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signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 31 July 2019

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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The EU Environmental Implementation Review 2019 Country Report -  
POLAND  
*Accompanying the document*  
Communication from the Commission to the European Parliament, the  
Council, the European Economic and Social Committee and the  
Committee of the Regions  
Environmental Implementation Review 2019: A Europe that protects its  
citizens and enhances their quality of life

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Delegations will find attached document SWD(2019) 128 final/2.

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**CORRIGENDUM**

This document corrects document SWD(2019) 128 final of 04.04.2019

Footnote 34 modified

The text shall read as follows:

**COMMISSION STAFF WORKING DOCUMENT**

**The EU Environmental Implementation Review 2019  
Country Report - POLAND**

*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**Environmental Implementation Review 2019:  
A Europe that protects its citizens and enhances their quality of life**

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## Executive summary

### Poland and the Environmental Implementation Review (EIR)

In the 2017 EIR, the main challenges in implementing EU environmental policy and law in Poland were:

- **improving the implementation of the Water Framework Directive,**
- **preparing and implementing investments required for the Urban Wastewater Treatment Directive, and**
- **tackling air pollution.**

Poland has not yet organised an EIR national dialogue since the 2017 EIR report. In 2017 the Commission launched the TAIEX-EIR Peer-to-Peer (**EIR P2P**) as a practical new tool facilitating peer-to-peer learning between environmental authorities.

### Progress on meeting challenges since the 2017 report

As regards **water quality**, the 2019 EIR shows that efforts have been made to address **water pollution by nitrates** by adopting a new Water Act in July 2017. The Act extended the scope of the nitrates action programme from a small part of the country to the whole of it. Moreover, quantity and quality of information included in the Programme of Measures in the **second River Basin Management Plans** has significantly improved, particularly in identifying the gap to good status at a water body level. However, the number of monitoring sites has decreased substantially since the first RBMPs in all the water categories and there are still shortcomings regarding application of the exemptions to the objectives of the Water Framework Directive. Despite ongoing heavy investment in building necessary infrastructure, including projects co-financed by the EU Funds, Poland has missed the final deadline for achieving compliance with the Urban Waste Water Treatment Directive (i.e. 2015). Over 1000 agglomerations require further investments in collecting networks and treatment plants estimated at EUR 6.1 billion.

There has been no progress on improving **air quality**. Limit values for particulate matter, benzo(a)pyrene and nitrogen oxides continue to be exceeded. The main reason for this is emissions from burning poor-quality coal in substandard boilers used to heat individual houses. Large volumes of road traffic and the large proportion of old cars are other major factors in air pollution. While first steps have been taken, so far there has been no progress in improving air quality. Poland should speed up connecting houses to district heating and phasing out from coal into clean energies. Moreover, planning measures such as low emission zones should be considered, in tandem with technical improvements to vehicles, and fiscal incentives. Overall, Poland should step up its efforts to plan and implement adequate air

pollution reduction measures.

As regards **waste management**, Poland has made substantial progress with infrastructure planning. Moreover, the regulation setting out national rules on separate collection of household waste represents a major breakthrough which could boost the quality of recycled material and its economic value. Its relative success, however, is heavily dependent on the enforcement of waste legislation, especially as regards checks on the bodies involved in waste management and the functioning of extended producer responsibility schemes. The Commission's 2018 early warning report states that Poland is considered to be at risk of failing to meet the 2020 municipal waste recycling target of 50 %.

As regards **nature conservation**, Poland has made some progress with drawing up plans for managing Natura 2000 sites. However, gaps remain in the designation of the Natura 2000 network especially with regard to certain marine species. Challenges also continue with regard to management of Natura 200 sites that overlap with forest districts. The main threats to biodiversity remain fast-developing infrastructure such as roads, regulation of rivers for navigation and flood defence, and intensive agriculture.

The 2019 report shows that Poland needs to strengthen **environmental governance**. Institutional changes that could weaken implementation and enforcement of environmental legislation should be avoided. Access to information and judicial review is needed for environmental NGOs in cases such as those covered by the Aarhus Convention.

### Examples of good practice

- Two green infrastructure projects, so called 'small retention in forests' aimed at flooding and droughts prevention, implemented in Poland. They use nature-based solutions to slow down water outflow from forested areas. The projects have received EU funding under the 2007 – 2013 Operational Programme for Infrastructure and Environment.
- LIFE integrated project in the Małopolska region, helping to implement an air quality plan (LIFE14 IPE/PL/000021). The project was designed to provide support and advice on taking measures to tackle severe air pollution in Małopolska.
- 'You have the right to effective protection for nature' was another remarkable LIFE project designed to increase knowledge and improve cooperation on nature protection between judicial and enforcement authorities. It included educational and information activities for the authorities concerned and the general public.

## Part I: Thematic areas

### 1. Turning the EU into a circular, resource-efficient, green and competitive low-carbon economy

#### Measures towards a circular economy

The Circular Economy Action Plan emphasises the need to move towards a life-cycle-driven ‘circular’ economy, reusing resources as much as possible and bringing residual waste close to zero. This can be facilitated by developing and providing access to innovative financial instruments and funding for eco-innovation.

Following the adoption of the Circular Economy Action Plan in 2015 and the setting up of a related stakeholder platform in 2017, the European Commission adopted a new package of deliverables in January 2018<sup>1</sup>. This included additional initiatives such as: (i) an EU strategy for plastics; (ii) a Communication on how to address the interplay between chemical, product and waste legislation; (iii) a report on critical raw materials; and (iv) a framework to monitor progress towards a circular economy<sup>2</sup>.

According to the 10 indicators in the circular economy monitoring framework, Poland is below the EU average in circular (secondary) use of material (10.2 % in 2016, compared with an EU average of 11.7 %). However, Poland has a slightly larger proportion of people employed in the circular economy (2.21 % of total employment in 2016, compared with an EU average of 1.73 %).

In 2015, the Minister for Economic Development set up a multi-stakeholder group tasked with developing a circular economy roadmap.

In January 2018, the roadmap for 'Transformation towards a Circular Economy'<sup>3</sup> was opened for public consultation. The roadmap will cover four main strategic areas:

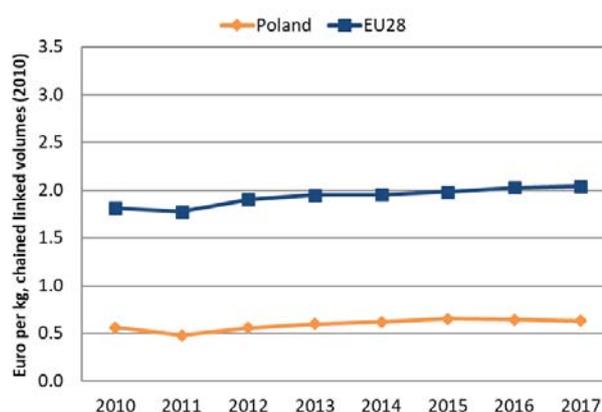
- Sustainable industrial production
- Sustainable consumption
- The bio-economy
- New business models

However, while Poland may expect improvements in eco-

innovation investment and activities in the coming years, the overall shift towards a more resource-efficient economy will require long-term systemic innovation.

Poland performs below the EU average in terms of resource productivity (i.e. how efficiently the economy uses material resources to produce wealth), with EUR 0.63 EUR/kg in 2017 (the EU average is EUR 2.04 /kg).<sup>4</sup> As shown in Figure 1, this represents a slight but steady increase since 2011. However, resource productivity was down slightly in 2016 and 2017 compared with previous years.

Figure 1: Resource productivity 2010-2017<sup>5</sup>



The number of EU Ecolabel products and EMAS-licensed organisations in a given country provide some indication of the extent to which the private sector and national stakeholders in general are engaged in the transition to the circular economy. They also show how committed public authorities are to supporting the circular economy. In September 2018, Poland had 2 560 products and 35 licences registered in the EU Ecolabel scheme out of 71 707 products and 2 167 licences in the EU as a whole<sup>6</sup>. Moreover, 69 Polish organisations are currently registered in EMAS<sup>7</sup>, the European Commission's eco-management and audit scheme.

According to the 2017 Eurobarometer on EU citizens'

<sup>1</sup> European Commission, [2018 Circular Economy Package](#).

<sup>2</sup> [COM\(2018\) 029](#).

<sup>3</sup> [Roadmap for transformation towards Circular Economy](#).

<sup>4</sup> Resource productivity is defined as the ratio between gross domestic product (GDP) and domestic material consumption (DMC).

<sup>5</sup> European Commission, Eurostat, [Resource productivity](#).

<sup>6</sup> European Commission, [Ecolabel Facts and Figures](#).

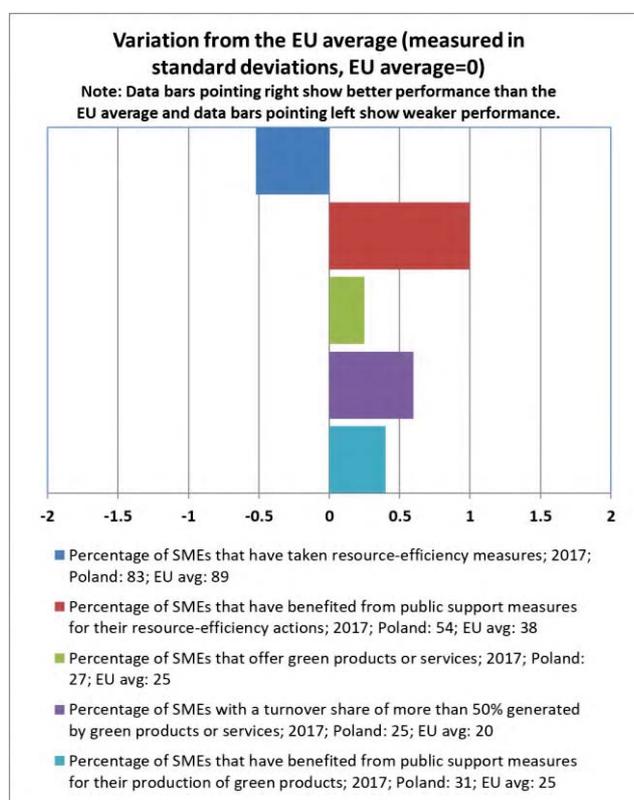
<sup>7</sup> As of May 2018. European Commission, [Eco-Management and Audit Scheme](#).

attitudes towards the environment<sup>8</sup>, 86 % of Polish people said they were concerned about the effects of plastic products on the environment, while 88 % were worried about the impact of chemicals.

### SMEs and resource efficiency

Polish SMEs continue to score in line with the EU average in the environmental dimension of the small business act, as Figure 2 shows. While the proportion of Polish SMEs that have taken resource efficiency measures is a bit below the EU average, the percentage that offer green products and services is slightly above the EU average. Moreover, companies that take resource efficiency measures or green themselves through innovation in products and services enjoy much more public support than the EU average.

Figure 2: Environmental performance of SMEs<sup>9</sup>



Polish companies' performance and ambition in terms of investing in resource efficiency are largely in line with the EU average.

Financial support from both public and private sources is well developed and appreciated. In contrast, public and private consultancy seems less developed, but might have to offset the decreasing appreciation of business associations' support services sooner or later.

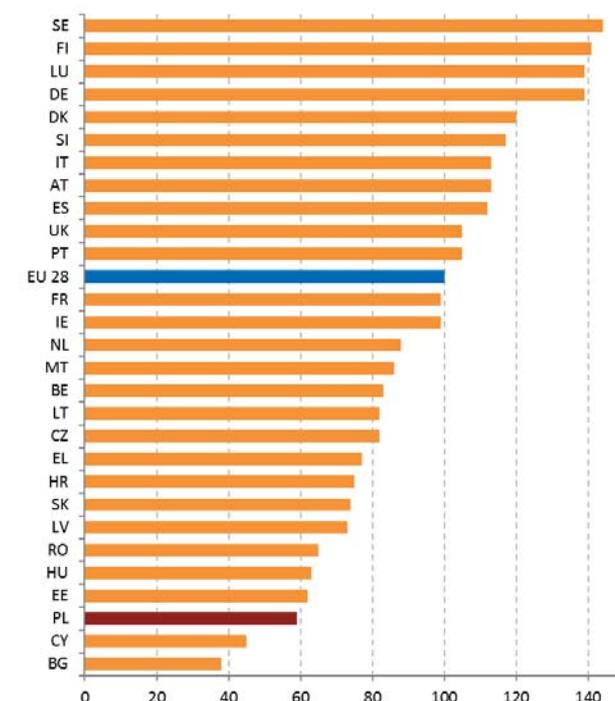
<sup>8</sup>European Commission, 2017, [Special 468 Eurobarometer](#), "Attitudes of European citizens towards the environment".

<sup>9</sup> European Commission, [2018 SBA fact sheet](#) – Poland, p.14.

### Eco-innovation

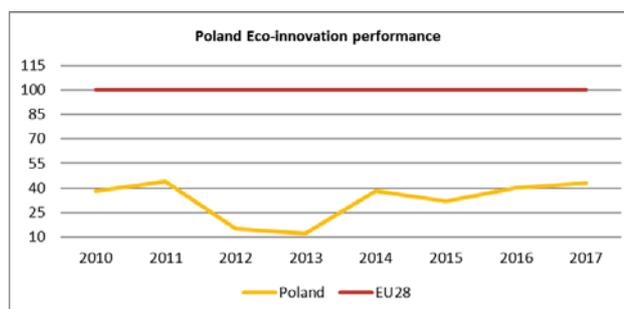
In 2018, Poland ranked 25<sup>th</sup> on the European Innovation Scoreboard, being the 14<sup>th</sup> fastest growing innovator (3.2% increase since 2010)<sup>10</sup>. In addition, Poland ranked 26<sup>th</sup> on the list of EU countries in the overall Eco-Innovation Scoreboard for 2017, measuring environment-related aspects of innovation, with a total score of 59 (see figure 3).

Figure 3: 2017 Eco-innovation index (EU=100)<sup>11</sup>



As Figure 4 shows, Poland is among the countries that have persistently scored low on the European Eco-innovation Scoreboard since 2010.

Figure 4: Poland's eco-innovation performance



Poland has the following barriers to eco-innovation and the circular economy:

- difficult access to capital, the relatively high cost of eco-innovative technologies;

<sup>10</sup> European Commission, [European innovation Scoreboard 2018](#).

<sup>11</sup> [Eco-innovation Observatory](#); Eco-Innovation scoreboard 2017.

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- insufficient research effort, weak industry-science links;
- companies' insufficient awareness about benefits of implementing eco-innovative solutions and reluctance to take the risk of adopting eco-innovations;
- customers' insufficient awareness of benefits of eco-innovative technologies.

Public procurement law and practices in Poland have done little to encourage eco-innovation so far. The requirements set in the new national action plan for sustainable public procurement (2017-2020) are non-binding on many industries, especially in the waste and water sectors.

Eco-innovation and circular economy policy measures and funding schemes in Poland since 2013 include:

- the National Smart Specialisations (2014),
- new provisions on municipal waste implemented in 2013 as well as their subsequent improvements,
- the operational programme for innovative growth (2014 – 2020),
- the operational programme for infrastructure and the environment (2014 – 2020) and priority programmes of the National Fund for Environmental Protection and Water Management.

The National Plan for Sustainable Development, envisages an increase of overall spending on R&D to reach to 2 % of GDP by 2020.

New act on innovation adopted in January 2018 provides incentives for R&D investments such as 150 % tax credit, depreciation of buildings amongst eligible costs and granting status of Research and Development Center (RDC) to enterprises.

The Polish Government sees investing in environmental technologies as important. For example, 74 Polish companies involved in developing green technologies were supported between 2010 and 2015 under the GreenEvo<sup>12</sup> initiative, coordinated by the Ministry of the Environment. A new edition of GreenEvo started in June 2018.

### 2019 priority action

- Strengthen the policy framework to speed up the transition towards the circular economy by all economic sectors.

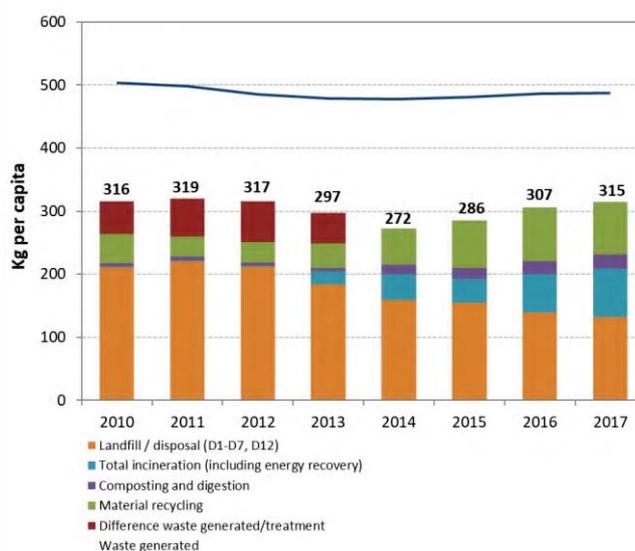
## Waste management

Turning waste into a resource is supported by:

- (i) fully implementing EU waste legislation, which includes the waste hierarchy, the need to ensure separate collection of waste, the landfill diversion targets, etc.;
- (ii) reducing waste generation and waste generation per capita in absolute terms; and
- (iii) limiting energy recovery to non-recyclable materials and phasing out landfilling of recyclable or recoverable waste.

