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## **POLAND'S ADAPTATION TO EUROPEAN UNION REQUIREMENTS IN THE ENVIRONMENTAL PROTECTION FIELD**

### **Abstract**

Poland's accession to the European Union (1 May 2004) was preceded by a long negotiation process that set out detailed accession conditions. Environmental protection became one of the most significant areas where Poland had to meet the EU-15 requirements. Therefore the European Union outlined detailed requirements concerning environmental protection, over the same time set out transition periods to meet them.

Complying with the conditions in the sphere of environmental protection and meeting a deadline required adopting Polish legislation, implementing many organizational changes, making numerous pro-ecological investments i.e. such investments that exert positive effects on the environment and sustain or restore the balance between human beings and the nature.

This article describes an outline of EU policy on environmental protection and Poland's adoption strategy to meet the EU requirements in this field.

### **Key words:**

environmental policy, environmental protection, adaptation strategy, National Development Plan, Cohesion Fund, structural funds

### **Basic principles of EU policy on environmental protection**

Implementing the European Union ecological policy was based on the three arguments:

- ethical, every living being has a right to live and every species has a right to survive (e.g. Birds Directive);
- interest of the population based on a relation between environment degradation and human health (e.g. polluted water causes various diseases, polluted air results in breathing disorder, noise creates or increases stress). Article 130 of the Treaty establishing the European Community is a legal basis of this argument . As set out in this article, health protection in one of the reasons for implementing the environmental policy;
- economic, the major prerequisite of the EU functioning is complying with the common standards in environmental protection. Lack of harmonization of the laws and regulations would force those who obey the law to bear costs incurred by those who don't obey it at all.

Despite the European Union has been recently paying much more attention to the problem of environmental protection, the Treaties establishing the European Community didn't put in force any environmental policy. Until 1986, all measures in this sphere were taken under the terms of the Treaty of Rome (1957) but it only indirectly mentioned the environmental issues. Only when the Single European Treaty was passed, the main environmental principles were set out:

- preventive action,
- polluter should pay,
- environmental damage should as a priority be rectified at source,
- subsidiarity.

It was decided that implementing environmental policy will be more efficient at EU level than Member States level. However, the Member States were obliged to finance the environmental protection. Therefore the chapter „Environment” of the Single European Act became the most important law concerning this field since 1986 (The Office of the Committee for European Integration, 2001).

Environmental protection, however, only gained EU policy status with the Maastricht Treaty signed on 7 February 1992 (objectives and procedures were outlined in the Title XVI). One of the most important provisions under the Treaty and the EU Constitution as well, was a very unequivocal declaration that the European Community entered the path of sustainable development. A very significant amendment was introduced in Article 2 JAE: “harmonious and stable development of business activity, sustainable and non-inflationary growth must respect for the environment” as state and government heads of the European Union believe that sustainable development is one of the greatest challenges faced in the 1990's. It was granted EU principle status and became one of the major objectives at a summit in Dublin in June 1999. Implementing sustainable development requires following the environmental policy (5th Environmental Action Programme „Towards Sustainability”) (Paczuski, 1999, p.52). Consequently, a provision of sustainable development implementation was acknowledged as EU objective in the Amsterdam Treaty signed on 2 October 1997, entered into force on 1 May 1999. „Determined to promote economic and social progress for their peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields” (Calster, Berwin, Deketelaere, 1998, p. 14).

The European Union attaches more significance to the environmental issues, due to this fact the Lisbon Strategy (2001) was supplemented with the ecological pillar.

The environmental protection is taking priority in the EU, it's proved by the facts mentioned above and the following principles that laid the foundation of the Community environmental policy (Górka, 2000, p. 23 ):

- high level of environmental protection

Policy on the environment shall take account of: available scientific data, environmental conditions in the various regions of the Community, potential benefits and costs of action or lack of action, economic and social development of the Community and its regions.

- precautionary principle

The precautionary principle may be invoked where urgent measures are needed in the face of a possible danger to human, animal or plant health, or to protect the environment where scientific data do not permit a complete evaluation of the risk.

- preventive principle

Preventive action should be taken, that environmental damage should as a priority be rectified at source.

- the polluter should pay

It recognises that the polluter should pay for any environmental damage created.

- integration principle

The principle was outlined in Article 3c of the Amsterdam Treaty: environmental protection shall be integrated with all Community policies.

- principle of subsidiarity

It means that only if and in so far as the objectives of the proposed action cannot be

sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

- principle of sustainable development

Sustainable development is a development that meets the needs of the present without compromising the ability of future generations to meet their needs. Then the European Union signed the Agenda 21 and committed itself to implement the principle.

