

REAL DEAL country profile

Poland



RESHAPING CITIZENS'
DELIBERATION FOR THE
EUROPEAN GREEN DEAL



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Overview

Poland is a large land-locked country that borders the Baltic Sea. It is a democratic government with a multi-party political system. The population of Poland is approximately 38 million.

The government in the Republic of Poland is comprised of two houses of parliament – the Senat (upper house) and the Sejm (lower house). There is no representation of local or regional authorities within the government. The Prime Minister is the Head of Government, and the President is the Head of State. There are three levels of local government: regions (voivodships), counties (powiat) and municipalities (gmina). Further, there are three types of municipalities: urban, rural and urban-rural.

Poland is one of the world's largest producer of coal. The coal mining industry has strong trade union representation and experiences of hardship in the regions where coal mines have ceased operation. Poland's carbon intensity is the second highest in Europe.

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Dimensions of environmental governance

Poland's Environmental Protection Law 2001 is the primary piece of environmental legislation, although many other legal instruments also engage climate issues.

The Aarhus Convention was ratified by Poland in 2002. The Aarhus Convention has been transposed through the Polish Act of 3 October 2008 on Access to Information on Environment and Its Protection, Public Participation in Environmental Protection and Environmental Impact Assessment. The Act establishes the General Directorate for Environmental Protection. The remit of this office is covered through multiple departments - Department for Environmental Projects Implementation, Department for Environmental Impact Assessment, Department of Administrative Decision-Making, Department of Natural Resources Management as well as internal administrative and legal departments.

There are numerous legislative provisions relating to the environment ranging from the 1970s onward. Among these are regulations of waste law, animal protection, energy law, water law, and investment in sustainable energy sources: the Polish Act of 20 February 2015 on Renewable Energy Sources; the Polish Act of 20 May 2016 on Investments in Wind Power Stations; the Polish Act of 10 April 1997 – Energy Law; the Polish Act of 20 July 2017 – Water Law; the Polish Act of 27 April 2001 – Environment Protection Law.

2.1

Transparency (access to information)

The Polish Constitution, drafted in 1997, protects the right to information for members of the public in relation to activities by public authorities under Article 61. It protects the right to access information about the activities and services of public authorities or any individual or bodies discharging public functions¹.

The Organisation for Economic Co-operation and Development (OECD) is critical of the Polish transparency concerning environmental information due to the vast number of bodies operating in this area. While there have been improvements in data collection, particularly spatial data as required under INSPIRE regulations, work remains to be done in ensuring this is publicly accessible.



The developments in 2020 recognised the increased role of technology and allocated responsibility to the Ministry of Digitisation to process the freedom of information requests². Another relevant public autonomous body is the Commissioner for Human Rights (Rzecznik Praw Obywatelskich) in Poland. According to the 2021 OECD report, the Commissioner for Human Rights has taken a series of measures to ensure that the civil liberties and human rights of Poles are protected, including active communication campaigns at the national, regional, and local levels to raise awareness of citizens' rights and how to protect them.

Despite meeting the eligibility criteria for membership for the Open Government Partnership, since it was established in 2011, Poland has not joined this multinational initiative. The Open Government Partnership aims to secure concrete commitments from both national and subnational governments on promoting open government and empowering citizens with national and local members in all regions of the world.

2.2

Participation

There are multiple examples of deliberative democracy processes being utilised by cities across Poland on environmental issues.

Citizens' assemblies have taken place in Gdansk since 2016. These assemblies are comprised of 60 people and aim to recreate the structure of the city's general population. The assembly has the power to bring about change to the city's policies on public issues including climate change. As the city experienced destruction due to flooding in recent years, the climate issue came to the fore in the assemblies.

Citizens' assemblies are also in place in Lublin where members of the public can propose ideas for discussions by having input into the city's budget. The city has a dedicated green budget under which environmental ideas can be submitted.

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The Warsaw Civic Panel on Climate Change was another public participation initiative, which involved 80 randomly selected citizens to discuss and make recommendations on climate and energy efficiency for the city.

The city of Lodz embraced the technology amid the pandemic in 2020 and conducted part of the citizens' assembly online. Focusing on greenery in the city, the assembly included 67 randomly selected inhabitants of the city aged between 16 and 76, reflecting the general population of the city. The organisers made sure to equip all participants with computers and internet access and support their engagement during the online events with the help of NGOs and volunteers.

Although the number of initiatives for citizens' engagement has increased, the 2022 Sustainable Governance Indicators country report stated that public awareness of politics was low and that the public media was influenced by the government's agenda.

The first nationwide citizens' assembly on the problem of energy poverty took place in October and November 2022. The assembly gathered 100 people for five days of deliberation. The citizens' assembly published the summary of the process and the conclusion on the dedicated website.

2.3

Access to Justice

The Constitution of the Republic of Poland includes multiple references to the protection of environment. These references are often coupled with rights to public health. Article 74 places responsibility for environmental protection with public authorities³. However, these are considered to be principles of governance rather than directly enforceable rights.

Domestically, there have been numerous cases regarding environmental rights since 2019. It is notable that NGOs do not have to prove that they are directly affected by the action of the party being sued in order to bring a case at national level litigation. There are different procedures, however, for challenging local laws in which NGOs need to prove they are an injured party. This enables NGOs to represent broader environmental interests without evidencing direct harm. The legal fees involved in bringing environmental cases are fixed at 200PLN (€42). The same applied to legal representation costs which may be burdensome to individuals or NGOs.