This section focuses on management of municipal waste<sup>13</sup> for which EU law sets mandatory recycling targets<sup>14</sup>.

**Figure 5: Municipal waste treatment in Poland, 2010-2017<sup>15</sup>**



In 2017, Poland generated 315 kg/y/inhabitant of municipal waste. This is well below the EU average (487 kg per capita)<sup>16</sup>.

The data reported by Poland show that 34 % of municipal waste is recycled (i.e. material recycling and composting altogether) which is below the EU average of 46 % (Figure 6).

<sup>13</sup> Municipal waste consists of mixed waste and separately collected waste from households and from other sources, where such waste is similar in nature and composition to waste from households. This is without prejudice to the allocation of responsibilities for waste management between public and private sectors.

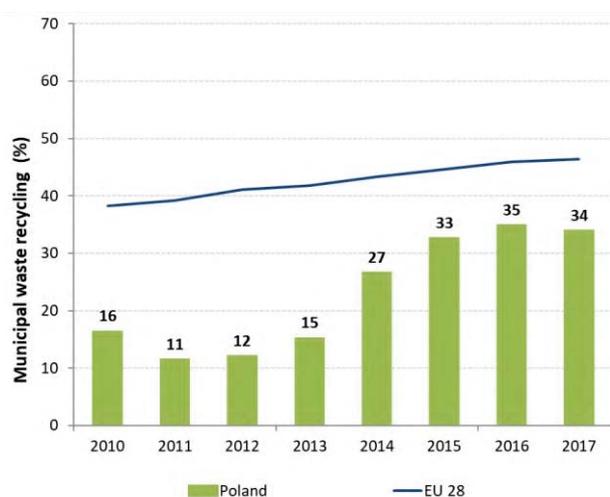
<sup>14</sup> See Article 11.2 of Directive 2008/98/EC. This Directive was amended in 2018 by Directive (EU) 2018/851, and more ambitious recycling targets were introduced for the period up to 2035.

<sup>15</sup> European Commission, Eurostat, [Municipal waste by waste operations](#).

<sup>16</sup> European Commission, Eurostat, [Municipal waste by waste operations](#).

<sup>12</sup> Project [GreenEvo](#).

**Figure 6: Recycling rate of municipal waste, 2010-2017<sup>17</sup>**



In the past three years, Poland has taken significant steps towards improving its waste treatment, however, this still remains to be demonstrated by the statistics. Despite a steady decrease, landfilling remains a predominant form of waste treatment with a rate of 42% in 2016, an improvement since 2014. However, it is still above the EU average (24%). In 2018, the roll-out of a new electronic database on waste started. This should help solve the problem with statistics, improve monitoring of movement of waste, and help curb illegal activity.

There have been some positive developments that are in line with the recommendations made to Poland in the previous EIR. The landfill fee was reformed, so as to progressively increase rates and discourage disposal of municipal waste, including separately collected waste and waste suitable for energy recovery. Rules on separate collection were also standardised at national level, including a new obligation to collect biodegradable waste separately. However, the extent to which they succeed will depend to a great extent on proper implementation and enforcement in the regions.

In principle, the updated National Waste Management Plan and the regional waste management plans prioritise separate collection and recycling. They provide for significant investment in selected waste collection sites, separate collection schemes, and conversion of mechanical-biological treatment facilities to sort separately collected waste and compost biodegradable waste. There are plans to invest in new waste-to-energy facilities or co-incineration. While the national waste management plan is designed to limit incineration capacity to 30%, there are concerns that there will be pressure for a greater capacity of energy recovery to treat the output of numerous residual waste plants.

<sup>17</sup> European Commission, Eurostat, [Recycling rate of municipal waste](#).

Illegal landfilling and dumping waste in forests continue to be a pressing problem, despite Poland's ongoing efforts to clean up the dumping sites. Following a series of waste fires in 2018, some revisions of laws on waste were adopted, entering into force on 5 September 2018. The aims included:

- tightening up the enforcement measures to be taken by the environmental inspectorates and introducing more stringent penalties,
- limiting the length of time for which waste can be stored before treatment,
- adding stricter rules on the bodies involved in managing and disposing of waste, and
- banning shipments from abroad of residual waste for disposal.

The Commission's early warning report<sup>18</sup> shortlists Poland among countries considered to be at risk of missing the 2020 municipal waste recycling target.<sup>19</sup> The report includes policy recommendations for Poland. These focus on making separate collection more effective, including by helping municipalities meet their obligations; and improving the extended producer responsibility schemes, especially for packaging; and proper enforcement.<sup>20</sup> Beyond the recommendations for the shorter term, more effort will be needed to meet the recycling targets set for after 2020<sup>21</sup>.

Finally, according to a recent study<sup>22</sup> on the implementation of the End-of-Life Vehicles (ELV) Directive<sup>23</sup>, around one third of all illegally dismantled vehicles in the EU 'disappear' in Poland. That translates to one million vehicles per year, suggesting that as many as 85% of all scrapped vehicles may be scrapped illegally in Poland. One of the reasons for this large-scale illegal dismantling is that Poland has no penalties for the lack of vehicle registration. As Poland has the oldest fleet of passenger cars in the EU and imports of used cars are increasing, this policy area calls for particular attention and stronger enforcement, both as regards ELV treatment and in the context of air pollution.

<sup>18</sup> European Commission report on the implementation of EU waste legislation, including the early warning report for Member States at risk of missing the 2020 preparation for re-use/recycling target on municipal waste, [COM\(2018\) 656](#) and [SWD\(2018\) 422](#).

<sup>19</sup> Member States may choose a different method than the one used by ESTAT (and referred to in this report) to calculate their recycling rates and track compliance with the 2020 target of 50% recycling of municipal waste.

<sup>20</sup> European Commission, Early warning report for [Poland](#), SWD(2018) 426 final

<sup>21</sup> [Directive \(EU\) 2018/851](#), [Directive \(EU\) 2018/852](#), [Directive \(EU\) 2018/850](#) and [Directive \(EU\) 2018/849](#) amend the previous waste legislation and set more ambitious recycling targets for the period up to 2035. These targets will be taken into consideration to assess progress in future Environmental Implementation Reports.

<sup>22</sup> European Commission, [Study on ELV Directive](#).

<sup>23</sup> [Directive 2000/53/EC](#) on end-of-life vehicles

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### 2019 priority actions

- Consider introducing incineration fees to more effectively divert waste towards the higher end of the waste hierarchy and to make recycling and reuse economically attractive, as indicated in the national Waste Management Plan.
- Avoid building excessive infrastructure for waste incineration, and close and rehabilitate non-compliant landfills. Improve financial incentives to encourage better selective collection of waste by households.
- Continue efforts to better enforce waste legislation; in particular, introduce effective penalties for municipalities or local authorities, to ensure they put more effort into curbing illegal waste dumping, and establish a system of checks on end-of-life vehicles.
- Improve the functioning of extended producer responsibility schemes, in line with the general minimum requirements on EPR<sup>24</sup>.
- Set up a national project giving municipalities technical assistance with meeting their implementation and enforcement obligations, especially as regards separate collection, checks on bodies dealing with waste management, functioning of EPR, etc.

### Climate change

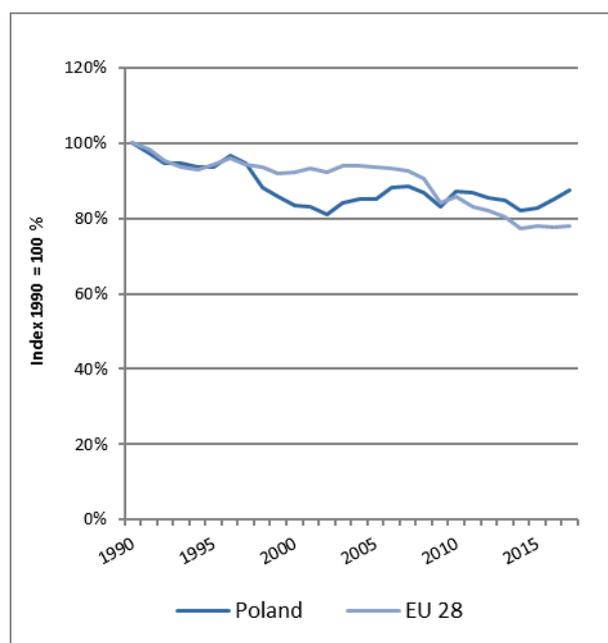
The EU has committed to undertaking ambitious climate action internationally as well as in the EU, having ratified the Paris Climate Agreement on 5 October 2016. The EU targets are to reduce greenhouse gas (GHG) emissions by 20 % by 2020 and by at least 40 % by 2030, compared to 1990. As a long-term target, the EU aims to reduce its emissions by 80-95 % by 2050, as part of the efforts required by developed countries as a group. Adapting to the adverse effects of climate change is vital to alleviate its already visible effects and improve preparedness for and resilience to future impacts.

The EU emissions trading system (EU ETS) covers all large greenhouse gas emitters in the industry, power and aviation sectors in the EU. The EU ETS applies in all Member States and has a very high compliance rate. Each year, installations cover around 99 % of their emissions with the required number of allowances.

For emissions not covered by the EU's emissions trading scheme (ETS), EU countries have binding national targets under the Effort Sharing legislation. Poland had lower effort sharing legislation (ESL) emissions than its annual emission allocations in 2013-2015, while in 2016 emissions slightly exceeded the allocations. To meet its

obligations for 2016 Poland will have to use allocations banked in previous years, or avail itself of other flexible solutions under the Effort Sharing Decision. In 2017, ESL emissions were 3 % higher than the annual emission allocations, according to preliminary data. For 2020, Poland's national target under this Decision is to avoid increasing emissions by more than 14 % over 2005 levels. Its national target for 2030 under the Effort Sharing Regulation will be to cut emissions by 7 % compared with 2005 (see Figure 8).

**Figure 7: Change in total greenhouse gas emissions 1990-2017 (1990=100 %)<sup>25</sup>.**



The greenhouse gas intensity of the Polish economy (emissions per unit GDP) exceeds the EU average by three fold. On positive side, Poland managed to reduce GHG emissions by 13% (between 1990 and 2017, see Figure 7) while increasing its GDP by 176%.

The draft of Polish energy policy until 2040 was submitted to public consultations in November 2018. It envisages a large role of fossil fuels at least until 2040. The draft assumes a strong growth of electricity production. Coal (both lignite and hard coal) is to remain the main fuel until 2030 and its share in energy mix is to decline thereafter. The construction of a first nuclear power plant (1-1.5 GW) is planned by 2033, and its extension until 2043. Onshore wind generation is to decline, despite its effectiveness recently confirmed in the November 2018 auction for 1 GW renewable energy

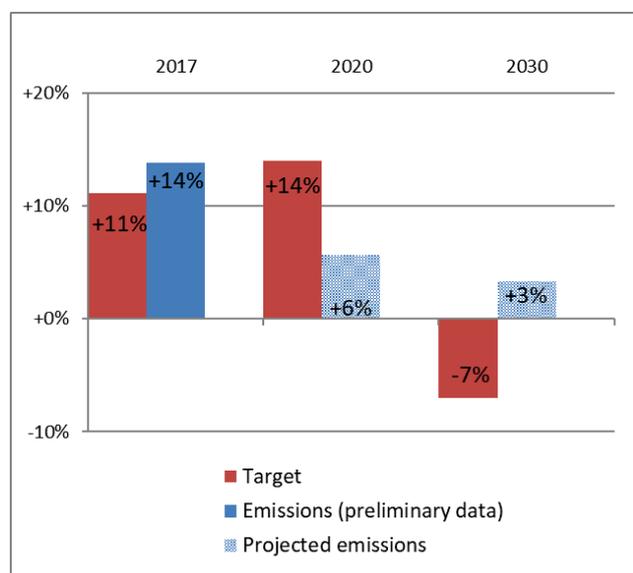
<sup>25</sup> Annual European Union greenhouse gas inventory 1990–2016 ([EEA greenhouse gas data viewer](#)). Proxy GHG emission estimates for 2017/Approximated EU greenhouse gas inventory 2017 (European Environment Agency). Member States national projections, reviewed by the European Environment Agency.

<sup>24</sup> [Directive \(EU\) 2018/851](#).

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generation. At the same time, the document envisages tapping the significant potential for offshore wind energy (up to 10 GW). By 2030 share of renewables in final energy consumption is to reach 21 %. Reduction of CO<sub>2</sub> emissions should reach 30 % and increase of energy efficiency estimated at the level of 23 % by 2030. In parallel, Poland prepares its draft national energy and climate plan 2021-2030 and updates several other sectorial strategies i.e.: draft climate policy of Poland 2030, draft sustainable transport development strategy 2030 and draft strategy of agriculture development 2020-2030. Two programmes are already adopted; the programme for the hard coal mining sector and the programme for the lignite coal mining sector. So far, Poland has not submitted information on a low carbon development strategy for 2050.

**Figure 8: Targets and emissions for Poland under the Effort Sharing Decision and Effort Sharing Regulation<sup>26</sup>.**



At EU level, sectoral climate legislation has been adopted to incentivize emissions reductions from transport, the maritime sector and fluorinated gases used in products.

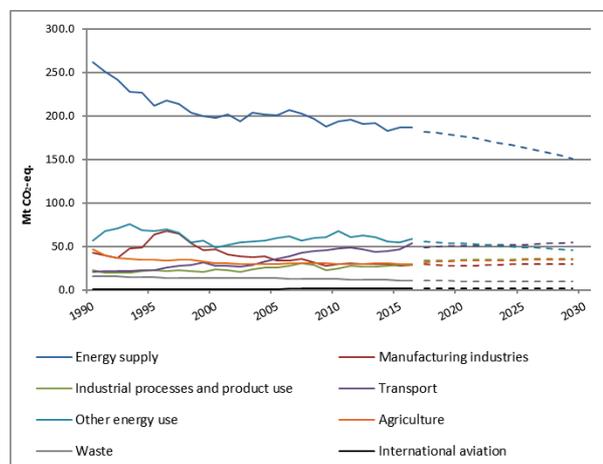
Transport represents almost a quarter of EU greenhouse gas emissions and is the main cause of air pollution in cities. Transport emissions in Poland increased by 14 % from 2012 to 2016.

Poland has notified the Commission of measures regarding training and certification programmes and of rules on penalties to ensure compliance with Regulation on fluorinated gases and the Directive on air conditioning systems used in small motor vehicles. The aim is to control emissions of fluorinated greenhouse gases and

<sup>26</sup>Proxy GHG emission estimates for 2017, Approximated EU greenhouse gas inventory 2017 (European Environment Agency). Member States national projections, reviewed by the European Environment Agency.

gradually reduces the amount of hydrofluorocarbons placed on the market in the EU.

**Figure 9: Greenhouse gas emissions by sector (Mt. CO<sub>2</sub>-eq.). Historical data 1990-2016. Projections 2017-2030<sup>27</sup>.**



As of 2021, emissions and removals of greenhouse gases from LULUCF<sup>28</sup> will be included in EU emission reduction efforts. The quantities reported for Poland under the Kyoto Protocol show net removals averaging 38.3 Mt CO<sub>2</sub>-eq<sup>29</sup> for the period 2013 to 2016 (Figure 9). Poland thus contributes 10.0 % of the EU 28's annual average sink of -384.4 Mt CO<sub>2</sub>-eq. Accounting for the same period shows net credits averaging 11.1 Mt CO<sub>2</sub>-eq, which corresponds to 9.6 % of the EU-28 accounted sink of -115.7 Mt CO<sub>2</sub>-eq. There is a decrease in reported net removals and accounted net credits between 2013 and 2015 and a slight increase for 2016.

The EU Strategy on adaptation to climate change, adopted in 2013, aims to make Europe more climate-resilient, by promoting action by Member States, better-informed decision making, and promoting adaptation in key vulnerable sectors. By adopting a coherent approach and providing for improved coordination, it seeks to enhance the preparedness and capacity of all governance levels to respond to the impacts of climate change.

In 2013, the Polish Government adopted the 'National Strategy for Adaptation to Climate Change by 2020 with the perspective by 2030' (NAS 2020). In addition, 44 cities of above 100 000 inhabitants are developing adaptation

<sup>27</sup> Annual European Union greenhouse gas inventory 1990–2016 ([EEA greenhouse gas data viewer](#)). Proxy GHG emission estimates for 2017, Approximated EU greenhouse gas inventory 2017 (European Environment Agency). Member States national projections, reviewed by the European Environment Agency.

<sup>28</sup> Regulation on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)

<sup>29</sup> Eurostat: A carbon dioxide equivalent or CO<sub>2</sub> equivalent, abbreviated as CO<sub>2</sub>-eq is a metric measure used to compare the emissions from various greenhouse gases on the basis of their global-warming potential, by converting amounts of other gases to the equivalent amount of carbon dioxide with the same global warming potential.

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action plans. The NAS 2020, alongside the strategic objectives, sets out a number of relevant monitoring indicators. However, no systematic framework has yet been developed and there is no monitoring of the strategy, although plans for such monitoring exist. Evaluation of NAS 2020 got under way in 2017 and a comprehensive system for the monitoring of adaptation policy is currently being developed in connection with work on the national environment policy for 2018 – 2030.

