

**Barbara Iwańska**

## **Recent development – Poland**

### **1) The ACT of 24 April 2015 amending certain acts in connection with the strengthening of landscape protection tools**

The Act constitutes a partial implementation of the arrangements provided for in the European Landscape Convention of 2010.

The Act amends several existing acts by introducing into them additional tools, whose purpose is to directly maintain landscape, including *inter alia* by<sup>1</sup>:

- the introduction of a legal definition of landscape understood as an area, as perceived by people, containing elements of nature or civilization products, shaped as the result of the action of natural factors or human activity;
- the determination of qualities making up the landscape values (natural, cultural, historical, architectural, urban, rural complexes as well as aesthetic and scenic values);
- the introduction of universal identification and valorization of landscapes through regular (not less often than once in 20 years) preparation of a landscape audit. The landscape audit is to serve: 1) identification and characterization of landscape types; 2) valorization of landscape on a voivodship (provincial) scale in order to determine the qualities of all landscapes in the voivodship's territory and to identify landscapes which are particularly valuable (priority ones); 3) determination of threats to the identified priority landscapes and planning the manners of their protection on the basis of their analysis.

The Act provides for the introduction of four basic tools favouring the protection of landscape. These are: • extending the scope of environmental impact assessments through a comprehensive analysis of the impact of a project on the landscape; • new regulations concerning the location of advertising.

### **2) The Act of 20 February 2015 on renewable energy sources**

The Act implements the Directive 2009/28/EC on the promotion of the use of energy from renewable sources as well as the Directive 2012/27/EU on energy efficiency.

The Act aims among others to increase energy security and environmental protection, rational use of renewable energy sources, shaping mechanisms and instruments supporting the generation of electric energy, heat or cold, or agricultural biogas in renewable energy sources' installations, development of an optimal and a sustainable supply of energy to final customers.

In connection with the adoption of the Act, the European Commission decided to withdraw a complaint against Poland concerning the failure to implement the Directive 2009/28 from the Court of Justice of the European Union.

### **3) Changes concerning the entitlements of ecological organizations in administrative proceedings with public participation**

An amendment concerning the participation of environmental organizations as parties in administrative proceedings requiring public participation entered into force with effect from 1 January 2015. The new regulation restricts the possibility of ecological organizations' participation to those

---

<sup>1</sup> Cf. the justification to the draft Act available online at:  
<http://orka.sejm.gov.pl/Druki7ka.nsf/0/E0EC31AF25E44523C1257BA4002A90F4/%24File/1525.pdf>

organizations which have been carrying out statutory activities in the field of environmental protection or of nature conservation **for a minimum of 12 months before the date of commencement of the administrative proceedings.**

4) **Change concerning a possibility of carrying out an environmental impact assessment at the stage of legalization of an illegal construction**

The legal doctrine has been conducting for a long time a discussion whether possibility of carrying out an environmental impact assessment and / or an assessment of the impact on the Natura 2000 sites at the stage of legalization of an illegal construction on the environment or on a Natura 2000 site is consistent with the essence of environmental impact assessments and with the EU law.

According to art. 49 sec. 4 a) of the Polish Act of 7 July 1994 Building Law it is possible, yet at the same time following the 2014 amendment of the aforementioned provision **only in cases where such assessment is feasible to be carried out, taking into consideration an analysis of alternative solutions towards the venture in question, as well as a possibility of establishing conditions for its implementation in the field of environmental protection.**