The environmental law in the European Union is based on the following:

- regulations are obligatory in all its elements, binding in their entirety and apply directly to all Member States, they must be given immediate force of law in the Member States and bind directly individual and legal persons;
- directives are the non-legislative acts of the EU environmental legislation, they have to be transposed into the national legal framework of the Member States;
- decisions are binding in its entirety on those to whom it is addressed, a decision may be addressed to a Member State, organisation or individual person;
- recommendations have no binding force, contain some stands and request for their implementation;
- opinions, in some cases a body that is entitled to adopt an act, is required by EU law to ask beforehand other bodies for an opinion.

The EU environmental law has been developed for 30 years. During this period, the Community adopted some 300 pieces of legislation. Moreover, it also consists of many pieces of published information and other documents that are essential for the EU environmental policy. The environmental legislation aims at removing trade barriers which would occur due to the lack of uniform ecological standards. The EU environmental legislation mainly concerns:

- water pollution

Directive on water pollution applies to inland surface water, transitional waters, coastal waters and groundwater. It precisely regulated: discharge of toxic substances, maximum permissible levels for mercury, cadmium, lindane, DDT, pentachlorophenol, carbon tetrachloride; a level of pollution containing titanium dioxide (a compound of so-called red mud) was controlled and gradually reduced. The Directive also introduced water quality standards for particular water uses: drinking water, bathing water, freshwater for fish, water for crustacea farms.

- air pollution

In order to regulate emission of sulphur dioxide, use of chlorofluorocarbons (CFCs) in aerosols and control pollution from industry, numerous Directives in the EU legislation were adopted. Moreover, many regulations on exhaust gas emission were introduced. The European Commission initiated a programme that examines greenhouse effect in search of handling with global warming. The programme is a substantial contribution towards the environmental protection.

- noise pollution

Directive on noise pollution adopted maximum permissible levels for noise from certain types of machines (cars, lorries, motorcycles, tractors, aircraft, lawnmowers or, more recently equipment used outside buildings). The Directive also applies to household appliances which must bear a label stating the level of noise emitted by the product.

- chemical substances

The European Inventory of Existing Commercial Chemical Substances (EINECS) was established in 1986 what enabled all chemicals to be registered, evaluated and authorised. Other Directives prohibit using some chemicals in pesticides, as well as control production and use of polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) and asbestos. To prevent accidents and reduce their consequences, according to the 1982 Directive, manufacturers and importers are bound to submit to the Commission information

on substances, factories and other places where dangerous accidents could have occurred. Moreover, the EU adopted some regulations aiming at reduction of CFCs which deplete the ozon layer.

- waste management

Since adoption of Directive in 1975, the Community has been implementing the principles of waste storing, stockpiling and treatment. Notably additional principles were formulated for industrial waste such as: titanium oxide, used oil and radioactive waste. A special attention in the EU is paid to re-use of paper, cardboard and drink containers.

- nature conservation

The European Union is a Party to the Bern Convention on nature conservation signed in 1979. The Council of Ministers adopted numerous Directives on animal protection, import of leather products, control and restriction on animal testing. Also projects on the nature conservation are financed within the Convention.

In order to follow EU environmental legislation, the Member States have to implement a range of changes. However, on one hand, it requires approximation and harmonization of the EU laws in many fields, on the other, the States have to bear significant costs. Also Poland is obliged to implement them since the accession.

### Poland's adaptation strategy in the environmental protection field

Poland has been approximating to EU requirements in the environmental protection field since 1993 and the process was divided into two stages. The first one aimed at approximation of the laws, it had theoretically been accomplished before Poland joined the European Union. The second stage aimed at implementing EU regulations in the environmental protection field, the process is, without any doubt, far more complicated and arduous due to very high costs of necessary investments that will have exceeded 30 bn euro (table 1). The pre-accession programmes will cost 1,5—4,7 bn euro (total average annual costs) annually as the World Bank estimated, while according to the PHARE-DISAE experts, they will cost from 2,8 bn euro (in 2005) to 6,8 bn euro (in 2010). Firstly, the costs of pre-accession programmes are so high due to unsolved ecological problems between 1945 and 1989, secondly, different approach to the environmental law in Poland and the European Union.

Table 1. Estimation of cumulative investment expenditures (in billion EURO) on implementing pre-accession programmes in selected fields in Poland.