Revision of NAS is planned for year 2020. It will be based on the outcome of the project 'Klimada 2.0' which assesses effectiveness of measures in sectors vulnerable to climate change.

The total revenues from auctioning emission allowances under the EU ETS over years 2013-2017 were EUR 1097 million. Poland does not earmark auctioning revenues for specific uses. It is reported that an amount equal to 62 % of auctioning revenues has been spent on climate and energy purposes.

### 2019 priority action

In this report, no priority actions have been included on climate action, as the Commission will first need to assess the draft national energy and climate plans which the Member States needed to send by end of 2018. These plans should increase the consistency between energy and climate policies and could therefore become a good example of how to link sector-specific policies on other interlinked themes such as agriculture-nature-water and transport-air-health.

## 2. Protecting, conserving and enhancing natural capital

### Nature and Biodiversity

The EU biodiversity strategy aims to halt the loss of biodiversity in the EU by 2020. It requires full implementation of the Birds and Habitats Directives to achieve favourable conservation status of protected species and habitats. It also requires that the agricultural and forest sectors help to maintain and improve biodiversity.

#### Biodiversity strategy

Poland has the Programme of conservation and sustainable use of biodiversity and the Action Plan<sup>30</sup> for 2015-2020.



#### Setting up a coherent network of Natura 2000 sites

Compliance with the legal requirement for the EU countries to establish a coherent national network of Natura 2000 sites is being assessed individually for each species and habitat type occurring on the countries' national territory.

In early 2018, Poland scored slightly above the EU average on the percentage of land territory designated as Natura 2000 (19.6 % of land territory, while the EU average is 18.17 %).

#### Designating Natura 2000 sites and setting conservation objectives and measures

The designation of sites in the Natura 2000 network is not yet complete. There are still gaps, particularly as regards certain marine species.<sup>31</sup>

<sup>30</sup> [Programme of Conservation and Sustainable Use of Biodiversity and Action Plan](#).

<sup>31</sup> For each Member State, the Commission assesses whether the

By May 2018, 114 sites had been designated as Special Areas of Conservation (SACs), and the designation process is under way for a further 180 sites.

Conservation objectives and measures for Natura 2000 sites are set out in the management plans ('Plany zadań ochronnych'). These plans, adopted for 10 years by the Regional Directors of Environmental Protection both for Sites of Community Importance (SCIs) and Special Protection Areas (SPAs), are legally binding. By May 2018, 558 sites (56.53 %) had valid management plans.

#### Progress in maintaining or restoring favourable conservation status of species and habitats

Since EU countries report every six years on progress made under the two directives, no new information is available on the state of natural habitats and species or on progress towards better conservation status for species and habitats in Poland, as compared to the 2017 EIR. However, there have been some recent improvements in the status of species and habitats in Poland.

The main challenges arising from Natura 2000 remain. Further efforts are needed to finalise the designation process, adopt management plans for the remaining sites and allocate sufficient resources to site management (both for public bodies and for the landowners managing the sites). Measures are needed to improve knowledge and education about Natura 2000, to promote social acceptance and benefits from the Natura 2000 network.

The coherence of the Natura 2000 network continues to be threatened by fast-developing infrastructure, especially urban sprawl, the regulation and maintenance of rivers, road transport, and intensive agriculture. A cost-benefit approach to nature should be promoted when developing infrastructure projects. This ensures that the costs of developing infrastructure are properly weighted against the costs of lost ecosystem services provided by nature, such as water supply, better air quality, and opportunities for tourism and recreation.

Many environmental problems stem from lack of appropriate spatial planning. Territorial expansion of

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species and habitat types in Annexes I and II to the Habitats Directive are sufficiently represented by the sites designated to date. This is expressed as a percentage of species and habitats for which further areas need to be designated in order to complete the network in that country. A scientific reserve is given when further research is needed to identify the most appropriate sites to be added for a species or habitat. [The current data](#), which were assessed in 2014-2015, reflect the situation up until December 2013.

## Environmental Implementation Review 2019 – Poland

cities and towns, coupled with dispersed development in suburban zones, sprawling into formerly non-urbanised areas, creates spatial chaos and spoils the environment. The costs to society are also substantial, as these sprawling areas require extra roads, transport connections and other services at far higher costs than in compact areas.

Extending the length and width of roads and road network density in Poland often goes hand in hand with cutting back roadside vegetation. Roadside trees, seen as a risk to drivers, are removed. Yet they often provide an important habitat for protected species of birds, bats and insects. They also provide shade and reduce the 'heat island' effect. Maintaining and developing roadside vegetation has aesthetic value, but it can be also a significant climate adaptation measure.

In addition to urbanisation, rural areas are affected by two opposing phenomena which adversely affect nature conservation: intensification and abandonment. Highly productive areas are farmed increasingly intensively, leaving even less space for nature. In less productive areas, on the other hand, farming is abandoned, making them vulnerable to overgrowth and thus less suitable for species that depend on extensive farming. Changes in farming reduce the surface area or degrade many types of natural or semi-natural ecosystems and landscape features, such as small ponds, oxbow lakes, water meadows, xerothermic (hot and dry) grasslands, and riparian forests (forests next to rivers or streams). The result is significant landscape impoverishment. These negative trends can be tackled by designing financial incentives for farmers to set aside certain areas to encourage biodiversity (in intensively farmed areas) and to compensate for activities which, though not economically viable, are crucial for preserving biodiversity. These include hay production, grazing animals in certain areas, and keeping fallow strips and hedges.

In the last decade, the regulation and technological modification of rivers (shortening of river courses, together with the uniformisation of river beds, dredging and construction of hard embankments, construction of weirs and hydropower infrastructure), combined with the removal of riparian zones has become a significant problem in Poland. These changes not only make it more difficult to achieve objectives under EU nature and water legislation, but also affect the quantity and quality of water, as well as increasing the risk of flooding.

Challenges in reconciling forest management with the conservation objectives established for Natura 2000 sites that overlap with forest areas persist. The European Court of Justice confirmed a breach of the Habitats and Birds Directives through forest management carried out in Białowieża forest. This issue seems to be of wider

concern. In particular, the obligations under Polish law on forest management do not seem to take sufficient account of bans designed to ensure strict protection arrangements for species, including the grounds for granting derogations. For example, the code of good forestry practice applicable to forest activities does not identify practices which would ensure that protected species are not killed or disturbed, or that their breeding or resting places are not destroyed. Nor does it contain any requirement that derogations from the strict protection regime may be applied if there is no satisfactory alternative. This seems to lead to the exclusion of forest activities from the provisions of the Birds and Habitats Directives.

Although forest cover is expanding, the condition of the forest habitat and its species does not seem to be improving. A possible explanation is the promotion of fast-growing species such as pine or spruce, without enough dead wood or areas of old-growth forest being left for natural regeneration. Polish forests have about 5.8 m<sup>3</sup> of dead wood per hectare, far below the European average of 11.5 m<sup>3</sup>/ha, and even further below values in northern Europe (approx. 20 m<sup>3</sup>/ha)<sup>32</sup>.

### 2019 priority actions

- Complete the Natura 2000 designation process and put in place clearly defined conservation objectives and the necessary conservation measures for sites to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range.
- Establish appropriate forest management practices to ensure full compliance with the Habitats and Birds Directives.

### Maintaining and restoring ecosystems and their services

The EU biodiversity strategy aims to maintain and restore ecosystems and their services by including green infrastructure in spatial planning and restoring at least 15 % of degraded ecosystems by 2020. The EU green infrastructure strategy promotes the incorporation of green infrastructure into related plans and programmes.

Poland has a range of policies and strategies to promote green infrastructure activities. Many aspects of these activities, such as ecological corridors linking protected areas, are implemented through the Programme of conservation and sustainable use of biodiversity and Action Plan for 2015-2020<sup>33</sup>.

<sup>32</sup> State of Europe's Forests [2015 Report](#).

<sup>33</sup> Official Journal Of The Republic Of Poland, [Biodiversity and Action Plan for 2015-2020](#).



In rural areas, green infrastructure measures can take the following forms:

- existing forms of nature conservation,
- developing sustainable farming and forestry,
- preserving the mosaic structure of rural areas,
- measures to reduce water pollution, with the support of CAP direct payments for greening, and cross-compliance,
- maintaining a given proportion of farmland as permanent grassland.

The EU has provided guidance on the further deployment of green and blue infrastructure in Poland<sup>34</sup> and a country page on the Biodiversity Information System for Europe (BISE)<sup>35</sup>. This information will also contribute to the final evaluation of the EU Biodiversity Strategy to 2020.

Green infrastructure projects in Poland benefit from various sources of finance, including EU, national and regional funds. An example is the GreenGo! project, designed to raise awareness and increase biological diversity in rural areas<sup>36</sup>. Although decision-makers know about these funding sources, limited finance for individual measures and failure to integrate biodiversity adequately into sectoral policies militate against effective implementation. Further efforts are needed to deploy green and blue infrastructure and mainstreaming it in other policies consistent with the framework for mapping and assessment of ecosystems and their services (MAES).

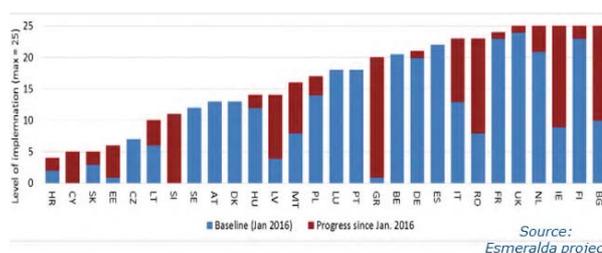
## Estimating Natural Capital

The EU biodiversity strategy calls on Member States to map and assess the state of ecosystems and their services<sup>37</sup> in their national territories by 2014, assess the economic value of such services and integrate these values into accounting and reporting systems at EU and national level by 2020.

In 2015, the Ministry of Environment completed the mapping and assessment of ecosystems and their services (MAES) process<sup>38</sup> and mapping and assessment of urban ecosystems<sup>39</sup>. An ecosystem services approach in environment management was adopted in 2018, but the extent to which MAES has been integrated into national policies remains largely undocumented.

At the final Esmeralda workshop and MAES Working Group meeting in Brussels in September 2018, Poland showed some progress with implementing MAES. The assessment has been conducted as part of the ESMERALDA project<sup>40</sup> (Figure 10).

**Figure 10: Implementation of MAES (September 2018)**



The Polish Business and Biodiversity Platform<sup>41</sup> is a global partner of the Business and Biodiversity Initiative of the Convention on Biological Diversity. The Platform, which is supported by the Ministry of the Environment, brings together institutions, academia, experts, industry associations and advisors to support entrepreneurs in creating sustainable business models.

<sup>34</sup> The [recommendations of the green infrastructure strategy review report](#) and the EU Guidance on a strategic framework for further supporting the deployment of EU-level green and blue infrastructure.

<sup>35</sup> [Biodiversity Information System for Europe](#).

<sup>36</sup> [GreenGo!](#) Project website.

<sup>37</sup> Ecosystem services are benefits provided by nature such as food, clean water and pollination on which human society depends.

<sup>38</sup> Mapping and assessment of ecosystems and their services in Poland, [MAES](#).

<sup>39</sup> Urban MAES - Ecosystem Services in Urban Areas, [Urban MAES](#).

<sup>40</sup> [ESMERALDA project](#).

<sup>41</sup> [Polish B@B Platform](#).

## Invasive alien species

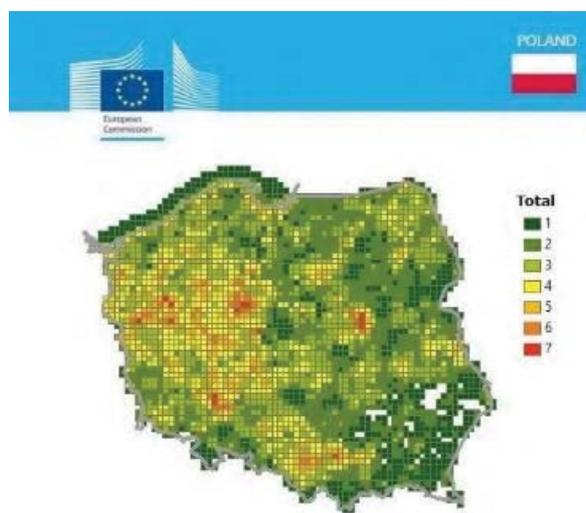
Under the EU biodiversity strategy, the following are to be achieved by 2020:

- (i) invasive alien species identified;
- (ii) priority species controlled or eradicated; and
- (iii) pathways managed to prevent new invasive species from disrupting European biodiversity.

This is supported by the Invasive Alien Species (IAS) Regulation, which entered into force on 1 January 2015.

Poland submitted four risk assessments for the first update of the EU list: common milkweed (*Asclepias syriaca*), Indian balsam (*Impatiens glandulifera*), Egyptian geese (*Alopochen aegyptiacus*) and American bison (*Bison bison*). It also provided additional evidence for the need to reconsider the listing of sika deer (*Cervus Nippon*). While the Scientific Forum disagreed with the risk assessment of the American bison, it agreed with those for Indian balsam, common milkweed and Egyptian geese. These species were considered to meet the criteria for listing, and included in the EU list. The Forum confirmed that it did not consider sika deer to meet the criteria for listing.

**Figure 11: Number of IAS of EU concern, based on available georeferenced information for Poland<sup>42</sup>**



The report on the baseline distribution (Figure 11), for which Poland reviewed its country and grid-level data, shows that 13 of the 37 species on the first EU list have already been spotted in the wild in Poland. Of these, 11 are established, the most widespread being spiny-cheek crayfish (*Orconectes limosus*) and Sosnowsky's hogweed (*Hieracleum sosnowskyi*). Moreover, coypu (*Myocastor coypu*) is observed sporadically and has not developed a

<sup>42</sup> Tsiamis K; Gervasini E; Deriu I; D'amico F; Nunes A; Addamo A; De Jesus Cardoso A. [Baseline Distribution of Invasive Alien Species of Union concern. Ispra \(Italy\): Publications Office of the European Union](#), 2017.

reproducing population, while it is widely spread in Czechia and to a lesser extent in Germany. Poland is advised to closely follow the feral population and take all appropriate measures to prevent the establishment of the species in its territory.

Between the entry into force of the EU list (i.e the first list on 03/08/2016, first update on 02/08/2017) and 18 May 2018, Poland notified no new appearances of invasive alien species of EU concern, according to Article 16(2) of the Invasive Alien Species (IAS) Regulation.

Poland has notified the Commission of the competent authorities responsible for implementing the IAS Regulation in Poland, as required by Article 24(2) of that Regulation. Work is in progress on a national act setting out the penalties for infringements required by Article 30(4) of the IAS Regulation.

## Soil protection

The EU soil thematic strategy underlines the need to ensure a sustainable use of soils. This entails preventing further soil degradation and preserving its functions, as well as restoring degraded soils. The 2011 Roadmap to a Resource Efficient Europe states that by 2020, EU policies must take into account their direct and indirect impact on land use.

Soil is a finite and extremely fragile resource and it is increasingly degrading in the EU.

The percentage of artificial land cover<sup>43</sup> in Poland (Figure 12) can be seen as a measure of the relative pressure on nature and biodiversity, and of the environmental pressure on people living in urbanised areas. A similar measure is population density.

Poland ranks below the EU average for artificial land cover, with 3.4 % of artificial land (EU-28 average: 4.1 %). The population density is 123.6/km<sup>2</sup>, above the EU average of 118<sup>44</sup>.

Contamination can severely reduce soil quality and threaten human health or the environment. A recent report of the European Commission<sup>45</sup> estimated that potentially polluting activities have taken or are still

<sup>43</sup> Artificial land cover is defined as the total of roofed built-up areas (including buildings and greenhouses), artificial non built-up areas (including sealed area features, such as yards, farmyards, cemeteries, car parking areas etc. and linear features, such as streets, roads, railways, runways, bridges) and other artificial areas (including bridges and viaducts, mobile homes, solar panels, power plants, electrical substations, pipelines, water sewage plants, and open dump sites).

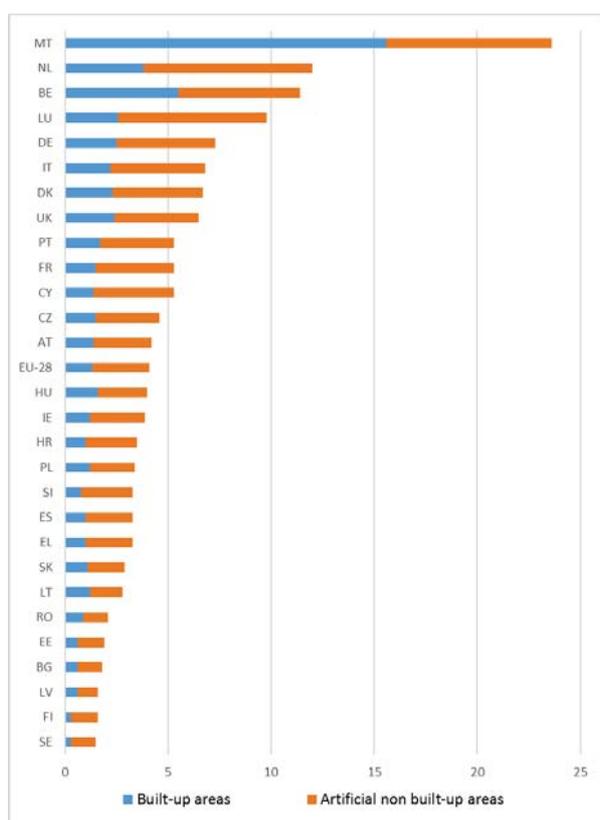
<sup>44</sup> European Commission, Eurostat, [Population density by NUTS 3 region](#).

