

*„Selected problems of rural-water  
tourism in the Leszno District and the  
right of universal access to public”*

**Dr Piotr Józwiak, Deputy Mayor of Leszno**

*President of the Leszno - Region Tourist Organisation*

waters

At today's conference, I represent the town of Leszno and the Leszno - Region Tourist Organization, which was established in 2003 and which associates Leszno and the neighbouring communes. The primary goal of the association is the development and promotion of tourism in the area of local government units (members of the association). Activities carried out by TO Leszno - Region:

- 1) Tourist promotion of the Leszno region based on the adopted promotion strategy,
- 2) Running a tourist information office,
- 3) Tourist activation of the region,
- 4) Acquiring funds for the development and promotion of tourism in the region,
- 5) Integrating the activities of local governments and the tourism industry,
- 6) Organization of training and professional development



The name, of course, comes from Leszno in Greater Poland - a town located **halfway between [Poznań](#) and Wrocław**. There are several dozen smaller and larger lakes around it. I often say that when **we, the people of Leszno, would like to bathe in the lake, we can choose from among our numerous possibilities.**



Lake Górznicie (Górzno village) is situated in the picturesque areas of the Krzemieniewo commune. Its area is 24.5 ha, and the maximum depth of this reservoir is 5.6 m. It is rich in fish species such as bream, crucian carp, grass carp, pike, pike perch and even eel. An unquestionable attraction for visitors is the sandy beach surrounded by trees



**Krzycko Lake (the village of Krzycko) is located in the Leszczyński Lake District in Święciechowa commune. Its area is 80 ha. The average depth is 4.4 m and the maximum depth is 9.9 m. It is characterised by an unforested, sandy, straight shoreline conducive to bathing. The bottom of the lake is devoid of vegetation.**



**In the Osieczna commune and in the nearby villages** there are several interesting water reservoirs where visitors can rest, spend time actively or relax while fishing. The largest of them is the Łoniewskie Lake, it covers an area of 102 ha. and it was established tens of thousands of years ago, during the last glaciation of the Polish lands, which was called the Baltic Sea.



In addition to Lake Łoniewskie, in the Osieczna commune, there are interesting reservoirs: **Lake Świerczyńskie**, **Lake Drzeczowskie**; **Lake Grodzisko**; **Lake Witosławskie**; **Lake Ziemnice**; **Lake Wojnowickie**. All these lakes are located in the countryside and are a paradise for fishermen.



*Jezioro Wojnowice*



*Jezioro Świerczyńskie*



*Jezioro Ziemnice*



*Jezioro Witosławskie*



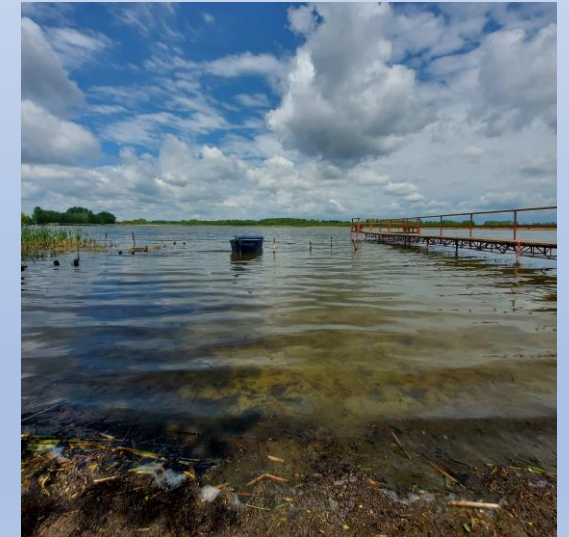
*Jezioro Grodzisko*

**Lake Wieleńskie (Wieleń village) in the Przemęt commune is part of the reservoir of the Western Przemęckie Lake located in the Leszczyński Lake District and is one of the lakes on the Lily of the Valley Canoe Trail. The total area of this water reservoir is 220.2 ha, and the maximum depth is 5.6 m. Surrounded by forests and other water reservoirs, it is a very attractive tourist destination in the Leszno region. Every year, the lake is visited by crowds of tourists, families with children and water sports enthusiasts.**





**Lake Breńskie (Brenno village) in the Wijewo commune is located in the Przemęcki Landscape Park.** Its name comes from the word brenie meaning mud. The area of this water reservoir is 38 ha, and the maximum depth is 4.4 m. The lake belongs to the type of zander lakes, there are many species of fish such as zander, bream, pike and eel. The lake area is included in the Natura 2000 area.



