

# ESD implementation in Poland

## Legal context

It has been decided that the ESD will be implemented into the Polish legal system by a new legal act "Energy Efficiency Law" (EEL). The draft of the EEL was prepared by the Ministry of Economic Affairs (MoEA) and presented firstly in 2007. After internal consultations within the government and then after public debate the law was modified several times to improve its provisions and make them acceptable for major stakeholders. In November 2009 11<sup>th</sup> draft of the law was presented by the MoEA. This version was afterwards submitted to the Permanent Committee of the Cabinet which after discussions gave its conditional approval opening the way to formal adoption by the government and then submission the draft as a governmental project to the Parliament. It is envisaged that the draft will become law after adoption by the Parliament (two chambers) in late 2010. At the time of preparation of this report (January 2010) there were still discussions on the final wording of some provisions concerning mostly the proposed White Certificates System (WCS). Some objections were raised by the President of the Energy Regulatory Office who according to the proposed law will serve as the chief operator of the WCS.

## Status of the implementation

The status of implementation of the ESD in Poland is shown in tab. 1.

Directive	Energy Efficiency Law (draft)	Remarks
Article 1	No implementation necessary	
Article 2	No implementation necessary	Scope of application extended by adding plant auxiliary services (power plant self energy consumption) and transmission and distribution sectors
Article 3	Article 3	Some new definition added
Article 4, first, second and third paragraphs	Article 5	National target set generally in line with the indicative ESD target
Article 4, 4	Articles 10 and 8, para. 1	
Article 4, 5	No implementation necessary	White Certificates System proposed

Directive	Energy Efficiency Law (draft)	Remarks
Article 5, first paragraph	Article 13 para. 2 Article 11	Obligation to save 1% annually Obligation to carry energy audits at least once in 10 years Obligation to inform public on the energy savings obtained
Article 5, second paragraph	Article 12 para. 1	Minister of Economic Affairs responsible
Article 6, 1, part a	Article 10	President of the Central Statistical Office responsible
Article 6, 1, part b	No implementation necessary	Already the task of the President of the Office of Protection of the Competitiveness and Consumers
Article 6, 2 to 5	Article 14	White Certificates System established
Article 7	Article 7	Minister of Economic Affairs responsible Already partly implemented in the Energy Law
Article 8	Art. 29, art. 30, art. 31, art. 33, art. 34, art. 35	Requirements for energy auditors imposed
Article 9	No implementation necessary	
Article 10	No implementation necessary	
Article 11	Article 14, para. 4	Special account established within the White Certificates System
Article 12	No implementation necessary	Obligatory audits in the White Certificates System (for large savings)
Article 13, 1	No implementation necessary	Smart Metering activities intensified in Poland
Article 13, 2 and 3	No implementation necessary	Already partly implemented in the Energy Law
Article 14	No implementation necessary	
Article 15	No implementation necessary	
Article 16	No implementation necessary	
Article 17	No implementation necessary	
Article 18	No implementation necessary	
Article 19	No implementation necessary	
Article 20	No implementation necessary	

Table 1. Status of implementation of the ESD in Poland

## Additional efforts

### Article 4: Energy Savings Targets

The draft of the EEL envisages that national saving target will be revised by the government every three years.

The ultimate goal of adjusting these targets in 3-year intervals would be to save by 2016 at least 9% of final

energy consumed in 2007. Such method of setting the national targets is likely to lead to the fulfilment of the indicative target given in the ESD.

### **Article 5 Energy end-use efficiency in the public sector**

The Public Sector is to play the exemplary role according to the draft of the EEL. All Public Sector unites will be obliged to save on average at least 1% of energy annually. They will have to perform energy audits of all their buildings and energy using equipment at least once in 10 years (art. 13 of the draft of the EEL). They will have to reveal to the public the obtained energy savings (art.11, para. 3 of the draft of the EEL).

Besides the energy audits, the Public Sector will have to use at least one additional energy efficiency measure from the list of eligible energy efficient public procurement measures provided in Appendix VI to the ESD (art. 11, para 1 and 2).

Progress made in the Public Sector concerning energy savings will be supervised by the MoEA.

