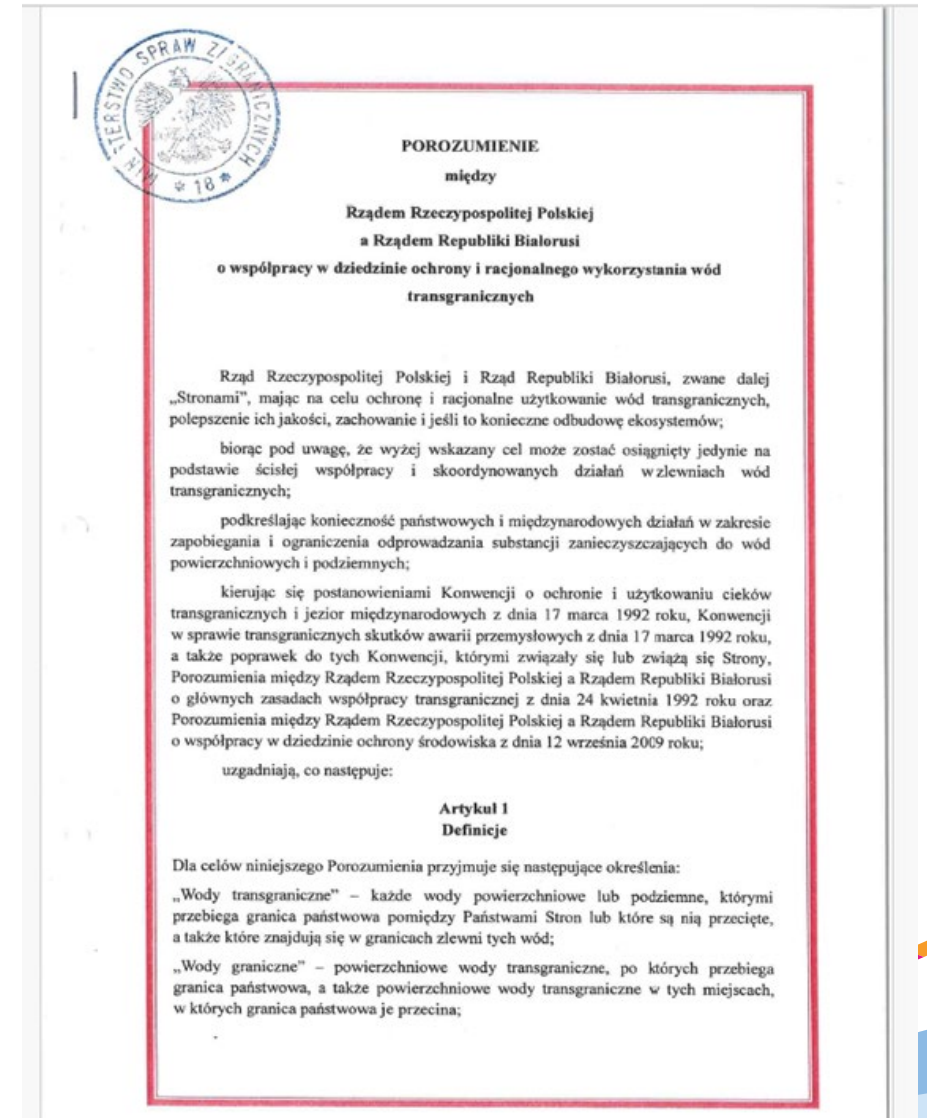
(according to the data of the Main Command of the Border Guard)

(mainly on Bug and Swislocz rivers)