Sectors	Costs according to the World Bank <sup>1</sup>		Costs according to PHARE- DISAE <sup>2</sup>
	Low Scenario	High scenario	
Drinking water	3,3	7,3	0,1
Sewage system	6,8	8,9	6,4
Wastewater treatment	1,5	2,6	-
Water protection from nitrates	2,4	3,0	-
Reduction of emission to atmosphere	1,4	9,1	3,5
Air quality	3,0	4,1	0,8
Waste management	2,3	4,0	3,6
	20,7	39,0	14,4

- 1 – World Bank, 1999: Poland. Complying with EU Environmental Legislation. Final Report. WB ECA.  
2 – PHARE – DISAE, 1998: Costing and Financial Analysis of Approximation in Environment: Raport z projektu Phare POL – 101. Total investment expenditures on implementing key EU directives in Poland will have cost 32,2 bn EURO as the PHARE – DISAE experts estimated (assuming 10-year implementation)

Source: Materials provided by the Department of Social Communication and European Information, the Office of the Committee for European Integration.

Since 1989, the environmental legislation in Poland has been mainly focused on protecting natural resources and exerting ecological effects while the approach of EU environmental legislation was more technical. It obliges all environment users (including enterprises) to obey product and emission standards. Following the major EU principles (i.e. free movement of goods), it was settled that pre-accession measures in the „Environment” sphere will have firstly concerned regulations having impact on the single market functioning. However, it was obvious that owing to high costs of pre-accession programmes as well as likely negative social effects of hasty implementing the Community law (inflation growth, vanishing „weak” enterprises from the market resulting in unemployment growth, diminishing competitiveness of Polish enterprises, etc.) meeting all EU regulations before Poland’s accession wouldn’t have been possible. Therefore, some essential guidelines concerning implementation of EU environmental legislation in Poland were outlined. They included as follows:

1. Necessary investments that should be made in order to implement the Community law are generally pursuant to the Polish ecological policy<sup>1</sup>, however, in some cases implementation periods are shorter.
2. In the negotiation area „Environment” Poland will appeal for transition periods, where necessary.
3. Until all pre-accession programmes are completed, Poland will be permitted to maintain so far financing system of the environmental protection. It will allow the state to continue financing of pro-ecological investments by the public resources at the previous level.
4. The allocation from the pre-accession funds won’t have exceeded 177 m euro a year and the structural funds will bring a much higher level of financial assistance. It was settled that despite so significant EU assistance, approximation of the laws will be financed by the public sources in 80-90%.

It was also outlined in the strategy that financing time would be divided into three periods (The Office of the Committee for European Integration, 2001-2005). In the first one (2000-2002), investments in the most important projects would have had priority in the pre-accession funds (e.g. ISPA), the funding would be limited to 75% of the public resources. Moreover, supplementary public resources were set out in a form of grants, preferential loans granted by the National and Voivodship Fund for Environmental Protection and Water Management. Investors had to prove that they weren’t eligible for assistance provided by any commercial sources or international financing institutions and they had to possess own financial resources (e.g. commune budget, profit or redemption fund of commune company) meeting up to 20% of the eligible costs.

The second period (2002 – 2010) was divided into two stages: 2002- 2005 and 2006-2010. Still, at the first stage, investments in the most important projects had priority in the pre-accession funds meeting up to maximum share in the public resources. Furthermore, at this stage (as previously) supplementary public resources were set out in a form of grants,

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<sup>1</sup> Cf.: Szacunkowe nakłady inwestycyjne na dostosowanie się Polski do wymogów ekologicznych UE w latach 2000-2006 in: Narodowa Strategia Ochrony Środowiska na lata 2000- 2006, (2000), Ministry of Environment, Warsaw.

preferential loans granted by the National and Voivodship Fund for Environmental Protection and Water Management. Investors had to prove that they weren't eligible for assistance provided by any commercial sources or international financing institutions and they had to possess own financial resources (e.g. commune budget, profit or redemption fund of commune company) meeting up to 20% of the eligible costs.

At the second stage (2006-2010) the most important projects will have had priority in the Cohesion Fund and structural funds appropriated on the environmental protection available since Poland's accession. It will be the maximum contribution of the funds within the EU regulations. Moreover, supplementary public resources will be set out in a form of grants, preferential loans granted by the National and Voivodship Fund for Environmental Protection and Water Management. Investors will have proved lack of any assistance provided by commercial sources. However, financial resources provided by the international institutions (apportioned on the preferential terms) won't be available for Poland any more. Investors will have to provide own financial resources (e.g. commune budget, profit or redemption fund of commune company) meeting up to 20% of the eligible costs.