### **Article 6 Energy distributors, distribution system operators and retail energy sales companies**

Article 6, para. 1 point a, stipulates that member states shall ensure that energy distributors, distribution system operators and/or retail energy sales companies provide aggregated statistical information on their final customers to the authorities (or agencies). In Poland the obligation will be a part of the national system of collecting statistical data. This task is attributed by the Act on Public Statistic (1995) to the President of the Central Statistical Office. Templates of statistical formulae, statistical questionnaires and instructions on their fulfilling are given in the form of a decree of the Prime Minister (5 May 2009). No statistical system specially dedicated to the needs of the ESD is being considered.

Article 6, para 1, point b, requires that member state undertakes steps to prevent energy sector companies to impede the demand for and delivery of energy services and other energy efficiency improvement measures, or hinder the development of markets for energy services and other energy efficiency improvement measures. The supervision of the obligation in Poland will be attributed to the President of the Office of Protection of the Competiveness and Consumers under the existing general legislation (act from 2007). No special steps to adopt the act to the specific needs of the ESD have been undertaken.

From the list provided in art. 6 para. 2 point a of the ESD the requirement of point (iii) was chosen (art. 38 of the draft of the EEL). Namely, a White Certificates System (WCS) is proposed as the main market instrument supporting the implementation of the ESD. The WCS unlike in other countries, will besides the end users also cover the energy requirements of the plant auxiliary services, and as well transmission and distribution sectors.

In the framework of the WCS the energy companies selling electrical energy, heat or gas to final consumers connected to the grid in Poland are obliged to provide the energy efficiency certificate (White Certificates) or to pay compensation fee. The compensation fee will be due to the National Fund of Environment Protection and Water Management (NFoEP&WM) and may only be used for energy efficiency improvements. The list of energy efficiency measures eligibly for WC will be published by the MoEA (art. 19 of the draft of the EEL). The Minister will also set the minimal limits of energy to be saved by the energy companies obliged (art. 15 of the draft of the EEL).

It is planned that the whole responsibility for the WCS will be attributed to on the President of the Energy Regulatory Office.

## **Article 8: Availability of qualification, accreditation and certification schemes**

The EEL will also introduce a system of energy auditors which will be entitled to provide energy audits for the WCS. They will have to pass state exam before they receive the right for making the energy audits.

## **Article 11 Funds and funding mechanisms**

The WCS will provide financial resources from the compensation fee. The funds accumulated at a special account in the National Fund of Environmental Protection and Water Management will be used for energy efficiency aims e.g. energy efficiency investments and soft projects (promotion, education, public campaigns) (art. 14, para.4).

## **Article 12 Energy audits**

Within the new EEL no special system of energy audits is planned to ensure the availability of efficient, high-quality energy audit schemes which are designed to identify potential energy efficiency improvement measures and which are carried out in an independent manner, to all final consumers, including smaller domestic, commercial and small and medium-sized industrial customers.

However, energy audits will be required for certain energy efficiency measures (with annual savings of more than 10 ktoe) for the WCS. The MoEA will provide requirements, procedures and instructions in order to standardise energy audits (art. 27 of the draft of the EEL).

## **Article 13: Metering and informative billing of energy consumption**

There is no need for implementation of art. 13 of the ESD. The issues covered by the article are already implemented in the Energy Law (art. 45, para. 7-9) and the decrees following from the law.

However, some initiatives to start nationwide program of introduction of intelligent smart meters have been launched. These activities receive wide support inter alia from the MoEA and the Energy Regulatory Office as well as from the Parliament. A Smart Network Platform embracing all main stakeholders is under construction and strongly supported by the Parliament.

## **Future planning**

The Energy Law was also amended so that it is now possible to use substantial funds already accumulated from the Green Certificate System, supporting RES, not only for RES but also for energy efficiency projects.

NFoEP&WM also prepares new initiatives aimed at improving energy efficiency in the Public Sector (to start in 2010) and in the industry (to start in 2011).

## **Relevant information**

More information regarding the situation in Poland can be found at the following websites:

Energy Efficiency Law (draft 11th): <http://www.mg.gov.pl/Prawo/Projekty+aktow+prawnych/Energetyka/>

National Energy Efficiency Action Plan: [http://ec.europa.eu/energy/demand/legislation/doc/neeap/poland\\_pl.pdf](http://ec.europa.eu/energy/demand/legislation/doc/neeap/poland_pl.pdf)