The ongoing litigation includes challenges to the national plans which are overly reliant on coal-produced electricity. The court has been active in promoting reduced dependency on coal. In the case of ClientEarth v. Polska Grupa Energetyczna, an environmental NGO complained that there was no plan to close Europe's largest coal



burning power plant. In a novel judgement, the court ruled that the plant must engage with the NGO to negotiate reducing their emissions in a timely fashion.

In the 2018 case heard by the Polish National Contact Point for OECD Guidelines for Multinational Enterprises, a grassroots foundation filled a complaint addressing the lack of transparency in disclosing CO2 emissions and the impact of financially insuring the coal mining sector in Poland. The National Contact Point recommended to adopt policies that respect the environment.

2.4

Compliance assurance, Accountability

Public complaint mechanisms are documented on the websites of Polish public authorities. There are proposals for criminal sanctions for negligence resulting in environmental harm, particularly by corporate bodies. Companies which have been found guilty of environmental crimes will be excluded from public procurement competitions.

Accountancy regulation for corporations is a strong mechanism for environmental regulation as companies over 500 people must also report on non-financial operations which impact on the environment, society, and human rights.

The 2001 Environmental Protection Act provides the legal framework for all commercial and environmental activities in Poland. The Ministry of Climate and Environment is the highest national office responsible for the preparation and implementation of environmental legislation and strategies. In accordance with EU directives, the Polish government prepares a national plan to implement environmental rules and to direct the corresponding regional governments, or voivodeships, to develop and implement cascading local plans. Overall, Poland's environmental governance exhibits a high level of national, regional, and municipal coordination. Environmental norms are relatively free from corruption, and the overall compliance is high.



The government has initiated a project promoting awareness among public authorities and the public on the duty to protect nature in the areas where their work relates to environmental issues.

2.5

Effectiveness and efficiency

Poland is a significant polluter within Europe and has experienced deleterious climate related events in recent years. The coal industry is slow to cease operation. The communities affected by the closure of mines are being disproportionately impacted both socially and economically. Furthermore, coal mining activities have been affecting the neighbouring states.

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In 2018, the Polish government introduced the Clean Air project (Czyste Powietrze) - a subsidy scheme to support residents to replace old, ineffective, and pollutant heating systems and to improve insulation. The initiative, which aims to reduce and phase out coal use in residential settings as well as to improve air quality, was extended and revised with an additional allocation of funds in 2023.



3

Institutional context

The National Energy and Climate Plan is a ten-year integrated document mandated by the European Union to regulate and reduce greenhouse gas emissions in order for the EU to meet its overall emissions targets. The Energy and Climate Plan addresses all five dimensions of the EU Energy Union: decarbonisation, energy efficiency, energy security, internal energy markets, research, innovation, and competitiveness.

The plan for 2021-2030 establishes the following central goals: 1) the reduction of greenhouse gas emissions in sectors not covered by the Emission Trading System, to solve the problem of air quality (emissions of pollutants in transport and by individual heat sources), to support renewable energy sources, to increase the use of advanced biofuels; 2) to develop a long-term strategy for the renovation of domestic stocks of residential and non-residential buildings, public and private, to ensure energy efficiency; 3) to increase diversification of the energy mix and diversification of directions of supplies of imported fuels; 4) to increase the availability of current cross-border interconnections and integrate the national natural gas transmission system with the systems of Central and Eastern Europe and the countries of the Baltic Sea region; 5) to increase expenditure on research and development in Poland.

As it has been underlined in the access to justice section, civil society is very active in utilising legal processes to progress climate initiatives.



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Role of Civil Society

As it has been underlined in the access to justice section, civil society is very active in utilising legal processes to progress climate initiatives. The civil society sector and the UN body expressed criticism of the government's efforts to suppress NGO protests during the UN Climate Conference.

The Chancellery of the Prime Minister has a dedicated Civil Society Department for preparing draft legislation in consultation with the public. However, it has been perceived as a negative mechanism for placing pressure on NGOs which have been critical of government.

There was division between climate NGOs about aligning with the reproductive justice movements amid concerns of not advocating climate change actions with the previous conservative government. Coordination across environmental NGOs is facilitated the Polish Green Network which provides standards of conduct for NGOs domestically and linkages to international resources.

The current agenda of civil society organisations in Poland has been influenced by the increase of Ukrainian refugees due to the ongoing war in Ukraine.

Endnotes

- 1** A citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. Such right shall also include receipt of information on the activities of self-governing economic or professional organs and other persons or organizational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the State Treasury.
The right to obtain information shall ensure access to documents and entry to sittings of collective organs of public authority formed by universal elections, with the opportunity to make sound and visual recordings.
Limitations upon the rights referred to in paras. 1 and 2 above, may be imposed by statute solely to protect freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State.
The procedure for the provision of information, referred to in paras. 1 and 2 above shall be specified by statute, and regarding the Sejm and the Senate by their rules of procedure.
- 2** Following the adoption of the Regulation of the President of the Council of Ministers in October 2020 on the detailed scope of activities of the Ministry of Digitisation, these tasks are also carried out by the Chancellery of the Prime Minister (OECD (2021) Better Governance, Planning and Services in Local Self-Governments in Poland).
- 3** *Article 74*
 1. Public authorities shall pursue policies ensuring the ecological security of current and future generations.
 2. Protection of the environment shall be the duty of public authorities.
 3. Everyone shall have the right to be informed of the quality of the environment and its protection.
 4. Public authorities shall support the activities of citizens to protect and improve the quality of the environment.