

Energy transition

Poland

Country Report

Justice and Environment 2013

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Country Report on Energy Transition POLAND

The status report is aimed at presenting how the aspects of energy transition appear in the national legislation and policies in the areas of renewable energy production and of decreasing in energy consumption (including energy efficiency).

I. Promotion of the use of energy from renewable sources

1. Does the national legislation contain binding or indicative targets of increasing the share of energy from renewable energy sources?

Yes. Journal of Laws of the Republic of Poland, *Act No. 54 item 348 (Energy Law) Art 20a* states that Minister of The Economy is obliged to issue the project of National Renewable Energy Action Plan. The Plan sets out in particular: national target for the share of energy and fuels derived from renewable sources of energy consumed in energetic and transport.

2. Has a National Renewable Energy Action Plan (NREAP) been adopted in your country? Does the NREAP cover all the details required by the Art 4 par (1) of the Directive 2009/28/EC (hereinafter: Directive)? Which are main measures to achieve the national targets for the share of energy from renewable sources set out in the NREAP?

Yes. The most recent National Renewable Energy Action Plan has been adopted on December 2011. It covers details required by the *Art 4 par (1) of the Directive 2009/28/EC*. Main measures to achieve the national targets are included in The Energy Policy of Poland adopted by the Polish Government on 10 November 2009.

The Energy Policy specifies the main objectives in the scope of RES usage, which include:

- An increased share of renewable energy sources in final energy consumption up to at least 15% in 2020 and a further increase of this index in subsequent years,
- 10% share of biofuels in the market for transport fuel in 2020 and increased usage of second-generation biofuels,
- Protection of forests from excessive exploitation in order to obtain biomass and sustainable use of agricultural areas for RES purposes, including biofuels, in order to prevent competition between renewable energy and agriculture and to preserve biodiversity,
- Use of State Treasury-owned damming structures to produce electricity,
- Increased diversification of supply sources and creation of optimum conditions for the development of distributed energy, based on locally available raw materials.

Apart from specifying objectives, the Policy indicates specific measures to be implemented, including:

- Development of a sustainable path to 15% of RES share in final energy consumption, broken down into individual types of energy: electricity, heat, cold and renewable energy in transport,
- Maintaining support mechanisms for producers of electricity from renewable sources, e.g. through a system of certificates of origin,
- Maintaining the obligation to gradually increase the share of biocomponents in transport fuels in order to achieve the set objectives,
- Introducing additional support instruments encouraging more extensive generation of heat and cold from renewable energy sources,
- Implementing directions of construction of agricultural biogas plants, assuming that by 2020, there will be on average one biogas plant in every community.
- Creating conditions facilitating investment decisions regarding the construction of offshore wind farms,
- Maintaining the principle of excise tax exemption for energy obtained from RES,
- Direct support to building new renewable energy generation units and power grids that could be connected with the use of European funds and environmental protection funds, including funds gathered in the form of the substitution fees and fines,
- Stimulating development of the potential of Polish industry manufacturing renewable energy equipment, including using European funds,
- Support for development of technologies and construction of installations for obtaining renewable energy from waste containing biodegradable materials (e.g. municipal waste containing biodegradable fractions),
- Evaluation of the plausibility of using existing damming structures owned by the State Treasury to generate power by way of taking their inventory, establishing their framework environmental impact, and devising the rules of making them available.

3. Has the existing national regulation been amended or has new regulation been introduced into the national procedural legislation in order to fulfill Art 13 par 1¹ of the Directive?

It has to be mentioned that national procedural legislation does not fully implement *Art 13 par 1 of the Directive*.

Current provisions regulate issues related to planning, construction and operation of RES installations in a comprehensive manner. In issuance of decisions, competent authorities must observe the principles of objectivity, transparency, proportionality and non-discrimination. Renewable sources of energy have, pursuant to the Polish law, a number of facilities and amenities of both financial and procedural feature. Journal of Laws of the Republic of Poland, *Act No. 54 item 348 (Energy Law)* has recently been amended in order to simplify some of the procedures. The most significant changes are the obligation to purchase

¹ Art 13. par 1 of the Directive Member States shall ensure that any national rules concerning the authorisation, certification and licensing procedures that are applied to plants and associated transmission and distribution network infrastructures for the production of electricity, heating or cooling from renewable energy sources, and to the process of transformation of biomass into biofuels or other energy products, are proportionate and necessary

green energy by the so-called ex officio seller and priority transfer of electricity from RES. Also Chapter 3b “Conditions and procedures for issuing certificates for installers of small micro-installations and installations and the accreditation of training providers” has provisions that simplifying administrative procedure.