<sup>45</sup> Ana Paya Perez, Natalia Rodriguez Eugenio, Status of local soil contamination in Europe: Revision of the indicator "Progress in the management Contaminated Sites in Europe", 2018.

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taking place on approximately 2.8 million sites in the EU. At EU level, 650 000 of these sites have been registered in national or regional inventories. 65 500 contaminated sites already have been remediated. Poland has not reported the national progress in the management of contaminated sites and brownfields to the working group of the European Environment Information and Observation Network (EIONET).

Figure 12: Proportion of artificial land cover, 2015 <sup>46</sup>



Soil erosion by water is a natural process which can be aggravated by climate change and human activities such as inappropriate agricultural practices, deforestation, forest fires or construction work. High levels of soil erosion can reduce productivity in agriculture and adversely affect biodiversity and ecosystem services across boundaries, as well as rivers and lakes (by increasing the volume of sediments and transporting contaminants). According to the RUSLE2015 model<sup>47</sup>, Poland has an average soil loss rate by water of 0.96 tonnes per hectare per year ( $t\ ha^{-a}\ yr^{-y}$ ), compared to the European mean of 2.46  $t\ ha^{-a}\ yr^{-y}$ , showing that soil erosion is low on average.

Note, however, that these figures are the output of a model run at EU level, so they should not be considered

<sup>46</sup> European Commission, Eurostat, [Land covered by artificial surfaces by NUTS 2 regions](#).

<sup>47</sup> Panagos, P. et al., The new assessment of soil loss by water erosion in Europe, (2015) *Environmental Science and Policy*, 54, p. 438-447.

as values measured in situ. The actual soil loss rate may vary considerably within the EU country concerned, depending on local conditions.

Organic matter in soil plays an important role in the carbon cycle and in climate change. Soils are the second largest carbon sink in the world after the oceans.

### Marine protection

EU coastal and marine policy and legislation require that by 2020 the impact of pressures on marine waters be reduced to achieve or maintain good environmental status (GES) and ensure that coastal zones are managed sustainably.

The Marine Strategy Framework Directive (MSFD)<sup>48</sup> aims to achieve good environmental status of the EU's marine waters by 2020. To that end, Member States must develop a marine strategy for their marine waters, and cooperate with the EU countries that share the same marine (sub)region.

For Poland, the Baltic Marine Environment Protection Commission (Helsinki Commission) plays an important contribution to achieving the Directive's goals. Poland's programme of measures is fairly consistent with the pressures and targets it defines. Sometimes it even goes beyond them these targets to tackle additional aspects. For example, the measures for non-indigenous species relate to shipping and aquaculture, which Poland had not even reported as relevant pressures. Poland also reports measures to tackle physical damage caused by trawl fishing, pollution from dumping sediment and wastewater discharge. However, few weaknesses are acknowledged. It is unclear whether good environmental status will be achieved by 2020. In many cases, moreover, Poland fails to provide implementation timelines for new measures. Overall, the Polish programme of measures partially addresses the requirements of the Marine Strategy Framework Directive.

### 2019 priority actions

- Set timelines for achieving good environmental status, when these have not been reported.
- Provide more information about measures, establish more measures that have a direct impact on the pressures and quantify the expected level of reduction of the pressure as a result of these measures.  
Ensure reporting of the different elements under the Marine Strategy Framework Directive by the set deadline.

<sup>48</sup> [Directive 2008/56/EC](#).

### 3. Ensuring citizens' health and quality of life

#### Air quality

EU clean air policy and legislation require the significant improvement of air quality in the EU, moving the EU closer to the quality recommended by the World Health Organisation. Air pollution and its impacts on human health, ecosystems and biodiversity should be further reduced with the long-term aim of not exceeding critical loads and levels. This requires strengthening efforts to reach full compliance with EU air quality legislation and defining strategic targets and actions beyond 2020.

The EU has developed a comprehensive body of air quality legislation<sup>49</sup>, which establishes health-based standards and objectives for a number of air pollutants.

Sectoral emissions of some air pollutants (SO<sub>x</sub>, NO<sub>x</sub>, NH<sub>3</sub>) had fallen in Poland by 2016 when compared to 1990<sup>50</sup>, and they are below current national emission ceilings.<sup>51</sup> The reductions between 1990 and 2014 mentioned in the previous EIR continued from 2014 to 2016: emissions of sulphur oxides (SO<sub>x</sub>) fell by 18.63 %, while emissions of ammonia (NH<sub>3</sub>) were down by 1.02 %. Meanwhile, emissions of volatile organic compounds (NMVOCs) rose by 3.04 %, emissions of fine particulate matter PM<sub>2.5</sub> by 3.83 %, and emissions of nitrogen oxides (NO<sub>x</sub>) by 0.05 % between 2014 and 2016 (see also Figure 13 on the total PM<sub>2.5</sub> and NO<sub>x</sub> emissions per sector).

Despite these reductions, further efforts are needed to meet emission reduction commitments (compared with 2005 emission levels) laid down in the new National Emissions Ceilings Directive<sup>52</sup> for 2020-2029 and for any year from 2030.

Air quality in Poland continues to give cause for severe concern. The European Environment Agency estimated that in 2015 about 44 500 premature deaths were attributable to fine particulate matter concentrations, 1 300 of them to ozone concentration<sup>53</sup> and 1 700 to concentrations of nitrogen dioxide<sup>54</sup>.

<sup>49</sup> European Commission, [Air Quality Standards](#), 2016.

<sup>50</sup> EEA, [Air pollutant emissions data viewer \(LRTAP Convention\)](#), 2016.

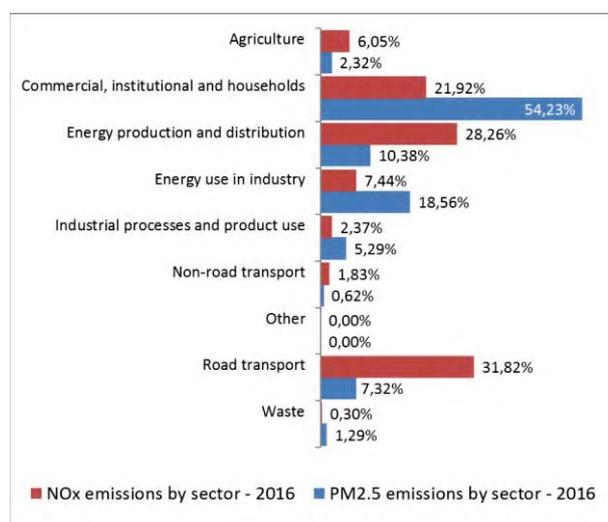
<sup>51</sup> The current national emission ceilings are mandatory since 2010 ([Directive 2001/81/EC](#)); revised ceilings for 2020 and 2030 have been set by [Directive \(EU\) 2016/2284](#) on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC.

<sup>52</sup> [Directive 2016/2284/EU](#).

<sup>53</sup> Low-level ozone is produced by photochemical action on pollution.

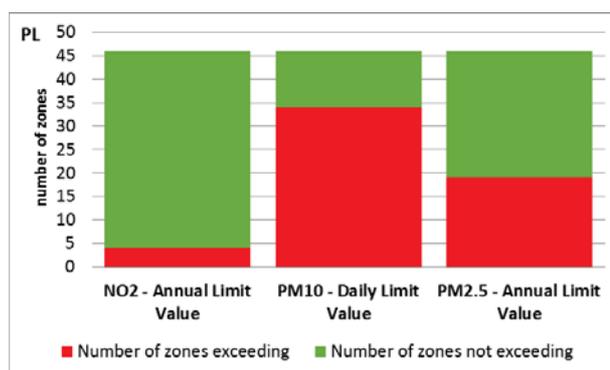
<sup>54</sup> EEA, [Air Quality in Europe – 2018 Report](#), p.64. Please see details in this report as regards the underpinning methodology.

Figure 13: PM<sub>2.5</sub> and NO<sub>x</sub> emissions by sector in Poland<sup>55</sup>



No progress has been made on improving air quality since the 2017 EIR. In 2017, EU air quality standards were breached in most air quality zones (46 zones in total)<sup>56</sup>: for particulate matter (PM<sub>10</sub>) in 34 zones, for fine particulate matter (PM<sub>2.5</sub>) in 19 zones, for nitrogen dioxide (NO<sub>2</sub>) in four zones and for sulphur dioxide (SO<sub>2</sub>) in one air quality zone. Moreover, benzo[a]pyrene limit values were continuously being exceeded throughout Polish territory. Figure 14 shows the number of air quality zones with too much NO<sub>2</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> as a proportion of the total number of zones.

Figure 14: Air quality zones exceeding EU air quality standards in 2017<sup>57</sup>



The European Commission is launching infringement procedures covering all EU countries concerned,

<sup>55</sup> 2016 NECD data submitted by Member State to the EEA.

<sup>56</sup> EEA, [EIONET Central Data Repository](#).

<sup>57</sup> [EEA, EIONET Central Data Repository](#). Data reflects the reporting situation as of 26 November 2018.

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including Poland, to follow up persistent breaches of air quality requirements (for PM<sub>10</sub> and NO<sub>2</sub>), which severely harm health and the environment. As regards exceeding PM<sub>10</sub>, the Commission has referred Poland to the European Court of Justice, which has ruled on the matter in Case C-336/16, confirming the Commission's position. The aim is to have adequate measures to bring all zones into compliance and minimise the period for which values are exceeded.

As outlined in the 2017 EIR, the reasons for poor air quality are the combustion of low-quality coal in sub-standard domestic boilers, followed by increasing road transport. In September 2017, Poland adopted a regulation setting standards for new coal and wood biomass boilers below 500kW, i.e. those used in individual houses. One year later, in September 2018, another regulation set out quality standards for solid fuels. However, the regulation has a long transition period for phasing out coal culm and lignite used by individual houses until end of June 2020, despite the fact that severe air pollution is linked to high health costs every year. In June 2018, Poland adopted Clean Air programme which offers financial grants and preferential loans to households for replacement of obsolete coal boilers and thermal retrofitting of individual houses. The households, however, may continue to use substandard boilers, as there is not a regulatory framework for phasing them out. Measures such as building bypasses to shift traffic out of city centres and upgrading public transport infrastructure are important, but not in themselves sufficient to curb transport emissions. All other possible measures should be implemented, especially financial incentives such as car and fuel taxes dependent on emission levels, access restrictions, and low emission zones in cities, as well as strengthening the system of periodic controls of cars and introducing fines for the owners of cars with a diesel particulate filter illegally removed.

### 2019 priority actions

- Take, in the context of developing an adequate National Air Pollution Control Programme (NAPCP), actions towards reducing the main emission sources - and meet all air quality standards.
- Cut particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>) and benzo(a)pyrene emissions and concentrations faster, connecting houses to district heating and providing financial support for replacing sub-standard domestic boilers by low-emission heaters and those using renewable energies.
- Cut nitrogen oxide (NO<sub>x</sub>) emissions and nitrogen dioxide (NO<sub>2</sub>) concentrations faster by reducing transport emissions, especially by establishing urban vehicle access restrictions, a tax system linked to emission levels, etc.

- Reduce the use of coal for domestic heating in order to limit air pollutants emissions, for instance building on the “Coal regions in transition” initiative.

### Industrial emissions

The main objectives of EU policy on industrial emissions are to:

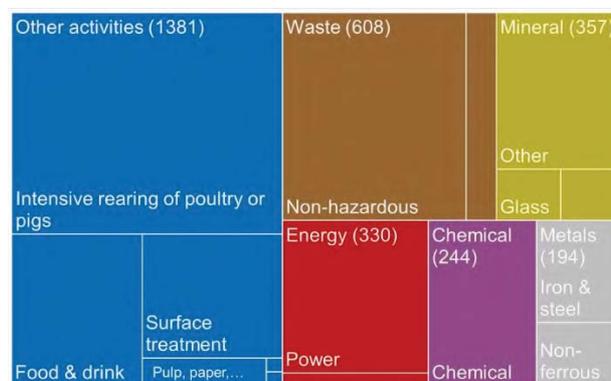
- (i) protect air, water and soil;
- (ii) prevent and manage waste;
- (iii) improve energy and resource efficiency; and
- (iv) clean up contaminated sites.

To achieve this, the EU takes an integrated approach to the prevention and control of routine and accidental industrial emissions. The cornerstone of the policy is the Industrial Emissions Directive<sup>58</sup> (IED).

The below overview of industrial activities regulated by the IED is based on the ‘industrial emissions policy country profiles’ project<sup>59</sup>.

About 3100 industrial installations in Poland are required to have a permit based on the IED<sup>60</sup>. In 2015, the industrial sectors with the most IED installations were intensive rearing of poultry or pigs (26 %), followed by non-hazardous waste management (17 %) and energy – power (10 %).

**Figure 15: Number of IED industrial installations by sector, Poland (2015)<sup>61</sup>**



In 2015, the industrial sectors with the highest emissions to air were (Figure 16):

<sup>58</sup> Directive 2010/75/EU covers industrial activities carried out above certain thresholds. It covers energy industry, metal production, mineral and chemical industry and waste management, as well as a wide range of industrial and agricultural sectors (e.g. intensive rearing of pig and poultry, pulp and paper production, painting and cleaning).

<sup>59</sup> European Commission, [Industrial emissions policy country profile – Poland](#).

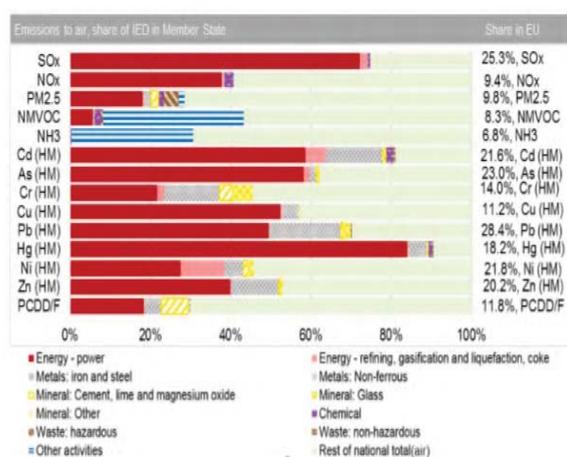
<sup>60</sup> This overview of industrial activities regulated by IED is based on the project on Industrial Emissions policy Country profiles: [Industrial emissions policy country profiles](#).

<sup>61</sup> European Commission, [Industrial emissions policy country profile – Poland](#).

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- energy sector for all pollutants except non-methane volatile organic compounds (NMVOCs) and ammonia (NH<sub>3</sub>),
- other activities (mostly intensive rearing of poultry or pigs and surface treatment) for NMVOCs and NH<sub>3</sub>,
- metal production for cadmium (Cd), chromium (Cr), lead (Pb) and zinc (Zn).

**Figure 16: Emissions to air from IED sectors and all other national total air emissions, Poland (2015)**



The intensive rearing of poultry or pigs and the chemical sector were also identified as causing significant environmental burdens in terms of emissions into water.

### 2019 priority action

- Review permits and strengthen control and/or enforcement to comply with newly adopted BAT conclusions.

### Noise

The Environmental Noise Directive<sup>62</sup> provides for a common approach to avoiding, preventing and reducing the harmful effects of exposure to environmental noise.

Excessive noise from aircraft, railways and roads is one of the main causes of environmental health-related issues in the EU<sup>63</sup>.

Environmental noise in Poland is believed to cause at least 1 100 premature deaths and 6 600 hospital

<sup>62</sup> Directive 2002/49/EC.

<sup>63</sup> Fritschl, L., Brown, A.L., Kim, R., Schwela, D., Kephelopoulou, S. (eds), *Burden of disease from environmental noise*, WHO/JRC, World Health Organization, Regional Office for Europe, Copenhagen, Denmark, 2011.

admissions per year<sup>64</sup>. About 1 400 000 people suffer from disturbed sleep. Implementation of the Environmental Noise Directive has been significantly delayed.

According to the latest data reported by Poland in 2016 and 2017<sup>65</sup>, noise mapping is nearly completed. Poland also reported on its action plans for most agglomerations, most major roads and railways. The information provided states that action plans for roads and railways outside agglomerations are set out in regional plans, while roads and railways within agglomerations are included in agglomeration-level action plans. However, this information needs further investigation, as there are reporting issues with the action plans' territorial coverage. There is an action plan for Warsaw Airport, but it seems to cover only the Warsaw agglomeration.

### 2019 priority action

- Accelerate the completion of action plans for noise management.

### Water quality and management

EU legislation and policy requires that the impact of pressures on transitional, coastal and fresh waters (including surface and ground waters) be significantly reduced. Achieving, maintaining or enhancing a good status of water bodies as defined by the Water Framework Directive will ensure that EU citizens benefit from good quality and safe drinking and bathing water. It will further ensure that the nutrient cycle (nitrogen and phosphorus) is managed in a more sustainable and resource-efficient way.