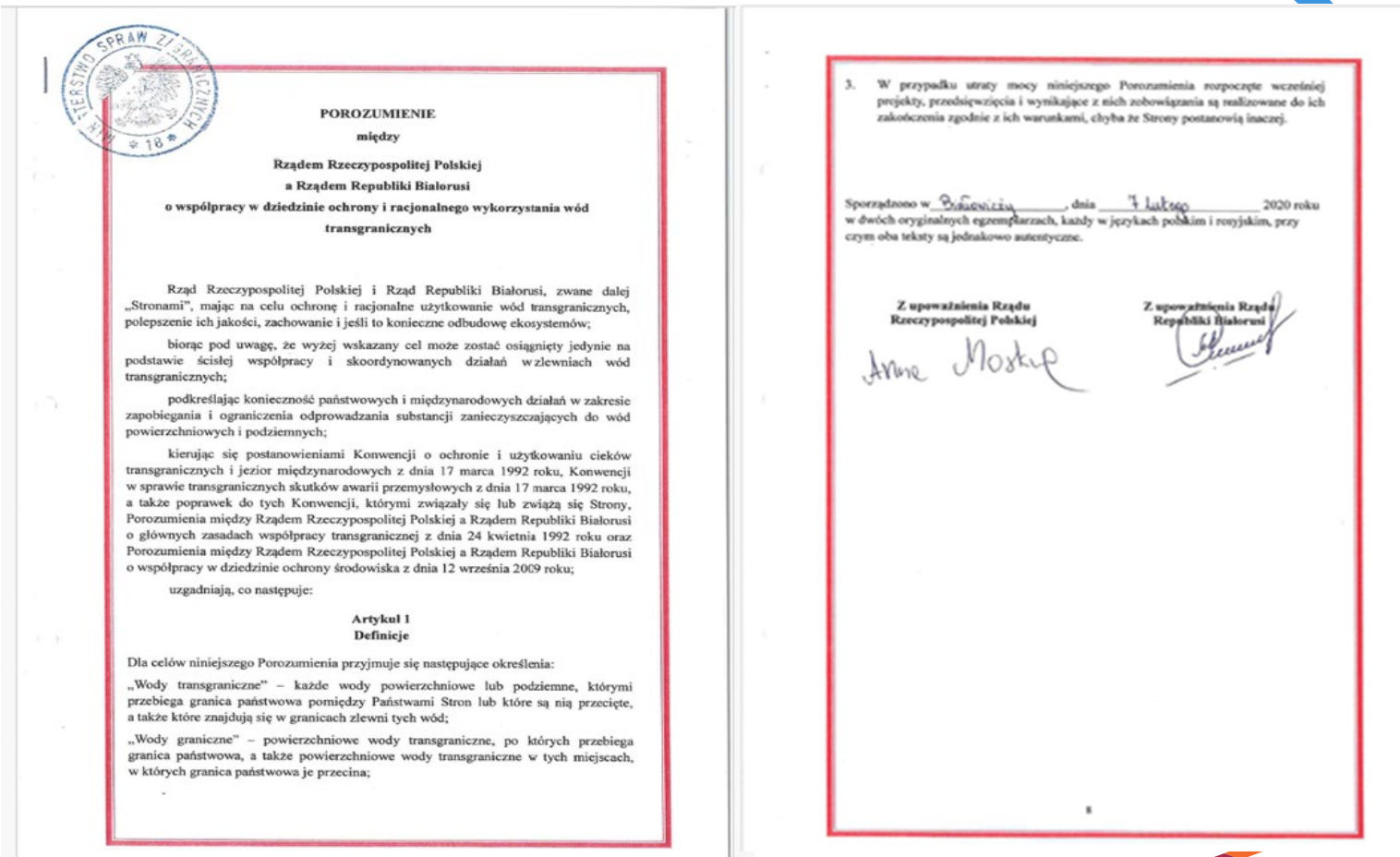
Preliminary consideration

- Since 1991, cooperation between Poland and Belarus on transboundary waters has not been regulated by law.
- Due to the lack of legal regulation, for many years the cooperation was limited to agreeing on individual projects joint or implemented by one of the countries.
- The first draft of the agreement was submitted by Poland to the Belarus in 2000.
- Works continued until 2006, after which were suspended. The negotiations reopened in 2013.
- After 20 years of negotiations, the Parties managed to agree on a compromise text and the Agreement was signed in Białowieża on 7 February 2020.