4. Have any technical specifications - which must be met by renewable energy equipment and systems in order to benefit from support schemes – been clearly defined in the national legislation²?

In order to benefit from financial support schemes, e.g. funds allocated by the National Fund for Environmental Protection and Water Management and voivodship funds for environmental protection and water management, in each case a given technology (installation or equipment) has to meet technical and quality standards set forth in the specification of a given support scheme. The National Fund for Environmental Protection and Water Management accepts and uses harmonized European standards. The possibility to benefit from support schemes of the National Fund for Environmental Protection and Water Management depends on meeting requirements of technical and quality standards identified individually for each specific competition or support scheme.

5. Do any policy document and/or legislative measure recommend to local and regional administrative bodies to ensure equipment and systems are installed for the use of electricity, heating and cooling from renewable energy sources and for district heating and cooling when planning, designing, building and renovating industrial or residential areas?

No. Pursuant to the Energy Act (Journal of Laws of the Republic of Poland, Act No. 54 item 348), establishment and implementation of energy policy at the national level is the responsibility of the minister competent for the economy. At the same time, local self-government units, such as poviats or communities, can establish detailed schemes in the scope of energy management. Moreover, communities — the basic units of local self-government — are legally obliged to develop Plans for supplying the community with heat, electricity and gas fuel. It has to be mentioned that no detailed tasks for local government have been specified in National Renewable Energy Action Plan. This act also did not indicate which type of preparatory planning activities on local and regional level should take place.

6. Does the national legislation encourage local and regional administrative bodies to include heating and cooling from renewable energy sources in the planning of city infrastructure?

No. Although Journal of Laws of the Republic of Poland, *Act No. 54 item 348 (Energy Law)* states that community council enacts plan for the supply of heat, electricity and fuel gas. According to article 20 said Act, the project of the plan should contain proposals for the use of renewable energy sources.

² Art 13 par 2 of the Directive

7. Have legislative measures been introduced in the national building regulations and codes in order to increase the share of energy from renewable sources in the building sector³?

Yes. Although there is no national legislation that would require installing and using RES in newly built or modernized buildings, in order to promote the use of RES, the legislator has introduced the system of incentives and premiums. Main incentives in this area include the thermo-modernization premium and the renovation premium that the investor can obtain based on the *Act of 21 November 2008 on supporting thermo-modernization and renovation work (Journal of Laws No 223, item 1459)*. Generally, the thermo-modernization premium is available to an investor for reducing an annual demand for energy, reducing annual energy losses, reducing annual costs of heat production, replacement of an energy source with a renewable energy source or using highly efficient co-generation.

The Building Act does not explicitly set forth any ratios for increasing the share of energy from renewable sources in the building sector, while legal instruments introduced therein are assumed to be aimed at supporting this objective. Such instruments include, e.g. the regulation of the issue of the use of small-scale photovoltaic systems, in a way favourable to investors. The installation of standalone solar panels does not require obtaining a building permit or submitting a notification to the responsible authority.

8. In case of biomass, which national legislation or policy documents promote the conversion technologies that achieve a conversion efficiency of at least 85 % for residential and commercial applications and at least 70 % for industrial applications⁴?

No national legislation or policy documents promote the conversion technologies that achieve a conversion efficiency of at least 85 % for residential and commercial application at least 70 % for industrial applications.

9. Does the national legislation provide that information on support measures⁵ as well as on the net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources⁶ are made available?

Taking into account information on support measures made available to all relevant actors, such as consumers, builders, installers, architects, and suppliers of heating, cooling and electricity equipment and systems and of vehicles compatible with the use of energy from renewable sources (*Article 14(1) of Directive 2009/28/EC*), there are no relevant legal regulations that explicitly refer to a separate information requirement within the aforementioned scope. As for the information on the net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources (*Article 14(2) of Directive 2009/28/EC*) there are no separate (except for harmonized European standards) information procedures in this respect.