The third period will cover the time after 2010. As previously, supplementary financing by the state resources is planned in a form of grants, preferential loans granted by the National and Voivodship Fund for Environmental Protection and Water Management. Investors will have to provide own financial resources (e.g. commune budget, profit or redemption fund of commune company) meeting up to 30% of the eligible costs.

While approximation of the Polish environmental law, we should bear in mind that it is the most changeable kind of EU law. Hence, the Polish legislators have to keep their finger on the pulse in order to make new laws that conform to the regulations binding at present in the European Union. Except for harmonizing the law, also combining pro-ecological measures with transformation, modernization and economic development are of key importance. Pollution indices per GDP in Poland are much higher than in other Member States. Energy and material consumption in the economy is too high as well. Therefore Poland will face a serious challenge to meet EU environmental requirements and integrate with the European Union (both politically and economically). Hence, introducing the eco-development principle (stable and sustainable development) into the Sectoral policies should be one of key objectives. It is essential to adopt appropriate procedures concerning environmental protection due to planned EU regulations on strategic environmental impact assessments as well as binding EU procedures for allocating structural funds which may require taking the environmental protection into account. To join the European Union, Poland approximated the law and the changes were twofold, on one hand: the regulations conform with the EU law, thanks to it, the top priority was accomplished i.e. Poland's membership in the European Union, on the other hand, strictly ecological objective was achieved as well (the environmental quality is improving). Except for mentioned above advantages of implementing the Community environmental law, Poland may also expect increase in the economy competitiveness owing to a lack of any restrictions imposed on producers suspected of eco-dumping. Also the implemented changes give an opportunity to focus environmental policy more on the sustainable development principle<sup>2</sup>. The 1945-1989 period left, except for negligence, some features that extinguish Poland from other developed countries. At present, Western Europe faces environmental problems such as: transport pollution, PETs, loss of biodiversity, rapid development of individual motorization, overuse of chemicals in agriculture. Fortunately, these problems aren't so serious in Poland, owing to a lower consumption level. This, in turn, gave a distinct advantage in terms of Poland's

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<sup>2</sup> It's proved by the Second Ecological Policy for the 1999-2000 period and a document: Strategia zrównoważonego rozwoju Polski do 2025 roku, Wytyczne dla resortów, (1999), Ministry of Environment, Warsaw.

integration with the European Union.

### **Status of the environmental protection in the National Development Plan**

Since the accession, Poland is obliged to implement the Community Regional Policy for the 2004-06 period. The top priority of the policy is to facilitate development and structural catch-up for regions lagging behind. Poland has already complied with the criteria because GDP is lower than 75% of the Community average.

Regional policy is implemented as national programmes and regional development projects, they are co-financed by the structural funds and Cohesion Fund accepted by the European Commission. Structural Funds are EU financial resources that implement structural policy aiming at facilitating regions and sectors of the economy that lagging behind. It will result in diminishing discrepancies in development and living standards between the regions. The Structural Funds include: the European Regional Development Fund (ERDF), the European Cohesion Fund (ESF), the European Agricultural Guidance and Guarantee Fund (EAGGF-Guidance Section) and the Financial Instrument for Fisheries Guidance (FIFG).

In order to plan the community assistance and provide its efficient implementation, Poland outlined the National Development Plan (NDP) for the 2004-06 period. This document was prepared on the basis of Council Directive of 21 June 1999 (1260/99/EU), which introduced general provisions referring to the structural funds. It was adopted by the Council of Ministries on 14 January 2003, next amended on 11 February 2003, then it was submitted for approval by the European Council. NDP was prepared by the Ministry of Economy (before reorganization: Ministry of Economy, Labour and Social Policy) in close cooperation with ministries responsible for preparing Sectoral Operational Programmes and a panel of experts. Some evaluations were made during the works on NDP covering: environmental impact assessment, ex-ante evaluation (made before implementing a project) including assessment of macroeconomic effects of NDP implementation.

The National Development Plan serves as a point of reference for planning fields of structural assistance as well as multi-annual integrated operational programmes. It determines objectives, measures and assistance provided by the structural funds and Cohesion Fund aimed at tackling disparities in socio-economic development between the EU applicant and Member States. Such measures are co-financed by the EU resources, in case of Poland—11,4 bn euro within the period 2004-2006 (app. 2,2% GDP). It concerns three major fields of assistance such as: enterprises, infrastructure development and human resource development.