The existing EU water legislation<sup>66</sup> puts in place a protective framework to ensure high standards for all water bodies in the EU and addresses specific pollution sources (for example, from agriculture, urban areas and industrial activities). It also requires that the projected impacts of climate change are integrated into the corresponding planning instruments e.g. flood risk management plans and river basin management plans, including programme of measures which include the actions that Member States plan to take in order to achieve the environmental objectives.

<sup>64</sup> The figures are from a 2017 unpublished fact sheet for Poland from the European Environment Agency.

<sup>65</sup> EEA, Environmental noise directive, [EIONET repository](#).

<sup>66</sup> This includes the [Bathing Waters Directive \(2006/7/EC\)](#), the [Urban Waste Water Treatment Directive \(91/271/EEC\)](#) (on discharges of municipal and some industrial wastewaters), the [Drinking Water Directive \(98/83/EC\)](#) (on potable water quality), the [Water Framework Directive \(2000/60/EC\)](#) (on water resources management), the [Nitrates Directive \(91/676/EEC\)](#) and the [Floods Directive \(2007/60/EC\)](#).

### Water Framework Directive

The second generation of **River Basin Management Plans** (RBMPs) under the Water Framework Directive reported by Poland were assessed by reported the European Commission as regards their status and progress since the first River Basin Management Plans.

The most significant pressure on rivers (50 % of river water bodies) is ‘unknown anthropogenic’ pressure. Diffuse agricultural pressures affected 62 % of lakes and 8 % of river water bodies. The most significant pressure on groundwater is diffuse pollution from mining (8 % of groundwater bodies) followed by alteration of groundwater level (7 %).

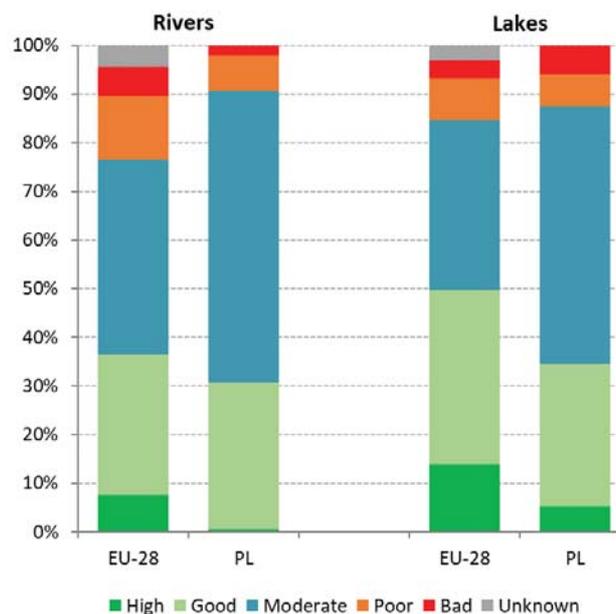
The most significant impact on surface water bodies is unknown (affecting 36 % of surface water bodies) followed by nutrient pollution (22 %) and altered habitats due to morphological changes (8 %). The most significant impacts on groundwater bodies are abstraction exceeding available groundwater resource (7 % of groundwater bodies) and diminution of quality of associated surface waters (7 %).

The number of operational monitoring sites and surveillance monitoring sites as regards ecological status was significantly reduced as compared to the first RBMPs. There are no surveillance monitoring sites in transitional and coastal waters. Moreover, it seems that there is only one operational monitoring site per each transitional water body as the number of sites equals to the number of water bodies.

There was a considerable improvement in the number and proportion of water bodies classified for ecological status (% of water bodies of unknown ecological status decreased from 80 % to nearly 0%). However, the confidence in classification is low for majority of water bodies, due to the fact that the classification was based on grouping or expert judgment and only to a small extent on monitoring for most of the biological quality elements and all the hydromorphological quality elements in most of the water bodies (60 %) in rivers and lakes. 70 % of water bodies are below good ecological status (Figure 18). Therefore achieving good status and potential as set down in the Water Framework Directive will require significant efforts.

The exemptions on achieving environmental objectives can be applied provided that the conditions are fulfilled. Poland applied significant number of exemptions. However it seems that the exemptions are not supported by sufficient evidence. Relevant information was lacking for example in order to determine whether exemptions related to disproportional costs and natural conditions could be justified.

Figure 17: Ecological status or potential of surface water bodies in Poland<sup>67</sup>



The proportion of water bodies with unknown chemical status lowered from 92 to 15 %. As a consequence, the proportion of surface water bodies with good chemical status increased from 3 to 59 % while those failing to achieve good chemical status from 5 to 26 %. The percentage of the total groundwater area in poor quantitative status decreased from 7 % to 4 %.

In general, amount and quality of readily available information in the Programme of Measures improved under the second RBMP. Notably, information on links between pressures and measures were provided as well as progress with implementation of measures.

### Drinking Water Directive

There has been no new data on **drinking water** since the last EIR <sup>68</sup>.

### Bathing Water Directive

Figure 19 shows that in 2017, 66.8 % of the 205 Polish **bathing water sites** were of excellent quality, 12.7 % of good quality and 6.8 % of sufficient quality (66.2 %, 15.9 % and 8 % respectively in 2016). In 2017, five bathing water sites were of poor quality<sup>69</sup>. Detailed information on Polish bathing water is available from a

<sup>67</sup> EEA, [WISE dashboard](#).

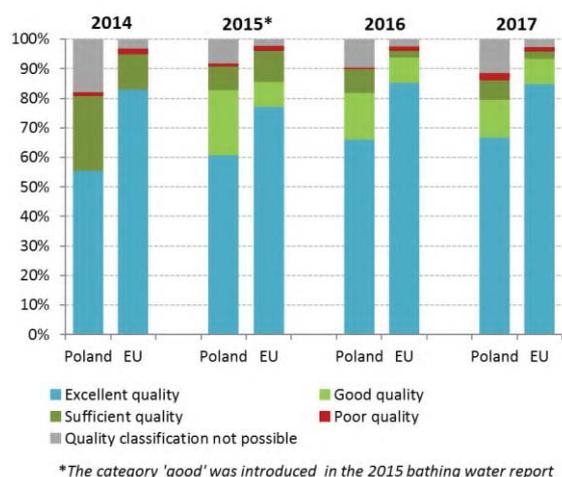
<sup>68</sup> Compliance with the Drinking Water Directive microbiological and chemical parameters as last reported was very high.

<sup>69</sup> European Environment Agency, 2017. [European bathing water quality in 2016](#), p. 17.

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national portal<sup>70</sup> and via an interactive map viewer created by the European Environment Agency<sup>71</sup>.

**Figure 18: Bathing water quality 2014 – 2017**<sup>72</sup>



### Nitrates Directive

Following a CJEU ruling (C-356/13)<sup>73</sup> Poland started applying mandatory measures under the **Nitrates Directive** throughout the country and, in 2018, adopted a new Nitrates Action Programme<sup>74</sup>.

### Urban Waste Water Treatment Directive

Poland is not yet compliant with the **Urban Waste Water Treatment Directive**. Since the 2017 EIR, Poland has updated its programme for implementing the UWWTD and reported new data officially to the Commission. According to the latest reported data, which refer to 2016, Poland has 1587 agglomerations of more than 2000 population equivalent (p.e) with a total load of 38,793,049 p.e. However, the data show that more than 1000 agglomerations are not compliant with the Directive's collection and treatment requirements. On this basis, the Commission decided to bring an infringement case against Poland. The estimated investment needed to ensure adequate collection and treatment in the remaining agglomerations is EUR 6.1 billion<sup>75</sup>.

### Floods Directive

The Floods Directive established a framework for the assessment and management of flood risks, aiming at the reduction of the adverse consequences associated with significant floods.

Poland has adopted and reported its first Flood Risk Management Plans under the Directive and the European Commission conducted an assessment.

The Commission's assessment found that good efforts were made with positive results in setting objectives and devising measures focusing on prevention, protection and preparedness. The assessment also showed that, similarly to other Member States, Poland's Flood Risk Management Plans do not yet include a baseline to assess the progress achieved and a clear prioritisation of measures. In addition, there is scope for improving the integration of the flood risk management cycle's successive steps into the Flood Risk Management Plan.

### 2019 priority actions

- Strengthen monitoring of surface waters by covering all relevant quality elements in all water categories in accordance with the Water Framework Directive.
- Take further measures to ensure good quantitative status/ecological flows.
- Ensure that projects, which potentially can affect the status of water bodies, are thoroughly assessed and justified in line with the requirements in the Water Framework Directive (Article 4(7)).
- Accelerate implementation of investments required for achieving compliance with the Urban Waste Water Treatment Directive.
- Ensure that measures in the new Nitrates Action Programmes are effectively implemented and enforced.
- Take steps to improve the integration of the flood risk management cycle's successive steps into the Flood Risk Management Plan.

### Chemicals

The EU seeks to ensure that by 2020 chemicals are produced and used in ways that minimise any significant adverse effects on human health and the environment. An EU strategy for a non-toxic environment that is conducive to innovation and to developing sustainable substitutes, including non-chemical options, is being prepared.

<sup>70</sup> [National portal on bathing waters](#).

<sup>71</sup> EEA, [State of bathing waters](#).

<sup>72</sup> EEA, 2018. [European bathing water quality in 2017](#), p. 21.

<sup>73</sup> Court of Justice, [Judgment - Case C-356/13](#).

<sup>74</sup> Regulation of the Council of Ministers dated on 5 June 2018 (2018 Journal of Laws, item 1339).

<sup>75</sup> European Commission, Report on the implementation status and the programmes for implementation (as required by Article 17) of Council Directive 91/271/EEC concerning urban waste water treatment, [COM\(2017\) 749](#) and [SWD\(2017\)445](#).

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The EU's chemicals legislation<sup>76</sup> provides baseline protection for human health and the environment. It also ensures stability and predictability for businesses operating within the internal market.

The 2016 European Chemicals Agency (ECHA) report on the operation of the Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and the Classification, Labelling and Packaging Regulation (CLP)<sup>77</sup> showed that enforcement activities are still developing. In the Forum for Exchange of Information on Enforcement, coordinated enforcement projects<sup>78</sup> have shown that enforcement activities could be made more effective, in particular as regards registration obligations and safety data sheets, where a relatively high level of non-compliance has been found.

Although there have been improvements, there is room for further improvement of national enforcement activities as regards EU-wide harmonisation, including checks on imports. It is also clear that enforcement remains weak in some EU countries particularly as regards checks on imports and supply chain obligations. The architecture of enforcement capabilities remains complex in most EU countries. The enforcement projects also revealed some differences between countries. Some, for instance, tend to systematically report higher compliance than the EU average, while others report lower compliance).

A 2015 Commission study already highlighted the importance of harmonisation in implementing REACH at national level, in terms of market surveillance and enforcement, as a critical success factor in the operation of a harmonised single market<sup>79</sup>.

In March 2018, the Commission published an evaluation of REACH<sup>80</sup>. The evaluation concludes that REACH delivers on its objectives, but that progress made is slower than anticipated. In addition, the registration dossiers often are incomplete. The evaluation underlines the need to enhance enforcement by all actors, including registrants, downstream users and in particular for importers, to ensure a level playing field, meet the objectives of REACH and ensure consistency with the actions envisaged to improve environmental compliance and governance. Consistent reporting of Member State enforcement activities was considered

<sup>76</sup> Principally for chemicals: REACH (OJ L 396, 30.12.2006, p.1.); for Classification, Labelling and Packaging, the CLP Regulation (: OJ L 252, 31.12.2006, p.1.), together with legislation on biocidal products and plant protection products.

<sup>77</sup> ECHA, [Report on the Operation of REACH and CLP 2016](#).

<sup>78</sup> ECHA, On the basis of the projects [REF-1](#), [REF-2](#) and [REF-3](#).

<sup>79</sup> European Commission, [Monitoring the Impacts of REACH on Innovation, Competitiveness and SMEs, Final Report](#), 2015.

<sup>80</sup> European Commission, Report on the operation of REACH and review of certain elements Conclusions and Actions [COM\(2018\)116](#)

important in that respect. Enforcing provisions on chemicals in Poland is the responsibility of a few administrative authorities. Bureau for Chemical Substances is the main competent authority established under the REACH and CLP Regulation.

The leading enforcement authorities are the State Health Inspectorate, the State Health Inspectorate of the Ministry of Home Affairs and the Military Health Inspectorate, each within its own remit. In addition to chemicals, the remit of the State Health Inspectorate includes the prevention and control of communicable diseases, the prevention of occupational and environmental hazards, health and safety surveillance, and health promotion<sup>81</sup>.

The State Health Inspectorate carries out public health tasks, especially by monitoring the conditions of: water health safety (drinking water, bathing water and swimming water), hygiene, occupational hygiene, radiation hygiene, education and teaching process hygiene, food and nutrition safety, and the prevention and control of disease.

Control activities are carried out by inspectors at regional level (counties, voivodships and border sanitary and epidemiological stations), coordinated/supervised by the Chief Health Inspectorate. At regional level, inspectors dealing with chemicals and occupational health are responsible for supervising REACH, CLP, biocidal products, detergents, category 2 and 3 drug precursors, and occupational health issues.

Poland is involved in the R4R-European chemical regions for resource efficiency, bringing together research institutes, industry and regions in six countries<sup>82</sup>.

### Making cities more sustainable

EU policy on the urban environment encourages cities to put policies in place for sustainable urban planning and design. These should include innovative approaches to urban public transport and mobility, sustainable buildings, energy efficiency and urban biodiversity conservation.

The population living in urban areas in Europe is projected to rise to just over 80% by 2050<sup>83</sup>. Urban areas pose particular challenges for the environment and human health, but they also provide opportunities for using resources more efficiently. The EU encourages municipalities to become greener through initiatives

<sup>81</sup> ECHA, [National inspectorates – Poland](#).

<sup>82</sup> European Commission, [Improving resource efficiency in SMEs](#), December 2017, p. 43.

<sup>83</sup> European Commission, Eurostat, [Urban Europe](#), 2016, p.9.

## Environmental Implementation Review 2019 – Poland

such as the Green Capital Award<sup>84</sup>, the Green Leaf Award<sup>85</sup> and the Green City Tool<sup>86</sup>.

### Financing greener cities

Poland has assigned EUR 8.963 billion of its allocation under the European Regional Development Fund (ERDF) and EUR 14.832 billion of its allocation under the Cohesion Fund to sustainable urban development<sup>87</sup>.

Successful projects in greener cities have also received funding under the Horizon 2020 programme. For example, the Grow Green international project, with the city of Wrocław as a front-runner, aims to make cities climate- and water-resilient, healthy and liveable, by investing in nature-based solutions.

Poland participates in the European Urban Development Network (UDN)<sup>88</sup>, which includes more than 500 cities across the EU responsible for implementing integrated actions based on sustainable urban development strategies financed by the European Regional Development Fund, ERDF, over 2014-2020. Within the UDN initiatives, the ERDF is supporting urban innovative actions (UIA) as a way of testing new and unproven solutions to address urban challenges. The UIA has a total ERDF budget of EUR 372 million for 2014-20. Poland has not obtained actions in the first two calls for projects<sup>89</sup>.

### Participation in EU urban initiatives and networks

Polish municipalities are generally involved in EU initiatives to improve environmental protection and tackle climate change. Warsaw, the capital, was among seven applicants for the 2018 EU Green Capital Award.

Eleven Polish municipalities are involved in the URBACT initiative to support sustainable urban development, through 24 different thematic networks<sup>90</sup>. Poznań is currently coordinating Gen-Y City project, which aims to develop, attract and retain millennials with 'creative tech' talents in European cities.

Several Horizon 2020 network projects have also contributed to the sustainability of Polish cities. CIVITAS includes 16 municipalities representing Poland in a common effort to make urban transport cleaner and better<sup>91</sup>. Gdynia is part of the DYN@MO project, focused on sustainable urban mobility planning, clean and energy-efficient vehicles, 'smart' transport systems

and ICT<sup>92</sup>. Some Polish cities are also involved in the FosterReg project, whose aim is to improve the public sector's capacity to plan, finance and manage integrated urban regeneration for sustainable energy uptake<sup>93</sup>.

Polish cities are actively involved in initiatives such as Eurocities and the EU Covenant of Mayors. By June 2018, 40 Polish cities were signed up to the EU Covenant of Mayors.

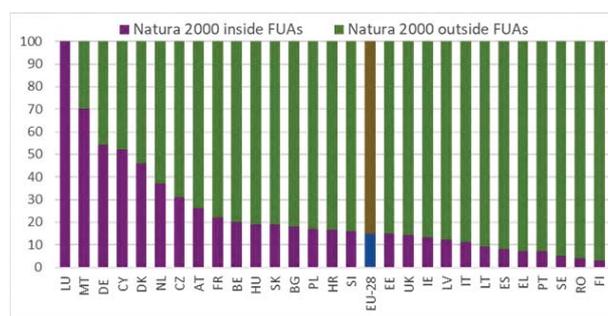
Polish cities and governmental bodies also participate in Partnership for Air Quality under the Urban Agenda for the EU<sup>94</sup>.