³ Regarding the questions No. 5-7. see: Art 13 par 3 of the Directive

⁴ Art 13. par 6 subpar 2 of the Directive

⁵ Art 14 par 1 of the Directive

⁶ Art 14 par 2 of the Directive

10. How were the certification schemes laid down in Art 14 par 3 of the Directive made available by 31 December 2012?

In the Polish legal system, by December 2012 there were no separate certification schemes for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps consistent with *Article 14(3) of Directive 2009/28/EC*. However, the procedure introduced by the regulation of the Minister of Economy, Labour and Social Policy of 28 April 2003 on the detailed principles of verifying the qualifications held by the persons operating the equipment, installations and networks (*Journal of Laws No 89, item 828, as amended*) could then be considered as an equivalent qualification scheme. The aforementioned regulation was issued based on the authorization included in *Article 54(6) of the Energy Act (Journal of Laws of the Republic of Poland, Act No. 54 item 348)*, which imposes on persons operating the equipment, installations and networks specified in secondary legislation the requirement to have qualifications confirmed with a certificate issued by qualification commissions. The term operation within the meaning of the regulation means not only service, maintenance or repairs of equipment, but also assembly or installation.

Amendment to the *Energy Act (Journal of Laws of the Republic of Poland, Act No. 54 item 348)* introduced in *Chapter 3b* certification schemes laid down in *Art 14 par 3 of the Directive*. The amendment came into force in 11 September 2013.

11. Where and when have guidelines⁷ - helping to consider the optimal combination of renewable energy sources, of high-efficiency technologies and of district heating and cooling - been published?

No act focused on the specific areas identified in *Art. 14 par 5 of the Directive* has been published.

12. Have any policy documents or legislative action been taken in order to develop guidance or training programs informing citizens of the benefits and practicalities of developing and using energy from renewable sources⁸?

Information and promotion campaigns on renewable energy sources can be divided into two groups: the campaigns initiated by central administration and local government units, and campaigns run at the initiative of independent associations and foundations supporting green technologies. In May 2010, the Ministry of the Environment published on its website the information on the potential use of energy from thermal waters. The information package has included, inter alia, the information on legislation on thermal waters, possibility to obtain co-financing for geothermal projects, documents on geothermal energy, links to other websites and related materials. Many communities and poviats promote European Funds for Renewable Energies.

⁷ Art 14 par 5 of the Directive

⁸ Art 14 par 6 of the Directive

13. Does the national legislation ensure that a guarantee of origin will be issued in response to a request from a producer of electricity from renewable energy sources⁹?

Yes. Journal of Laws of the Republic of Poland, *Act No. 54 item 348 (Energy Law), article 11h subs 2* states that a guarantee of origin will be issued, in response to a request in written form, from a producer of electricity from renewable energy sources.

14. Are the guarantees of origin to be issued in case of heating and cooling from renewable energy sources as well¹⁰?

The guarantees of origin are not issued in case of heating and cooling from renewable energy sources.

15. Does the national legislation provide that no support be granted to a producer when that producer receives a guarantee of origin for the same production of energy from renewable sources?

No national act specified issue of support granted to a producer when that producer receives a guarantee of origin for the same production of energy from renewable sources

16. Which authority has been designated for supervising the issuance, transfer and cancellation of guarantees of origin?

The responsible authority is The President of the Office of Power Engineering, administrative body. It does fulfill the requirements laid down in *Art. 15 paragraphs 5 – 6*.

17. Which legislation has guaranteed the transmission and distribution of electricity produced from renewable energy sources? The electricity produced from renewable energy sources has priority access or guaranteed access to the grid-system¹¹?

This regulation of the Directive has not been implemented yet. Amendment of the *Energy Act (Journal of Laws of the Republic of Poland, Act No. 54 item 348)* from 11 September 2013 does not introduce priority access for the electricity produced from renewable energy sources to the grid system. Nevertheless, the operator of the electricity system is required to ensure priority in the provision of transmission and distribution of electricity produced from renewable energy sources and cogeneration, simultaneously maintaining the reliability and security of the national electricity system

⁹ Art 15 par 2 of the Directive

¹⁰ Art 15 par 2 of the Directive

¹¹ Art 15 par 2 of the Directive

- 18. With regard to the previous point, how does the national legislation define “priority access” or “guaranteed access”? Under which conditions might be the priority access refused?**

See point 17.