So, as you can see, Leszno and its surroundings are rich in beautiful lakes. They are not only great water reservoirs, a fishermen's paradise, but also excellent tourist areas. Each of the lakes I have indicated is visited by tens of thousands of tourists every year. **The largest tourist base, however, is the village of Boszkowo, located in the commune of Włoszakowice, where even tens of thousands of people stay at one time at weekends.** It is worth noting that the Włoszakowice commune is not part of the aforementioned Leszno-Region organization. Nevertheless, it is impossible not to mention it.



**All the aforementioned lakes are located in communes within a radius of no more than 30 kilometers from Leszno. Leszno is located on the so-called Leszczyński Lake District.** The vast majority of these lakes with accommodation facilities for thousands of people are not in cities, but in the countryside, which perfectly fits the subject of today's conference. This fact clearly shows how important a role the surrounding villages play in the development of Leszno's tourism. But water tourism, especially related to the numerous lakes in the Czech Republic, is also very popular in the Czech Republic. The fact that we are in the Zdar on the Sasau River only strengthens the legitimacy of choosing such a topic for my speech. .



**Water and rural tourism is also associated with many problems. The scientific conference should not only serve to self-promotion, but most of all to solve a problem, and I will try to do that as well.**

One of the biggest problems faced by rural tourism in Poland, including water tourism, is related to the violation of the ban on fencing of real estate adjacent to public water bodies and beaches, as well as the ban of prohibiting or preventing passage through this area. This issue causes great controversy and social conflicts. It can only be assumed that the development of construction, especially commercial and tourist construction, will accelerate this negative trend.



# THE INSTITUTES OF JUSTINIAN

(.....)

*1 Thus, the following things are by natural law common to all—the air, running water, the sea, and consequently the seashore. No one therefore is forbidden access to the seashore, provided he abstains from injury to houses, monuments, and buildings generally; for these are not, like the sea itself, subject to the law of nations.*

*2 On the other hand, all rivers and harbours are public, so that all persons have a right to fish therein.*

*3 The seashore extends to the limit of the highest tide in time of storm or winter.*

*4 Again, the public use of the banks of a river, as of the river itself, is part of the law of nations; consequently every one is entitled to bring his vessel to the bank, and fasten cables to the trees growing there, and use it as a resting-place for the cargo, as freely as he may navigate the river itself. But the ownership of the bank is in the owner of the adjoining land, and consequently so too is the ownership of the trees which grow upon it.*

*5 Again, the public use of the seashore, as of the sea itself, is part of the law of nations; consequently every one is free to build a cottage upon it for purposes of retreat, as well as to dry his nets and haul them up from the sea. But they cannot be said to belong to any one as private property, but rather are subject to the same law as the sea itself, with the soil or sand which lies beneath it.*



**In Poland, pursuant to Art. 232 Water Law** prohibits the fencing of real estates adjacent to public inland surface waters and to the shore of sea waters and territorial sea at a distance of less than 1.5 meters from the shoreline. It is also unacceptable to forbid or prevent the passage through this area. Violation of this prohibition is an offence (Article 478 (2) of the Water Law).

**In the Czech Republic,** this type of issue is called: *“The freedom to roam”, or “everyman's right”, “right of public access to the wilderness or the “right to roam”.*

# Zákon č. 254/2001 Sb. Zákon o vodách a o změně některých zákonů (vodní zákon)

## § 34

(1) Správci povodí ve spolupráci s Ministerstvem životního prostředí, Ministerstvem zdravotnictví, vodoprávními úřady a příslušnými krajskými hygienickými stanicemi sestavují, přezkoumávají a aktualizují profily vod uvedených v seznamu přírodních koupališť provozovaných na povrchových vodách využívaných ke koupání a dalších povrchových vod, kde lze očekávat, že se v nich bude koupat velký počet osob. Profil povrchových vod využívaných ke koupání je souhrn údajů o povrchových vodách uvedených v seznamu sestaveném podle zákona o ochraně veřejného zdraví. Profil povrchových vod využívaných ke koupání může být sestaven pro několik spolu sousedících povrchových vod. Obsah a způsob sestavení profilu povrchových vod využívaných ke koupání, podmínky jeho přezkumu a aktualizace a rozsah a způsob předávání podkladů správcům povodí stanoví Ministerstvo zemědělství v dohodě s Ministerstvem životního prostředí a Ministerstvem zdravotnictví vyhláškou.