These urban initiatives and networks are welcomed and encouraged, as they can contribute to a better urban environment. People living in Polish cities are increasingly taking a more positive view of the area they live in. However, in 2017, 19.2 % of them considered that the area they lived in was affected by pollution, crime or other environmental problems, worse than in 2016 (16.5 %) and 2015 (15.6 %) <sup>95</sup>.

### Nature and cities

More than 15 % of the Natura 2000 network in Poland is within functional urban areas<sup>96</sup>, which is slightly above the EU average (see Figure 20).

**Figure 19: Proportion of the Natura 2000 network in Functional Urban Areas (FUA) <sup>97</sup>**



### Urban sprawl

Poland's weighted urban proliferation (WUP) was 1.66 urban permeation units (UPU) per square metre in 2009, compared with a European (EU-28+4) average of 1.64 UPU/m<sup>2</sup>. There was a 5.06 % increase from 2006 to 2009<sup>98 99</sup>.

<sup>84</sup> European Commission, [European Green Capital](#).

<sup>85</sup> European Commission, [European Green Leaf Award](#).

<sup>86</sup> European Commission, [Green City Tool](#).

<sup>87</sup> [Partnership Agreement 2014 – 2020](#).

<sup>88</sup> European Commission, [The Urban Development Network](#).

<sup>89</sup> European Commission, [Urban Innovative Actions](#).

<sup>90</sup> URBACT, [Associated Networks by country](#).

<sup>91</sup> European Commission, [Horizon 2020 Civitas Project](#).

<sup>92</sup> [CIVITAS DYN@MO](#) project.

<sup>93</sup> European Commission, [Horizon 2020 FosterReg Project](#).

<sup>94</sup> European Commission, website: [Urban Agenda for the EU](#)

<sup>95</sup> European Commission, Eurostat, [Pollution, crime or other environmental problems by degree of urbanisation](#).

<sup>96</sup> European Commission, [Definition of Functional Urban Areas](#).

<sup>97</sup> European Commission, [the 7<sup>th</sup> Report on Economic, Social and Territorial Cohesion](#), 2017, p. 121.

<sup>98</sup> Urban Permeation Units measure the size of the built-up area as well as its degree of dispersion throughout the region.

<sup>99</sup> EEA, [Urban Sprawl in Europe, Annex I](#), 2014, pp.4-5.

### Traffic congestion and urban mobility

Innovative approaches to traffic management are being developed and tested in a number of cities.

The total number of cars in Poland had risen to 21 million by 2016, while the number of passenger cars per 1000 inhabitants rose from 526 in 2014 to 571 in 2016<sup>100</sup>.



Owing to rapid infrastructure development, this increase has not been translated into more hours spent annually in traffic jams. The annual number of hours spent on congested roads fell from 25.20 in 2014 to 24.95 in 2016<sup>101</sup>.

The modal split of passenger transport shows high use of passenger cars in Poland, which nevertheless is still below the EU-28 average. In 2015, car trips represented 77.3 % of passenger-kilometres travelled. However, Poland records more use of buses and coaches (14.5 %) than the EU-28 average (9.4 %) and slightly less use of rail (6.6 % vs 7.6 %)<sup>102</sup>. Cars are still the favourite means of transport over longer distances in Poland.

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<sup>100</sup> European Commission, Eurostat, [Passenger cars per 1 000 inhabitants](#), 2018.

<sup>101</sup> European Commission, [Hours spent in road congestion annually](#).

<sup>102</sup> European Commission, [Transport in the EU trends](#), 2018.

## Part II: Enabling framework: implementation Tools

### 4. Green taxation, green public procurement, environmental funding and investments

#### Green taxation and environmentally harmful subsidies

Financial incentives, taxation and other economic instruments are effective and efficient ways to meet environmental policy objectives. The circular economy action plan encourages their use. Environmentally harmful subsidies are monitored in the context of the European Semester and the energy union governance process.

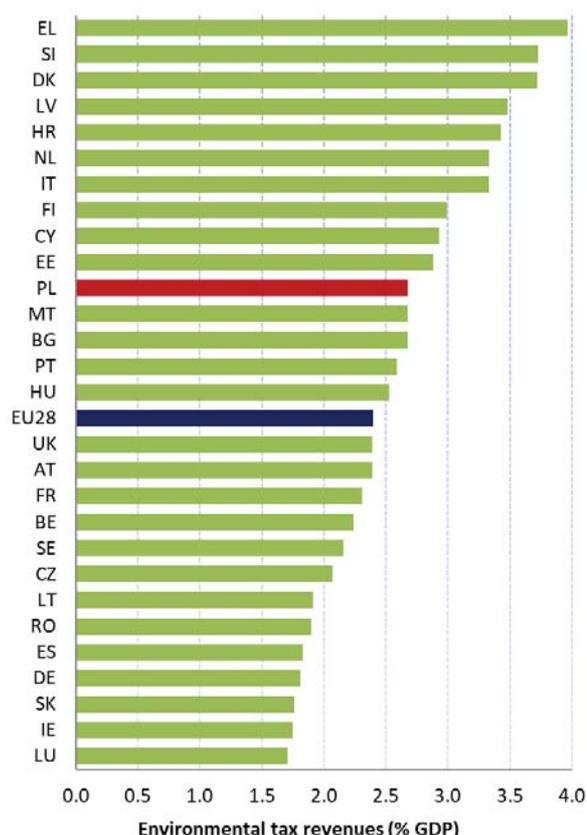
Poland's revenue from environmentally relevant taxes remains higher than the EU average. Environmental taxes accounted for 2.68 % of GDP in 2017 (EU-28 average: 2.4 %) as shown in Figure 20, and energy taxes for 2.33 % of GDP against an EU average of 1.84 %<sup>103</sup>. In the same year, environmental tax revenues were 7.65 % of total revenues from taxes and social security contributions (higher than the EU-28 average of 5.97 %).

Labour tax accounted for a smaller share of the total tax take than the EU average (39.9 % in 2016), while the implicit tax burden on labour was 32.6 %<sup>104</sup>. Consumption taxes remained relatively high (34.8 %, 13th in the EU-28). This suggests there is some potential for shifting taxes from labour to consumption, and in particular to environmental tax.

The last European Semester country reports for Poland indicated that Poland has not been using environmental taxes to encourage more efficient energy use and reduce greenhouse emissions. The implicit tax rate on energy, at below 60 % of the EU average, remains relatively low; rates on transport fuels are below the EU average and a number of tax exemptions are available<sup>105</sup>.

There are some cases showing that implementing sound fiscal measures can benefit the environment. A good example is Poland's waste water fee, revenue from which is invested in environmental protection<sup>106</sup>.

Figure 20: Environmental tax revenues as a % of GDP (2017)<sup>107</sup>



Meanwhile, fossil fuel subsidies have remained high over the past decade, mainly due to new investment aids for coal mining and other indirect aid linked with coal decommissioning in the country. Tax exemptions are still in place for the use of fossil fuels in farming and agricultural production and have increased considerably in recent years. These exceptions added up to PLN 2 340 million in 2016, while budgetary transfers and subsidies exceeded PLN 1 650 million. However, most subsidies and exemptions for petroleum and natural gas have disappeared<sup>108</sup>.

Some progress has been made since 2005 on reducing the diesel differential<sup>109</sup>. In 2016, there was still a 14 % gap between petrol and diesel tax rates, while in 2005 it

<sup>103</sup> European Commission, Eurostat, [Environmental tax revenues, 2018](#).

<sup>104</sup> European Commission, [Taxation Trends Report, 2017](#).

<sup>105</sup> European Commission, [European Semester Country Report 2018](#), p. 17.

<sup>106</sup> Institute for European Environmental Policy, Case Studies on Environmental Fiscal Reform, [Wastewater fee in Poland](#).

<sup>107</sup> European Commission, Eurostat, [Environmental tax revenues, 2018](#).

<sup>108</sup> OECD, [Inventory of Support Measures for Fossil Fuels, 2018](#).

<sup>109</sup> Diesel differential is a difference in the price of diesel versus petrol.

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was 38 %<sup>110</sup>. In 2016, excise duty rates on petrol and diesel in 2016 remained constant in comparison with those in 2015 (PLN 1.67 per litre for petrol and PLN 1.46 for diesel)<sup>111</sup>.

Tax treatment of company cars is a cause for concern in Poland<sup>112</sup>. Excise duties on electric cars were abolished by the end of 2017, and no relevant fiscal measures have been introduced for this type of car in 2018<sup>113 114</sup>.

Poland does not have CO<sub>2</sub> nor any other emission based motor vehicle taxes<sup>115</sup>. Draft legislation linking car taxation to CO<sub>2</sub> emissions was suspended in 2017<sup>116</sup>.

Incentives to choose cars with lower CO<sub>2</sub> emissions were infrequent in 2016, linked to annual road taxes and subsidies, but not to road tolls, congestion or low emission zone charges or to purchasing cleaner vehicles. There are no incentives for the preferential use of public infrastructure<sup>117</sup>. New vehicles purchased in Poland are among the least environmentally friendly in the EU, with average CO<sub>2</sub> emissions of 125.8 g/km, above the EU average of 118 g/km in 2016<sup>118</sup>. The measures mentioned above should be considered in order to reduce air pollution (see Chapter 3 on air quality).

Poland is putting a great deal of emphasis on developing the market in electric, compressed natural gas (CNG) and liquid natural gas (LNG) cars<sup>119</sup>. The government has set a very ambitious target: over a million electric vehicles on the road by 2025.

To support low emission mobility, Poland adopted an act on electro-mobility and alternative fuels in January 2018. The act exempts electric cars, hydrogen cars and hybrid cars with a combustion engine capacity lower or equal to 2000 cubic centimeters (the latter until 1 January 2021) from excise duties. The application of the exemption is pending a response of the European Commission as regards compatibility with internal market rules.

### Green Public Procurement

The EU green public procurement policies encourage Member States to take further steps to apply green procurement criteria to at least 50 % of public tenders. The European Commission is helping to increase the use of public procurement as a strategic tool to support environmental protection.

The value of public procurement amounts to around EUR 1.8 trillion in the EU (approximately 14 % of GDP). A substantial proportion of this money goes to sectors with a high environmental impact such as construction or transport. Therefore, green public procurement (GPP) can help to significantly lower the negative impact of public spending on the environment and can help support sustainable innovative businesses. The Commission has proposed EU GPP criteria<sup>120</sup>.

A fourth national action plan on sustainable public procurement for 2017-2020 was adopted on 7 April 2017. The current target is to make a quarter of public procurement 'green' by the end of 2020. However, contracting authorities are not obliged to engage in green public procurement. The Public Procurement Office promotes the voluntary application of GPP and the use of EU GPP criteria.

Following the entry into force in July 2016 of the new law on public procurement, which enacts the relevant EU directives, the Public Procurement Office has developed a new standard form to collect data on the inclusion of environmental criteria.

In 2015, GPP in contracts below the EU threshold amounted to 11.40 % of all public procurement, according to monitoring undertaken by the Office<sup>121</sup>.

A European Parliament study shows that Poland has implemented the national action plan for green public procurement in part only<sup>122</sup>.

<sup>110</sup> EEA, [Environmental taxation and EU environmental policies](#), 2017, p.27.

<sup>111</sup> European Commission, [Taxes in Europe Database](#), 2018.

<sup>112</sup> European Commission, [Taxation of commercial cars in Belgium](#), 2017, p.3.

<sup>113</sup> European Commission, [European Semester Country Report 2018](#), p. 17.

<sup>114</sup> FleetEurope, [Major changes to company car taxation in Europe](#).

<sup>115</sup> ACEA, [CO<sub>2</sub> based motor vehicle taxes in Europe](#).

<sup>116</sup> European Commission, [European Semester Country Report 2018](#), p. 17.

<sup>117</sup> EEA, [Appropriate taxes and incentives do affect purchases of new cars](#), 18 May 2018.

<sup>118</sup> EEA, [Average CO<sub>2</sub> emissions from new passenger cars sold in EU-28 Member States plus Norway, Iceland and Switzerland in 2016](#).

<sup>119</sup> European Commission, [Transport in the European Union Current Trends and Issues](#), 2018, pp. 27-28.

<sup>120</sup> In the Communication 'Public procurement for a better environment' ([COM\(2008\) 400](#)) the Commission recommended the creation of a process for setting common GPP criteria. The basic concept of GPP relies on having clear, verifiable, justifiable and ambitious environmental criteria for products and services, based on a life-cycle approach and scientific evidence base.

<sup>121</sup> Green Public Procurement Advisory Group, [update April 2017](#)

<sup>122</sup> European Parliament, [Green Public Procurement and the Action Plan for the Circular Economy](#), 2017, pp. 79-80.

## Environmental funding and investment

European Structural and Investment Fund (ESIF) rules oblige Member States to promote environment and climate in their funding strategies and programmes for economic, social and territorial cohesion, rural development and maritime policy.

Achieving sustainability involves mobilising public and private financing sources<sup>123</sup>. Use of the European Structural and Investment Funds (ESIFs)<sup>124</sup> is essential if countries are to achieve their environmental goals and integrate these into other policy areas. Other instruments such as Horizon 2020, the LIFE programme<sup>125</sup> and the European Fund for Strategic Investments (EFSI)<sup>126</sup> may also support the implementation and spread of good practices.

86 % of Poland's population support more EU investment in environmental protection, according to the 2017 Special Eurobarometer 468 on the attitudes of EU citizens towards the environment<sup>127</sup>.

### European Structural and Investment Funds, 2014-2020

Through 24 national and regional programmes, Poland has been allocated EUR 86 billion from ESIF funds for 2014-2020. With a national contribution of EUR 18.8 billion, Poland has a total budget of EUR 104.8 billion to be invested in various areas from infrastructure networks (transport and energy), SME competitiveness to boost research and innovation, investment in the low-carbon economy as well as environmental protection, to improving social inclusion and boosting labour market participation.

### Cohesion policy

Poland stands to be the biggest beneficiary of cohesion policy funds over 2014-2020, with the allocation of EUR 77.6 billion in total, including EUR 700.5 million for European Territorial Cooperation and EUR 12.8 billion from the European Social Fund<sup>128</sup>.

As regards estimating environmental expenditure, investment in water and the waste water sector accounts for the largest allocation (EUR 2.5 billion). They are

<sup>123</sup> See, for example, [Action plan on financing sustainable growth \(COM\(2018\) 97\)](#).

<sup>124</sup> i.e. the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the European Social Fund (ESF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). The ERDF, the CF and the ESF are referred to as the 'cohesion policy funds'.

<sup>125</sup> European Commission, [LIFE programme](#).

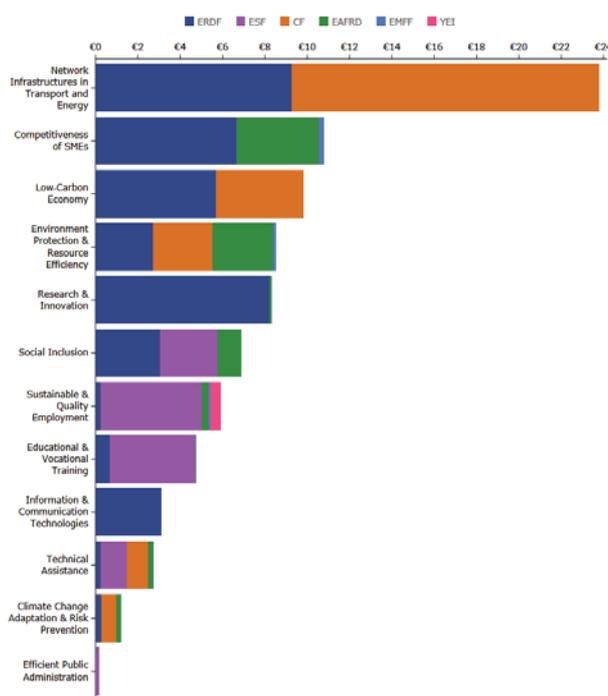
<sup>126</sup> European Investment Bank, [European Fund for Strategic Investments, 2016](#).

<sup>127</sup> European Commission, [2017 Special Eurobarometer 468 on attitudes of EU citizens towards the Environment](#).

<sup>128</sup> European Commission, [Cohesion Policy and Poland](#).

followed by EUR 1.3 billion for waste management, EUR 434 million for nature and biodiversity, and EUR 428 million for air quality measures. Poland also allocated EUR 9.7 billion to sustainable investments which bring indirect benefits for environment, such as energy efficiency and renewable energies, sustainable transport, sustainable tourism and sustainable business processes.

Figure 21: ESIF 2014-2020 – EU allocation by theme, Poland (EUR billions)<sup>129</sup>



Current data suggest that EU funds for 2007-2013 were almost fully spent (98.42 %) <sup>130</sup>.

The Cohesion Fund supports the implementation of environmental directives, particularly in the water and waste water sector and waste management. Implementation of the Urban Waste Water Treatment Directive in the Warsaw agglomeration is one of the biggest environmental projects. It has been implemented in six stages, starting in the year 2000. Total project costs are about EUR 825 million. The project includes constructing wastewater collecting systems, building and upgrading waste water treatment plants, and rehabilitating the water supply network and water treatment plants that serve Warsaw and adjacent municipalities.

The preconditions on water and waste under Thematic

<sup>129</sup> European Commission, [European Structural and Investment Funds Data By Country](#).