- 19. Which national legislation has ensured that the charging of transmission and distribution tariffs does not discriminate against electricity/gas from renewable energy sources?**

Journal of Laws of the Republic of Poland, Act No. 54 item 348 (Energy Law) states that the energy company engaged in the transmission or distribution of gas or electricity is required to ensure the principle of equal treatment during the provision of services of transmission or distribution of gas or electricity for all customers and companies involved in the sale of gas or electricity.

Energy efficiency and decreasing in energy consumption

- 20. Have been produced political documents or an overarching legislation covering the issue of energy efficiency and/or decreasing energy demand?**

Yes. The issue of energy efficiency and decreasing energy demand is covered by *The Energy Policy of Poland and National Energy Efficiency Action Plan 2011*.

- 21. Does your country have any specific legislation on energy efficiency/decreasing energy demand?**

Yes, *Journal of Laws of the Republic of Poland, Act No. 94 item 551 (Energy efficiency Act)*.

- 22. Does existing and/or planned legislation contain a binding or indicative energy efficiency target?**

Existing legislation does contain binding or indicative energy efficiency targets. *Art 4 Journal of Laws of the Republic of Poland, Act No. 94 item 551 (Energy Efficiency Act)*.

23. Has a second National Energy Efficiency Action Plan been adopted in your country? If yes, does it contain the information necessary according to Art 14 par 2¹² of Directive 2006/32/EC on energy end-use efficiency and energy services?

A second National Energy Efficiency Action Plan has been adopted in April 2012. Generally, it does contain the information necessary according to *Art. 14 par 2 of the Directive*.

Energy efficient public procurement

24. Have at least two energy efficient public procurement measures¹³ been incorporated into national public procurement legislation?

Yes. Measures enumerated in *Art 5 and Annex VI of the Directive* are implemented in *Art 10 and 11 Journal of Laws of the Republic of Poland, Act No. 94 item 551 (Energy Efficiency Act)*.

25. Have guidelines on energy efficiency and energy savings as a possible assessment criterion in competitive tendering for public contracts¹⁴ been published?

Yes. Ministry of Economy has published "Guide for the bodies of public sector", which comprise the issue of energy efficiency and energy savings as a possible assessment criterion in competitive tendering for public contracts.

Energy distributors, distribution system operators and retail sellers

26. Are regulations in place, which ensure that energy distributors, distribution system operators and retail sellers are ready to provide the information defined in Art 6 par 1 a of Directive 2006/32/EC?

This regulation of the Directive has not been implemented yet.

27. Has one of the requirements referred to in Art 6 par 2 a of Directive 2006/32/EC been implemented?

Yes. *Art 12 – 27 of Energy Efficiency Act* introduce to Polish legal system concept of „white certificates”.

¹² According to this Article the second and third EEAPs shall:

- include a thorough analysis and evaluation of the preceding EEAP;
- include the final results with regard to the fulfilment of the energy savings targets set out in Article 4(1) and (2);
- include plans for — and information on the anticipated effects of — additional measures which address any existing or expected shortfall vis-à-vis the target;
- in accordance with Article 15(4), use and gradually increase the use of harmonised efficiency indicators and benchmarks, both for the evaluation of past measures and estimated effects of planned future measures;
- be based on available data, supplemented with estimates.

Please check if these requirements are fulfilled and possibly provide a short assessment of the quality of information.

¹³ Art 5 and Annex VI of Directive 2006/32/EC.

¹⁴ Art 5 of Directive 2006/32/EC.

28. Are energy audit schemes in place as foreseen in Art 12 of Directive 2006/32/EC?

Energy audit schemes as foreseen in *Art 12 of the Directive* has not been implemented yet.

Energy Consumption Labelling

29. Has legislation been put in place, which obliges suppliers to provide technical information as well as labels and fiches (standard table of information relating to the product) in accordance with Art 5 of Directive 2010/30/EU¹⁵?

Yes, the supplier has these duties in accordance with *Art. 4 Journal of Laws of the Republic of Poland, Act No. 0 item 1203 (Act on obligations to provide information on energy using products)*.

30. Has legislation been put in place which ensures that dealers (retailers) display labels properly and provide for fiches in accordance with Art 6 of Directive 2010/30/EU?

Yes. Dealers/retailers are obliged to display and provide for finches in accordance with *Art 4 par 1 Journal of Laws of the Republic of Poland, Act No. 0 item 1203*.

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¹⁵ Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products