The strategic objective of the National Development Plan is to develop the competitive economy based on knowledge and entrepreneurship which results in long-term harmonized development and ensures employment growth and improvement of social, economic and spatial cohesion with the European Union at regional and national level. Meeting the above objective as well as many partial ones (assistance in achieving and maintaining long-term high GDP growth, increasing employment and education level, intensifying increase of sectors with high added value in the economy, technology development in information society) outlined in NDP will result in economic growth, improvement of living standards, new jobs creation, development of information society, competitiveness of enterprises and the economy.

One of the factors conditioning implementation of NDP strategic and partial objectives is concentration of available financial resources in several major fields of development, except for assistance in: competitiveness of enterprises, human resource and employment development, structural transformation in agriculture and fishery, development of rural areas, strengthening a potential of regions and counteracting marginalization of some regions, they also include creating conditions for increase in investments, **stable development** and

promotion of spatial cohesion. Within the later one, particular attention is paid to **environmental protection** and land development. The field concerning environmental protection will receive assistance in investments particularly aimed at improving:

- surface water quality,
- drinking water distribution and its quality,
- air quality where permissible pollution concentration have been exceeded,
- rational waste management.

### **EU financial assistance to environmental protection in Poland**

The implementation of the National Development Plan for the 2004-2006 period will be financed by both public and private resources.

There are two sources of the public money: the first one includes the structural funds, Cohesion Fund and Community Initiatives such as INTERREG and EQUAL. Poland will have received in total 11368,6 m euro from this source for NDP implementation, the second one will provide implementing development measures that will have been financed by the state and regional self-government budgets. In total, commitment appropriations will have amounted to 2861,4 m euro.

The assistance rendered to enterprises is under the principle of competitiveness, including particularly regulations concerning public aid. Commitment appropriations will have amounted to 1818 m euro.

The total assistance (including the structural funds, Cohesion Fund, public resources and private ones) appropriated for NDP implementation in the 2004-2006 period will have amounted to over 16 bn euro. Estimate commitment between 2004 and 2006 in implementing the structural policy objectives in Poland by the structural funds is shown in table 2.

Table 2. Estimate commitment of the EU funds between 2004-2006 in implementing objectives of the structural policy in Poland

Operational programme, Fund	Value of the EU assistance (million euro)	Share (in%)
Cohesion Fund	3733,3	32, 84
Structural Funds including:	7635,3	67, 16
European Regional Development Fund	4652,8	
European Social Fund	1748,9	
European Agricultural Guidance and Guarantee Fund	1055	
Financial Instrument for Fisheries Guidance	178,6	

Source: own compilation based on NDP.

As outlined in NPR, environmental protection will have been financed by the Cohesion Fund in 50%, SOP-ICE (Sectoral Operational Programme "Improvement of the Competitiveness of Enterprises) in 12,5% (it is also aimed at enterprise adoption to ecological standards) and IROP (Integrated Regional Operational Programme) in 14% (Ministry of Economy, Labour



and Social Policy, 2003). <sup>3</sup>Moreover, financial resources of the European Agricultural Guidance and Guarantee Fund will be appropriated for environmental protection. Over the same period of time, assistance aimed at ecological purposes will be available within the instruments of the Common Agricultural Policy.

The bodies responsible for management of Sectoral Operational Programmes and implementation of NDP are the Ministries, hence the Ministry of Environment shoulders a responsibility for implementing environmental projects concerning:

- considerable investments in water economy and fire precaution,
- environmental protection in polluted areas,
- pro-development actions supporting sustainable development,
- development of information systems in environmental protection.

The institutions eligible for the EU assistance include: self-governments of provinces, powiats and communes, the National Fund for Environmental Protection and Water Management together with the Voivodship Fund for Environmental Protection and Water Management, the Regional Offices for Water Management, governmental institutions, the State Forests, Regional Offices for State Forests and national parks (Narodowy Planu Rozwoju 2004-2006, 2003).

## Conclusion

Implementing the adaptation strategy in the environmental protection field requires introducing a range of organizational, administrative and legal changes, this in turn, requires covering significant costs. Since the accession, Poland is eligible to receive assistance from the structural funds, Cohesion Fund and post-accession assistance. Indeed, the financial resources don't cover all essential expenditures but still help to meet financial needs to a significant extend. Moreover, the European Union funds prove that Poland implements the solidarity, subsidiarity and sustainable development principles which are the basis of the EU environmental policy.

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<sup>3</sup> More information: Strategia wykorzystania funduszu Spójności na lata 2004-2006, Ministry of Economy, Labour and Social Policy, Warszawa February 2003.

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