<sup>130</sup> European Commission, [Cohesion Policy – Supporting Growth and Jobs in Poland \(2007-2013\)](#), 2015; and European Commission, [SF 2007-2013 Funds Absorption Rate](#), 2018.

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Objective 6 were met in 2017.

The Commission assessed national and 16 regional waste management plans drawn up and adopted under the action plan for meeting the precondition concerning waste. This assessment led to a number of recommendations on EU-co-financed projects. Any new waste-to-energy thermal treatment installations should be limited to justified and documented cases where there is no risk of overcapacity and the objectives of the waste hierarchy are fully met. Moreover, there should be no EU co-funding for new mechanical-biological treatment plants or for expanding the capacity of existing ones. Lastly, municipalities which apply for EU co-financing of waste investment should have selective collection of the five waste streams established, as required by the Polish regulation on separate collection.

In view of a pending infringement procedure regarding application of Article 4(7) of the Water Framework Directive, the Commission also had reservations about EU co-financing of projects in sectors such as hydropower, flood defence and inland navigation, which, given their likely negative impacts on water bodies, trigger use of the Article 4(7) exemption under the Water Framework Directive. Poland established a list of projects that do not require the exemption to be applied (list No 1 of the Master Plans for the Odra and Wisla River Basins) and which are a priority for EU funding. Any projects which could lead to a deterioration in the status of bodies of water (i.e. are included on list No 2 of the Master Plans for the Odra and Wisla) cannot be co-financed by EU funds under Polish operational programmes unless they are brought into line with the Water Framework Directive.

### Rural development

The Polish Development Programme outlines the country's priorities for using the EUR 13.5 billion available for 2014-2020. This includes EUR 8.7 billion from the European Agricultural Fund for Rural Development (EAFRD) and EUR 4.9 billion of national co-funding<sup>131</sup>.

As regards integrating environmental concerns into the Common Agricultural Policy (CAP), the two key areas are, first, using the EAFRD to pay for environmental land management and other environmental measures; and second, ensuring that the first pillar of the CAP is implemented effectively as regards cross-compliance and first pillar 'greening'. Poland's direct payment budget for 2014-2020 is EUR 23.4 billion, 30 % of which is allocated to greening practices beneficial to the environment<sup>132</sup>.

<sup>131</sup> European Commission, [Factsheet on 2014-2020 Rural Development Programme for Poland](#), 2017, p.1.

<sup>132</sup> European Commission, [Investing in Poland's agriculture](#).



In addition, only EUR 3 billion (representing about 30 % of the rural development programme) is dedicated to priority 4 (ecosystems). This is far below the European average (around 45 %). About half the financial allocation reserved for the environment is taken up by payments for areas under natural constraints. As a result, the rural development programme does not adequately cover environmental needs. In particular, there is no support for non-productive investment in restoring ecosystems at Natura 2000 sites.

On the positive side, the whole country has been designated a 'nitrate-vulnerable-zone' and the rural development programme has increased its support for building manure storage facilities to reduce the risk of nitrate leaching into water.

The rural development programme has also increased its support for consolidating agricultural land. Farmland is highly fragmented. It is estimated that about 2 million ha of land should be consolidated. This represents a major environmental risk, as such consolidation leads to the destruction of valuable landscape elements beneficial to water, soil and biodiversity, such as hedges and trees. Land consolidation policy should therefore include the protection and restoration of nature among its objectives.

Farmers receiving direct payments are obliged to meet a number of environmental conditions to protect the environment and ecosystems (biodiversity, habitats, soil, water, air). However, these conditions need to be strengthened by prohibiting the destruction of valuable landscape elements.

### European Maritime and Fisheries Fund

Poland receives around EUR 710 million in co-financing for fisheries and the maritime sector, with an EU contribution of EUR 531 million<sup>133</sup>. Several projects

<sup>133</sup> European Commission, [European Maritime and Fisheries Fund in Poland, 2015](#).

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beneficial to the environment have been financed under operational programme priorities one (sustainable fisheries) and two (sustainable aquaculture).

### The Connecting Europe Facility (CEF)

The CEF is a key EU funding instrument developed specifically to direct investment towards European transport, energy and digital infrastructure to address identified missing links and bottlenecks and promote sustainability.

By the end of 2017, Poland had signed agreements for EUR 4.1 billion for projects under the CEF<sup>134</sup>.

### Horizon 2020

Poland has benefited from Horizon 2020 funding since the programme started in 2014. As of January 2019, 451 participants have been granted a maximum amount of EUR 80.6 million for projects from the Societal Challenges work programmes dealing with environmental issues<sup>135 136</sup>.

In addition to the abovementioned work programmes, climate and biodiversity expenditure is present across the entire Horizon 2020. In Poland, projects accepted for funding in all Horizon 2020 working programmes until December 2018 included EUR 88 million destined to climate action (23.9 % of the total Horizon 2020 contribution to the country) and EUR 14 million to biodiversity-related actions (3.8 % of the Horizon 2020 contribution to the country)<sup>137</sup>.

### LIFE programme

Since 1992, when the LIFE programme was launched, a total of 213 projects have been supported in Poland, with EU input of EUR 114 million<sup>138</sup>. Of these, 128 have focused on nature and biodiversity and 34 on the environment and resource efficiency. The EU granted EUR 16 million to Polish projects over 2014-2017<sup>139</sup>.

To date, one integrated project has been supported in Poland, namely 'Implementation of an air quality plan for the Małopolska Region - Małopolska in a healthy atmosphere (LIFE14 IPE/PL/000021). The project's main

objective is to implement in full the Małopolska air quality plan (MAQP) adopted by the regional parliament in September 2013. The region has an air pollution problem resulting from the combustion of solid fuels in obsolete household boilers. The air quality plan sets out the measures that local government needs to take to eliminate obsolete solid fuel boilers and replace household heating systems by systems based on natural gas, light fuel oil, renewable energy, electric heating, district heating or modern solid fuel boilers that meet high quality standards in terms of pollutant emissions. The project includes:

- establishing a network of 60 eco-managers to support the implementation of air quality measures at municipal level,
- advisory services to help Kraków residents replace stoves and solid fuel boilers
- setting up a regional centre of excellence to provide training and create a knowledge base for local authorities and eco-managers
- carrying out information and education campaigns at regional and local levels, and
- high-resolution modelling of pollution dispersion for Kraków.

'You have the right to effective protection for nature'<sup>140</sup> ('Masz prawo do skutecznej ochrony przyrody') is another important LIFE project. It is designed to improve cooperation between different compliance assurance authorities, especially the police, prosecution offices, general and regional directorates for environmental protection, and other units. The project includes training sessions for law enforcement and judicial authorities, a free e-learning course and educational materials promoting nature protection.

### European Investment Bank

In 2018 alone, the EIB Group (the European Investment Bank and the European Investment Fund)<sup>141</sup> loaned Polish businesses and public institutions more than EUR 4.79 billion. Figure 23 shows that more than EUR 722 million (15 % of the total) was invested directly in environment-related projects.<sup>142</sup> Most support goes to small and medium enterprises (EUR 1.74 billion), followed by innovation (EUR 1.53 billion), and infrastructure (EUR 795.7 million). EIB financing often goes hand in hand with support from the Cohesion Fund and the ERDF.

<sup>134</sup> European Commission, [European Semester Country Report for Poland](#), 2018, p. 14.

<sup>135</sup> European Commission [own calculations based on CORDA \(Common Research Data Warehouse\)](#). A maximum grant amount is the maximum grant amount decided by the Commission. It normally corresponds to the requested grant, but it may be lower.

<sup>136</sup> i.e. (ii) Food security, sustainable agriculture and forestry, marine and maritime and inland water research and the bioeconomy; (iii) Secure, clean and efficient energy; (iv) Smart, green and integrated transport; and (v) Climate action, environment, resource efficiency and raw materials.

<sup>137</sup> European Commission [own calculations based on CORDA \(Common Research Data Warehouse\)](#).

<sup>138</sup> European Commission, [LIFE in Poland, 2017](#)

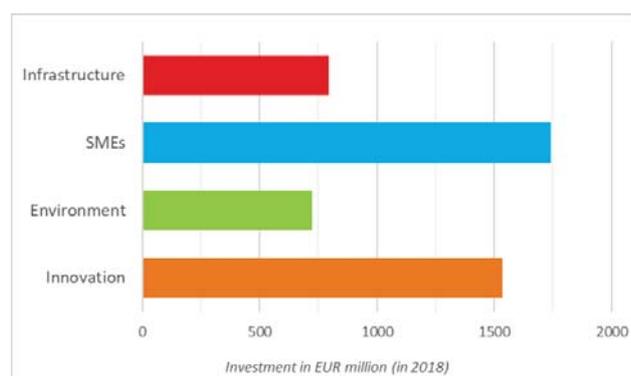
<sup>139</sup> Commission services based on data provided by EASME.

<sup>140</sup> LIFE project "You have right to effective protection of nature" [website](#)

<sup>141</sup> The EIB Group includes EIB and EFSI investments and loans.

<sup>142</sup> European Investment Bank, [Factsheet](#), Poland, 2017.

**Figure 22: EIB loans to Poland in 2018<sup>143</sup>**



recycling; reduce air pollution; promote sustainable water management, protect biodiversity and develop green infrastructure

### European Fund for Strategic Investments

The European Fund for Strategic Investments (EFSI) is an initiative to help overcome the current investment gap in the EU. As of January 2019, it has mobilised EUR 3.7 billion in Poland, and the secondary investment triggered by this is expected to be EUR 16.2 billion<sup>144</sup>.

### National environmental financing

Poland spent EUR 1 794.2 million on environmental protection in 2016, which represents a decrease of 30.6 % from 2015<sup>145</sup>. 20.7 % of these payments went on waste management activities (the EU average is 49.7 %), 27 % (i.e. EUR 489 million) on waste water management and 12.5 % (i.e. EUR 224.6 million) on pollution abatement. 5.6 % of environmental expenditure was allocated to protecting biodiversity and the landscape (EUR 100.5 million). Between 2012 and 2016, general government funding for environmental protection added up to EUR 11 672.5 million in current prices<sup>146</sup>.

As it has been mentioned in the report, one of the challenges for Poland is to ensure that environmental financing and capacity remain at an adequate level. Existing financial gaps in areas such as air, water quality and waste management, green infrastructure or biodiversity are delaying the correct implementation of EU environmental law and policies. Therefore, ensuring financial resources to reduce the implementation gap should be considered as a priority for the country.

### 2019 priority actions

- Use EU Funds to build necessary capacities and know-how at all levels of administration involved in implementation and enforcement.
- Mobilise investment, including through EU funds, to prevent waste, encourage separate collection and

<sup>143</sup> EIB, [Poland and the EIB](#), 2018.

<sup>144</sup> European Investment Bank, [EFSI project map](#).

<sup>145</sup> European Commission, Eurostat, [General Government Expenditure by function](#), 2018.

<sup>146</sup> European Commission, Eurostat, [General Government Expenditure by function](#), 2018.

## 5. Strengthening environmental governance

### Information, public participation and access to justice

Citizens can more effectively protect the environment if they can rely on the three ‘pillars’ of the Aarhus Convention:

- (i) access to information;
- (ii) public participation in decision making; and
- (iii) access to justice in environmental matters.

It is of crucial importance to public authorities, the public and business that environmental information is shared efficiently and effectively<sup>147</sup>. Public participation allows authorities to make decisions that take public concerns into account. Access to justice is a set of guarantees that allows citizens and NGOs to use national courts to protect the environment<sup>148</sup>. It includes the right to bring legal challenges (‘legal standing’)<sup>149</sup>.

#### Environmental information

Centralised governance of information is weak, owing to limited access, the existence of different portals and difficulties with managing environmental information. The environmental information that is publicly available is fragmented and distributed among different databases, and there seems to be no single unified environmental portal. Individual portals provide information on specific topics. One example is the air quality portal,<sup>150</sup> another the GIOSInspire Geoportal.<sup>151</sup>

There is room for improvement as regards Poland’s performance in the implementing the INSPIRE Directive on infrastructure for spatial information in Europe. The accessibility of spatial data through view and download services is poor. Poland’s performance has been reviewed on the basis of the country’s 2016 implementation report<sup>152</sup> and more recent monitoring data from 2017.<sup>153</sup> Data sharing and reuse, data

<sup>147</sup> The Aarhus Convention, the Access to Environmental Information Directive, 2003/4/EC and the INSPIRE Directive, 2007/2 together create a legal foundation for the sharing of environmental information between public authorities and with the public. This EIR focuses on INSPIRE.

<sup>148</sup> The guarantees are explained in Commission Notice on access to justice in environmental matters, OJL 275, 18.8.2017 and a related Citizen’s Guide.

<sup>149</sup> This EIR looks at how well Member States explain access to justice rights to the public, and at legal standing and other major barriers to bringing cases on nature and air pollution.

<sup>150</sup> [GIOS air quality portal](#).

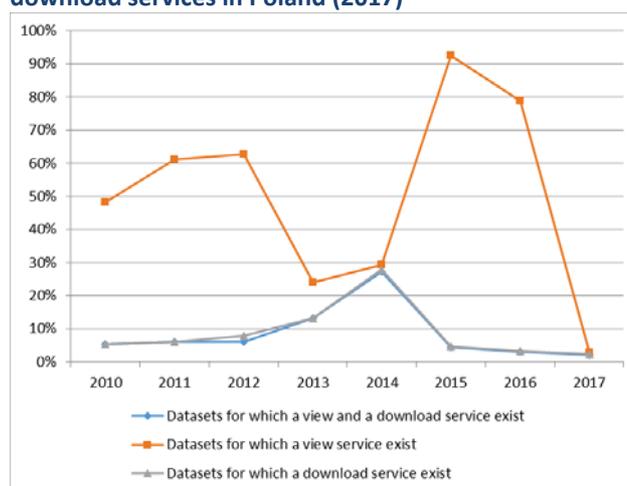
<sup>151</sup> GIOSInspire Geoportal is a spatial database that contains comprehensive information about environmental monitoring infrastructure in Poland

<sup>152</sup> INSPIRE PL [country sheet](#) 2017.

<sup>153</sup> [INSPIRE monitoring dashboard](#).

identification and the documentation of data have made good progress and show good implementation levels. However, further efforts are needed to make data accessible through services and to prioritise environmental datasets in implementation, especially those identified as spatial datasets of high value in implementing environmental legislation<sup>154</sup>.

**Figure 23: Access to spatial data through view and download services in Poland (2017)**



#### Public participation

In Poland, public participation is regulated mainly by the Act of 3 October 2008 on access to information about the environment and its protection and public participation in environmental protection and environmental impact assessments.<sup>155</sup>

Although there are individual examples of efforts to encourage public participation, but no information was available on a central information portal about any initiatives to support or encourage public participation across policy areas or in the environmental field.

Eurobarometer figures from 2017 show a relatively strong consensus in Poland (80 % of respondents) that an individual can play a role in protecting the environment.

#### Access to justice

Access to justice in environmental matters is a set of guarantees enabling members of the public and public associations to challenge acts or omissions by the public

<sup>154</sup> [List of high value spatial data sets](#) .

<sup>155</sup> *Ustawa z dnia 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko* (Dz. U 2017 poz. 1405).

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administration before a court.<sup>156</sup> These guarantees include the right to bring a legal action, protection against prohibitive costs, and practical information.

An issue mentioned in the 2017 EIR, however, is that it is not possible to apply for an interim measure in certain administrative procedures, including cases where building permits remain valid even though infringement proceedings are under way.

The current EIR focuses on practical information and legal standing and other barriers to bringing cases concerning air pollution and nature to court.

Poland needs to make significant progress on informing the public about effective remedies for individuals and environmental associations and access to justice in environmental matters under Polish and EU law. Searches conducted 'as a citizen looking for information on access to justice' produce no user-friendly official results. The public authorities thus need to make clearly structured and user-friendly information available online.

Under the Polish legal framework, legal standing is granted to those individuals - whether natural or legal persons - who have a 'legal interest'. Polish jurisprudence has adopted a very narrow interpretation of 'legal interest' and 'breach of legal interest'. Social organisations enjoy standing in cases regarding individual administrative decisions where they represent a common interest. Such an organisation may participate in the proceedings with the rights of a party. This means that it enjoys the same rights as a party to the proceedings, including the right to appeal. In order to be admitted to the proceedings, an organisation must file a relevant motion. Environmental NGOs have more rights than other social organisations in environmental cases requiring public participation, because they do not need to prove that 'public interest requires their participation'. The relevant authority is obliged to admit the organisation if it has environmental objectives in its statute. The wider rights in administrative proceedings automatically result in wider standing in proceedings before the administrative court. In addition, an environmental NGO may appeal against the decision to the authority of second instance, even if it not had taken part in the administrative proceedings at first instance.

However, not all decisions with an environmental impact can be challenged. An example is the adoption of a forest management plan. Moreover, the rules on access to justice in environmental cases differ for air quality plans or strategic decisions and for individual administrative decisions, such as environmental decisions, IPPC permits or sectoral emission permits. In addition, on the basis of

a Communication presented the Compliance Committee of the Aarhus Convention<sup>157</sup>, in practice NGOs do not enjoy legal standing to challenge local laws that contravene national law relating to environment, unless these NGOs are injured in their own right.