(2) Ukazatele a hodnoty přípustného znečištění vod pro účely povolování vypouštění odpadních vod do vod povrchových uvedených v seznamu sestaveném podle zákona o ochraně veřejného zdraví a program snížení znečištění těchto vod k dosažení hodnot přípustného znečištění těchto vod stanoví vláda nařízením.

(3) Pokud povrchové vody uvedené v seznamu sestaveném podle zákona o ochraně veřejného zdraví přestanou trvale nebo opakovaně odpovídat požadavkům na jakost vody pro koupání, které jsou stanoveny zvláštním právním předpisem nebo v nařízení vlády podle odstavce 2, uloží nebo přijme vodoprávní úřad k nápravě tohoto stavu odpovídající opatření, a to po projednání s orgány ochrany veřejného zdraví a správcem povodí. Povrchové vody uvedené v seznamu musí do konce koupací sezóny 2015 splňovat požadavky na přijatelnou kvalitu vody.

## Section 34

### Surface waters used for bathing

*(1) Basin managers, in cooperation with the Ministry of the Environment, the Ministry of Health, water authorities and relevant regional hygiene stations, compile, review and update the water profiles listed in the list of natural swimming pools operated on surface waters used for bathing and other surface waters where it can be expected, that a large number of people will bathe in them. The profile of surface water used for bathing is a summary of data on surface water listed in the list compiled according to the Act on the Protection of Public Health. A profile of surface waters used for bathing can be compiled for several adjacent surface waters. The content and method of compiling the profile of surface water used for bathing, the conditions for its review and updating, and the scope and method of submitting the documents to the basin managers are determined by the Ministry of Agriculture in agreement with the Ministry of the Environment and the Ministry of Health.*

*(2) Indicators and values of permissible water pollution for the purpose of permitting the discharge of wastewater into surface waters listed in the list compiled according to the Act on the Protection of Public Health and the program to reduce the pollution of these waters to achieve the values of permissible pollution of these waters shall be determined by the government by regulation.*

*(3) If the surface waters listed in the list compiled pursuant to the Act on the Protection of Public Health cease permanently or repeatedly to meet the requirements for the quality of water for bathing, which are established by a special legal regulation or in a government regulation pursuant to paragraph 2, the water authority shall impose or accept to appropriate measures to remedy this situation, after discussion with public health protection authorities and the river basin administrator. Surface waters listed must meet acceptable water quality requirements by the end of the 2015 bathing season.*



Particular controversies and conflicts concern the situation when private entities, especially hotels, block access to the beach or lake, at the same time deriving significant financial benefits (e.g. beach admission fee or providing beach access only to hotel clients). The dominant position, however, is that access to the beach should be provided for everyone.

In view of the fairly common phenomenon of violating the prohibitions to block access to water bodies and beaches, the question of how to guarantee access to beaches for all citizens is more and more often asked. By what means and methods to achieve it.