Introduction of the Polish – Belarussian Agreement

- Title: *Agreement between the Government of the Republic of Poland and the Government of the Republic of Belarus on cooperation in the field of protection and rational use of transboundary waters*
- Parties eliminated the term „*water management*”, since there is no such term in use on the Belarussian side;
- to replace the term, Parties agreed on title above



General provisions of the Polish – Belarussian agreement

Objective

In the Polish - Belarussian Agreement, the Parties decided on general objective

The Parties shall **aim to protect and rationally use** transboundary waters, **improve their quality, conserve** and, where necessary, **restore ecosystems**

The objective is formulated as a part of the preamble.

Definitions

- There are only 4 terms defined in the Agreement:
 - border waters
 - transboundary waters
 - emergency water pollution
 - emergency situation

General provisions of the Polish – Belarussian agreement

Scope

- hydrological and hydrogeological observations and data exchange;
- water monitoring;
- balancing water management and agreeing water classifications;
- protection against pollution and excessive consumption;
- flood protection;
- drought prevention;
- prevention and remediation of emergency water pollution;
- extraction of natural resources;
- use of water facilities;
- securing navigation conditions;
- maintaining the natural course of border riverbeds;
- protection of aquatic ecosystems;
- projects for the rational use of transboundary waters;
- **carrying out other joint activities**

Scope remarks:

- areas of cooperation are listed in details;
- Parties left a gate to take not listed actions, as *other activities*;
- the territorial scope is not defined in detail

Formulation of the substantive content of the agreement

General substantive rights and obligations

- maintain the **quality** of transboundary waters within the **high level**, specified by the parties;
- right to the **equitable and rational use** of transboundary waters on the basis of conditions agreed between parties;
- cooperation in the **development of plans** for the management of transboundary waters;
- obligations of the parties:
 - **not to impair the management of water** resources in the territory of the other Party;
 - **exchange information** and dialogue on the possible **impact of projects in the field of water** resources management and saving water;
 - to **assess the state of living resources** of aquatic and water-dependent ecosystems and to **agree on the conditions for their maintenance and sustainable use**.

Rights and obligations remarks:

- the agreement basically covers four key aspects of the category, according to the Water Convention practical guide
- the agreement does not directly refer to principles, such as sustainability, polluter pays, etc.

Formulation of the substantive content of the agreement

The key water use and water protection issues covered

- The competent authorities shall carry out observations, **hydrological and hydrogeological analyses** and, if necessary, preparing water balance transboundary waters;
- The **extraction of natural resources** and other materials shall be carried out in accordance with the conditions and procedures agreed on a case-by-case basis.
- The Parties undertake to carry out actions aimed at **reducing water pollution and maintaining the agreed quality** of those waters;
- The Parties shall **monitor the quality** of transboundary waters and **assess** it on the basis of agreed criteria;
- The Parties shall cooperate to **prevent and eliminate the sources**, causes and effects **of pollution** of transboundary waters;
- The Parties shall **promptly inform** each other **of incidents of**, or risks of, **emergency pollution** of transboundary waters, and shall take steps to eliminate the sources and causes, as well as the effects thereof.

Water use and protection remarks:

- other water use, not listed, is a subject to the separate agreements;
- there are separate provisions for the emergency situations

Formulation of the substantive content of the agreement

Sectoral and intersectoral issues covered

- For other projects, including those related to logging, water tourism, fisheries management and navigation in border waters, the Parties may conclude **separate international agreements**.
- The implementation of projects and activities relating to the use and maintenance of border waters for inland navigation purposes is governed by **separate international agreements**.

Sectoral and intersectoral issues remarks:

- other sector, i.e. agriculture, energy, climate change and spiritual aspects are not directly addressed in the agreement

Conclusion

Approach related to developing transboundary water cooperation agreements

- to use as a source of definitions international provisions for water management, including those from Water Convention;
- to develop the provisions of the agreement as an institutional, legal and financial frames;
- to keep the provisions as general as possible. If the provisions are too much specific and particular, it might be very difficult to conclude the agreement acceptable for all parties;
- to add the provisions of "open" nature, such as: "other cooperation areas" or "other forms of cooperation" relevant for all the parties, which the parties consider appropriate for the implementation of the agreement, which might serve for mutual benefits of the all parties.



River Swislocz

Thank you!

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