Against this background, significant changes are needed in Polish laws and practices, especially as regards NGOs' legal standing, even for situations such as Natura 2000 sites or air quality plans<sup>158</sup>, on which the EU Court of Justice handed down clear judgments.

For complaint to the administrative court of the first instance, the Polish legal system uses court fees which vary according to the value of the case, but only when the value of the case at stake may be measured. The fees range from 1 % to 4 % of the value at stake, with the minimum fee of PLN 100 and the maximum fee of PLN 100 000. However, in the majority of the environmental cases where the value of the case at stake cannot be measured, the court fee for complaint to the Administrative Court of first instance in environmental cases is fixed for PLN 200. Different fees apply for complaint to the Administrative Court of the second instance. Apart from these fees, parties have to cover their own expenses, including attorney costs (if they decide to have an attorney). In case the authorities lose the case they have to pay the winner its costs (both court and attorney fees not exceeding statutory rates, but not costs of potential experts), but if authorities win, they are not entitled to claim their costs.

### 2019 priority actions

- Improve access to spatial data and services by making stronger linkages between the country INSPIRE portals, identify and document all spatial datasets required to implement environmental law, and make the data and documentation at least accessible 'as is' to other public authorities and the public through the digital services envisaged in the INSPIRE Directive.
- Improve the legal framework and/or practical arrangements (by creating a single webpage, for instance) to facilitate public participation in implementing EU legislation with an impact on the

<sup>157</sup> Communication to the Compliance Committee of the Aarhus Convention (ACCC/C/2016/151). The involved parties to the procedure should submit to the Committee, by 22 August 2018, any written explanations or statements clarifying the matter referred to in the communication.

<sup>158</sup> In a ruling of 23 January 2018, the Supreme Administrative Court has rejected a cassation complaint, on the ruling of the Regional Administrative Court which rejected a complaint for lack of standing. In the original complaint of April 2017, the complainant called on the Assembly of Śląskie Voivodship to cease to violate the law by repealing its Air Protection Programme. The complainant indicated that the existing Air Protection Programmes was in breach of number of laws, including the CAFE directive.

<sup>156</sup> Details are set out in Commission "Notice on Access to Justice in Environmental Matters", OJL 275, 18.8.2017, p. 1.

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environment, in line with the Aarhus Convention.

- Take the necessary measures to ensure that environmental NGOs have the standing required to be able to challenge the acts or omissions of a public authority in all sectoral EU environmental laws, especially in relation to air pollution and nature, in full compliance with EU law and the Aarhus Convention.

### Compliance assurance

Environmental compliance assurance covers all the work undertaken by public authorities to ensure that industries, farmers and others fulfil their obligations to protect water, air and nature, and manage waste<sup>159</sup>. It includes support measures provided by the authorities, such as:

- (i) compliance promotion<sup>160</sup>;
- (ii) inspections and other checks that they carry out, i.e. compliance monitoring<sup>161</sup>; and
- (iii) the steps that they take to stop breaches, impose sanctions and require damage to be remedied, i.e. enforcement<sup>162</sup>.

Citizen science and complaints enable authorities to focus their efforts better. Environmental liability<sup>163</sup> ensures that the polluter pays to remedy any damage.

### Compliance promotion and monitoring

The quality of online information to help farmers comply with obligations on nitrates and nature is an indicator of how actively authorities promote compliance in areas with serious implementation gaps. The websites of the relevant Polish authorities include information of this kind. However, it could be more comprehensive, and the presentation could be more user-friendly.

Major industrial installations present serious pollution risks. Public authorities are required to have plans to inspect them and to make individual inspection reports available to the public<sup>164</sup>. However, there seems to be a lack of structured public information about such plans and reports in Poland. The main body in charge of environmental inspection under the Industrial Emissions Directive is the Chief Inspectorate of Environmental Protection (GIOS<sup>165</sup>).

<sup>159</sup> [COM\(2018\)10](#), [SWD\(2018\)10](#).

<sup>160</sup> This EIR focuses on the help given to farmers to comply with nature and nitrates legislation.

<sup>161</sup> This EIR focuses on inspections of major industrial installations.

<sup>162</sup> This EIR focuses on the availability of enforcement data and co-ordination between authorities to tackle environmental crime.

<sup>163</sup> The Environmental Liability Directive, [2004/35](#), creates the framework.

<sup>164</sup> Article 23, Industrial Emissions Directive, [2010/75/EU](#).

<sup>165</sup> Główny Inspektorat Ochrony Środowiska.

### Citizen science and complaint handling

Public engagement through approaches such as citizen science can deepen knowledge of the environment and help the authorities in their work. However, there appear to be no publicly available sources of information about the use of community science tools for compliance monitoring purposes.

The Ministry of the Environment's website<sup>166</sup> has a section on various public awareness campaigns run by the Ministry.

The availability of clear online information on how to make a complaint is an indicator of how responsive authorities are to complaints by the public. The website of the Chief Inspectorate of Environmental Protection<sup>167</sup> provides a step-by-step guide to submitting a complaint. It also explains which authority members of the public should contact for which topic. The level of detail of the information supplied by the websites of the various regional inspectorates on how to launch and follow the progress of an environmental complaint varies significantly from region to region. A good example is a website run by the Lublin Regional Inspectorate which tells users how to submit a complaint and provides templates for specific types of complaints<sup>168</sup>.

### Enforcement

When monitoring identifies problems, a range of responses may be appropriate.

Yearly statistics on environmental crimes are available on the website of the Polish Police<sup>169</sup>. The information published covers the number of started proceedings, stated crimes, detected crimes and the detection index (expressed as a percentage).

Tackling waste, threats to wildlife and other environmental crimes is especially challenging and requires close cooperation and coordination arrangements between inspectors, customs authorities, police and prosecutors. Poland recognises the added value of structured cooperation and coordination. However, public information on these subjects is fragmented and incomplete.

### Environmental liability

The Environmental Liability Directive (ELD) establishes a framework based on the 'polluter pays' principle to prevent and remedy environmental damage. The 2017

<sup>166</sup> See: [Ministry for Environment, public campaigns website](#).

<sup>167</sup> Główny Inspektorat Ochrony Środowiska, [Organy właściwe w sprawach skarg i interwencji](#), 2008.

<sup>168</sup> [Lublin Inspectorate website on complaint handling](#).

<sup>169</sup> Police [website on environmental crime](#) (*Przestępstwa przeciwko środowisku*).

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EIR focused on the need for better information on environmental damage, financial security and guidance. The Commission is still collecting evidence of the progress made.

### 2019 priority actions

- Improve public information about compliance promotion, monitoring and enforcement. As a minimum, this means providing more detailed and better structured information online to help farmers meet their obligations as regards nitrates and nature and providing more online information on inspection plans and reports on industrial inspections.
- Publish information about follow-up action when cross-compliance breaches of rules on nitrates and nature are detected.
- Provide more information on how professionals dealing with environmental crime work together.
- Improve financial security for liabilities and ELD-guidance and publish information on environmental damage.

### Effectiveness of environmental administrations

Those involved in implementing environmental legislation at EU, national, regional and local levels need to have the knowledge, tools and capacity to ensure that the legislation and the governance of the enforcement process bring about the intended benefits.

#### Administrative capacity and quality

An institutional reform of powers relating to water was implemented in 2017. The minister for the marine economy and inland navigation, who took up his post in 2016, took over powers relating to water management, including those concerning the implementation of water directives, from the minister for the environment. This means the same minister is responsible for protecting water ecosystems and for planning and implementing projects to do with inland navigation infrastructure. It appears that nothing has been done to tackle the conflict of interest, mentioned in the 2017 EIR that arises from delegating two opposing roles - as an investor and as an authority responsible for protecting water - to a single authority. This may undermine the effective implementation of certain provisions of the Water Framework Directive. It may also present a risk to compliance with the revised EIA Directive, which requires authorities to perform their duties in an objective manner; this implies that they must not find themselves in a situation giving a rise to a conflict of interest.

There have also been changes in the way legislative proposals are introduced. More draft laws, especially those relating to nature, have been formally submitted

for adoption to the Polish Parliament on its members' own initiative. This allows for avoiding consultations with the public which would otherwise have to be held.



Science plays a key role in environmental decision-making procedures. However, as the Białowieża Forest case shows, there seems to be an increasing tendency in Poland to underpin decisions by selective data supporting certain desired outcomes, while ignoring other evidence. This affects the quality of environmental decision-making, which should be open, transparent and participatory and take the best scientific evidence into account.

Poland continues to be among the EU countries with a high number of environmental infringements. Nature protection has become the area with most complaints, a change since the 2017 EIR.

#### Coordination and integration

As mentioned in the 2017 EIR, the incorporation into Polish law of the revised EIA Directive<sup>170</sup> provides an opportunity to streamline the regulatory framework on environmental assessments. Poland enacted the content of the Directive by the deadline (May 2017).

The Commission encourages the streamlining of environmental assessments to reduce duplication and avoid overlaps in environmental assessments applicable to projects. Moreover, streamlining helps reduce any unnecessary administrative burden and speeds up decision-making, without compromising the quality of the environmental assessment procedure.<sup>171</sup>

The streamlining of environmental assessments under the EIA, Habitats and Water Framework Directives got

<sup>170</sup> Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

<sup>171</sup> The Commission issued a guidance document in 2016 regarding the setting up of coordinated and/or joint procedures that are simultaneously subject to assessments under the EIA Directive, Habitats Directive, Water Framework Directive, and the Industrial Emissions Directive, OJ C 273, 27.7.2016, p. 1.

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under way in Poland before the revised EIA Directive was incorporated into national legislation. For assessments under EIA and the Industrial Emissions Directive, the procedure is coordinated.

The rules of procedure of the Polish Council of Ministers<sup>172</sup> require an impact assessment of draft laws as part of the governmental regulatory process; the scope of the assessment depends on the type of draft law under examination. This assessment uses a standard form that is also available online<sup>173</sup>. The official guidelines provide detailed information about the impact assessment procedure and the standards it must meet<sup>174</sup>. However, a recent audit conducted by the Supreme Audit Chamber in several selected ministries concluded that only a third of the impact assessments examined had been performed correctly<sup>175</sup>. Similarly, the Bartelsmann Foundation for Sustainable Governance Indicators<sup>176</sup> gave Poland's regulatory impact assessment process a low score of 2.7 out of 10. Moreover, the audit referred to above gave the 'sustainability check' component of the regulatory impact assessment (which includes social, economic and environmental issues) a very low score of 2 out of 10.

### Adaptability, reform dynamics and innovation (eGovernment)

Polish public authorities are increasingly adopting and using electronic services to interact with public or regulated entities online. However, for Digital Public Services, Poland had a score of 0.53/1 based on Europe's Digital Progress Report 2017, this is lower than the EU28 average (0.55/1)<sup>177</sup>. In the DESI Report 2018, Poland had a score of 48 out of 100 on digital public services, lower than the EU average of 58<sup>178</sup>.

### Enabling financing and effective use of funds

Established in 1989, the National Fund for Environmental Protection and Water Management (NFOŚiGW) is the main body providing financial and technical support to promoters of environmental protection projects, in particular those being co-financed by:

- the Cohesion policy funds,

<sup>172</sup> [The rules of Procedure of the Council of Ministers \(Regulamin Pracy Rady Ministrów\)](#).

<sup>173</sup> [Assessment in governmental procedure, Office for Prime Minister Ocena wpływu w rządowym procesie legislacyjnym](#).

<sup>174</sup> [Guidelines for impact assessment procedure \(Wytyczne do przeprowadzania oceny wpływu oraz konsultacji publicznych w ramach rządowego procesu legislacyjnego\)](#).

<sup>175</sup> Supreme Audit Chamber [report](#).

<sup>176</sup> Bartelsmann Stiftung, [Evidence-based Instruments](#).

<sup>177</sup> European Commission, [Europe's Digital Progress Report \(EDPR\) 2017 Country Profile Poland](#), 2017, p. 9,

<sup>178</sup> European Commission, [Digital Economy and Society Index Report 2018, Digital Public Services](#).

- the LIFE Programme,
- the Norwegian Financial Mechanism, and
- the European Economic Area Financial Mechanism.

The National Fund manages funding collected from environmental fees and penalties, product fees, concessions for use of environmental resources, and income from the sale of greenhouse gas allowances. This funding is spent on loans and grants for waste water projects, disaster prevention (especially flood protection and landslide prevention), waste management, rehabilitation of contaminated sites, energy efficiency and renewable energies, nature conservation measures and raising public awareness. The selection of projects is based on an annual priority list setting out measures to be supported in the following year and detailed conditions for project selection.

### 2019 priority action

- Poland can further improve its overall environmental governance (such as transparency, citizen engagement, compliance and enforcement, as well as administrative capacity and coordination).

## International agreements

The EU Treaties require the EU environmental policy to promote measures at international level to deal with regional or worldwide environmental problems.

The EU is committed to strengthening environmental law and its implementation globally. It therefore continues to support the Global Pact for the Environment process, which was launched by the United Nations General Assembly in May 2018<sup>179</sup>. The EIR is one of the tools to ensure that the Member States set a good example by respecting European Union environmental policies and laws and international agreements.

Poland has signed but not yet ratified three agreements under the Convention on Long-Range Transboundary Air Pollution: the Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-Level Ozone, the Persistent Organic Pollutions Protocol and the Heavy Metals Protocol. The same applies to the Nagoya Protocol. Poland has neither signed nor ratified the African-Eurasian Migratory Water Bird Agreement.

<sup>179</sup> [UN General Assembly Resolution 72/277](#) and [Organizational session of the ad hoc open-ended working group](#).

### **Forests: EU Timber Regulation (EUTR)<sup>180</sup>/ Forest Law Enforcement, Governance and Trade (FLEGT) Regulation<sup>181</sup>**

Under the European Timber Trade Regulation (EUTR), which bans placing illegally harvested timber on the EU market, EU countries' competent authorities must conduct regular checks on operators and traders and impose penalties in the event of non-compliance.

Between March 2015 and June 2018, Poland conducted 56 checks planned for operators working with domestic timber and 200 checks planned for timber importers. So far, the Polish authorities have imposed two administrative fines on importers found to be in breach of EUTR obligations.

As regards cooperation (Article 12 EUTR), Poland reported collaboration with other government institutions in Poland and with other EU competent authorities, mainly through FLEGT/EUTR Expert Group meetings and the Ad Hoc Expert Group on Forest Law Enforcement, Governance and Trade (FLEGT).

### **Genetic resources: Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising (ABS)<sup>182</sup>**

In accordance with the EU Access and Benefit Sharing (ABS) Regulation, which incorporates the compliance measures required under the Nagoya Protocol into the EU law, Poland has designated competent authorities and enacted penalties for infringements of the Regulation. Voivodeship inspectors for environmental protection carry out the checks to verify whether users have complied with their obligations under Article 4 of ABS Regulation. Moreover, a risk-based plan has been developed in 2018. No due diligence declaration has yet been submitted, nor have any penalties been imposed. Poland submitted its first report on the implementation of the EU ABS Regulation to the Commission at the end of 2017.

### **International wildlife trade: the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)<sup>183</sup>**

In accordance with the basic regulation<sup>184</sup> incorporating the major obligations stemming from the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) into EU law, Poland has established appropriate national authorities and regularly processes

requests for import, export, re-export and intra-EU trade documents.

Reports on seizures of illegal shipments, in particular those reported every six months to TRAFFIC and those exchanged through the EU-TWIX platform, testify to the activity of customs authorities.

Poland is working to bring national legislation into line with the standards of EU wildlife regulations and to improve the national authorities' capacity to fight wildlife crime.

### **2019 priority action**

- Increase efforts to be party to relevant multilateral environmental agreements, by signing and ratifying the remaining agreements.

## **Sustainable development and the implementation of the UN SDGs**

Sustainable development links environmental, social and economic policies in a coherent framework and therefore helps to implement environmental legislation and policies.

Polish official statistics have been disseminating knowledge and promoting issues relating to sustainable development for many years. Various activities in line with international initiatives have been undertaken for this purpose. For instance, a set of SDG indicators monitoring national priorities has been set up. Moreover statistical information is made publicly available on a dedicated e-platform<sup>185</sup>.

Additionally, it has been recognised that implementing the SDGs requires a complex programme.

A special Task Force for cohesion between the Strategy for Responsible Development up to 2020 (with a 2030 perspective) and the 2030 Agenda for Sustainable Development and its sustainable development goals has therefore been set up<sup>186</sup>. The unit facilitates cooperation between administrative authorities and socioeconomic partners with a view to creating a mechanism for coordinating and implementing the SDGs in Poland. In 2018, Poland submitted its first National Voluntary Review on the implementation of the SDGs to the UN<sup>187</sup>.

<sup>180</sup> [Regulation \(EU\) No 995/2010](#).

<sup>181</sup> [Regulation \(EC\) No 2173/2005](#).

<sup>182</sup> [Regulation \(EU\) No 511/2014](#).

<sup>183</sup> [The Convention on International Trade in Endangered Species of Wild Fauna and Flora \(CITES\)](#).

<sup>184</sup> [Council Regulation \(EC\) No 338/97](#).

<sup>185</sup> [Poland's SDG platform](#).

<sup>186</sup> [Implementation of SDGs by Poland, 2018 report](#).

<sup>187</sup> [National Voluntary review on the implementation of the SDGs to the UN](#).