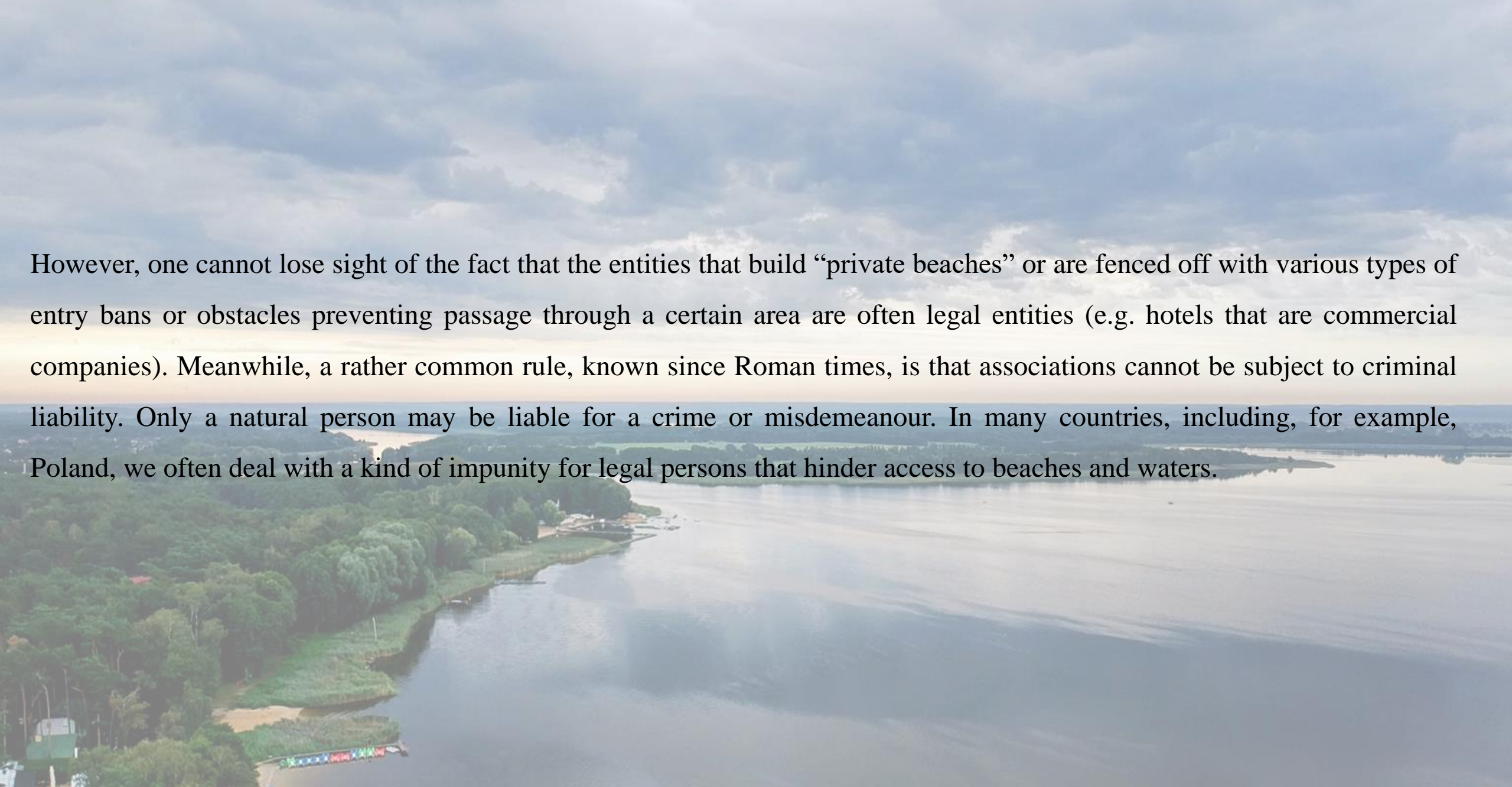






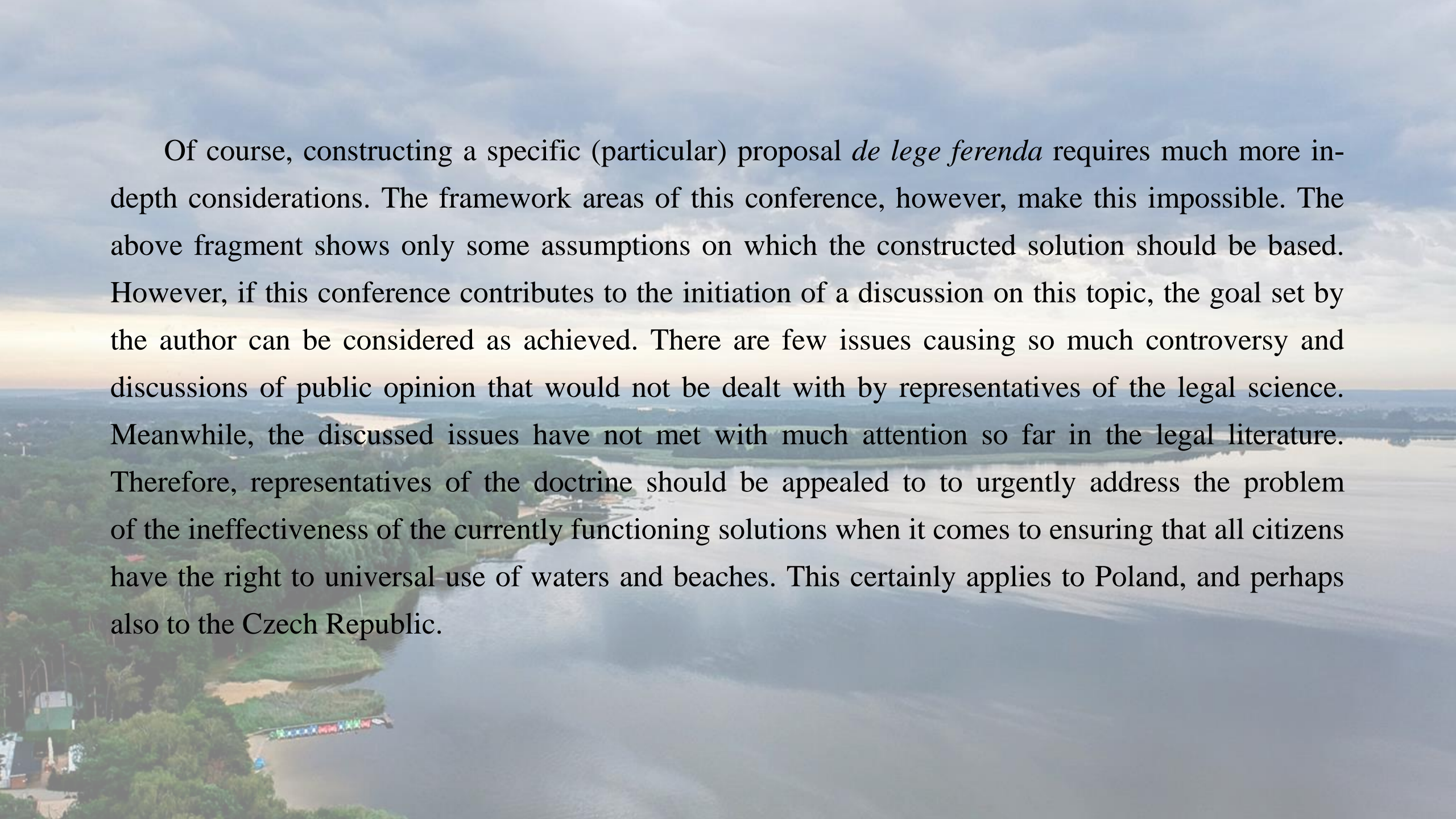
At the same time, some doubts concern which authority is competent to enforce the applicable provisions in the event of their breach. Citizens most often turn to local self-government bodies, the police and common courts for help in this regard. However, what is interesting - despite the fact that this issue arouses wide interest on the part of the public and the media - it has not been the subject of wide interest from the doctrine so far - it is emphasised that local government bodies do not have too many powers in this respect and the only thing they can do is to notify the Police about this fact.

However, this issue is not as obvious as it might seem. Local government authorities in many countries have a number of criminal powers which they can use to enforce their obligation to provide citizens with access to the beach (e.g. they can act as a public prosecutor in certain misconduct cases).



However, one cannot lose sight of the fact that the entities that build “private beaches” or are fenced off with various types of entry bans or obstacles preventing passage through a certain area are often legal entities (e.g. hotels that are commercial companies). Meanwhile, a rather common rule, known since Roman times, is that associations cannot be subject to criminal liability. Only a natural person may be liable for a crime or misdemeanour. In many countries, including, for example, Poland, we often deal with a kind of impunity for legal persons that hinder access to beaches and waters.





Of course, constructing a specific (particular) proposal *de lege ferenda* requires much more in-depth considerations. The framework areas of this conference, however, make this impossible. The above fragment shows only some assumptions on which the constructed solution should be based. However, if this conference contributes to the initiation of a discussion on this topic, the goal set by the author can be considered as achieved. There are few issues causing so much controversy and discussions of public opinion that would not be dealt with by representatives of the legal science. Meanwhile, the discussed issues have not met with much attention so far in the legal literature. Therefore, representatives of the doctrine should be appealed to to urgently address the problem of the ineffectiveness of the currently functioning solutions when it comes to ensuring that all citizens have the right to universal use of waters and beaches. This certainly applies to Poland, and perhaps also to the Czech Republic.