

# Info-brief: EUTR enforcement in Poland

The EU Timber Regulation (EUTR) is implemented in each Member State via national legislation and enforced by national authorities. This means that differences exist in penalty regimes and enforcement practices. It also means that the opportunities for EU (and non-EU) civil society to support enforcement differ. Here we provide key information on the Polish implementing legislation for the EUTR, as well as top-line information on the enforcement approach in Poland as of September 2017. This document is designed as a first point of reference – not a comprehensive source of information. It will be updated as new information becomes available.

## Implementation status

- Implementation through *Ustawa o lasach* (Forestry Law), which entered into force on 29 May 2015.
- Regional inspectors for environmental protection are the Competent Authority for all timber.

## Resources

- No recent public information available.

## Penalty regime

- Administrative sanctions may apply to an individual or legal entity that intentionally or negligently breaches the obligations of the EUTR. In particular, the CA may fine an individual or legal entity that:
  - Places illegally harvested timber on the market. Fines range from 20 000 PLN to 200 000 PLN (approx. 4700 – 47 000 EUR);
  - Does not exercise due diligence. Fines range from 500 PLN to 200 000 PLN (approx. 120 – 47 000 EUR); or
  - Does not maintain or regularly evaluate their due diligence system. Fines range from 500 PLN to 20 000 PLN (approx. 120 – 4700 EUR).
- Administrative fines may also apply to any individual or legal entity that:
  - Does not keep records of timber operators and traders for at least five years. Fines range from 500 PLN to 2000 PLN (approx. 120 – 470 EUR); or
  - Does not provide relevant information to the CA at their request. Fines range from 500 PLN to 2000 PLN (approx. 120 – 470 EUR).
- When determining the penalty amount, the CA assesses the type and extent of the breach, including its impact on the environment, the value of timber or timber products, current activities of the entity that committed the infringement and the consequences of the infringement.

## Checks by the Competent Authority

- No recent public information available.

## Substantiated concerns (SCs)

- No special form for SCs and no specific national rules on how the CA should handle a SC.
- NGOs can initiate proceedings against a person and can request to join an ongoing administrative proceeding if their organisational mandate is aligned to the case, and their participation is in the public interest. In these cases, NGOs participate with the rights of a party to the proceedings. This means they have the right to file complaints against a final decision of the authority, e.g. regarding fines.
- Authorities must handle complaints in a timely manner, preferably within a month after they are submitted (or two months if the matter is complex). The authorities have to reply and inform the complainant of the steps they will take to address the complaint.
- If an NGO's request to initiate or join proceedings is not processed within stipulated timeframes or not processed at all, the NGO can urge the authority to act by applying to the higher authority (the Chief Inspector of Environmental Protection). It has 7 days to decide if the application is justified. If it decides in favour of the NGO, a new time limit for the CA to issue a decision is set.

- The higher authority also decides on the complaint against a refusal to initiate proceedings by the CA. If it upholds the CA's negative decision, the NGO can appeal against it to the administrative court.

### Possibilities to challenge operators in legal proceedings

- The CA, as a public authority, is under a general obligation to notify the police or the prosecutor's office if it suspects a criminal offence has been committed.
- NGOs can file a criminal complaint directly to the police or the prosecutor's office if there are sufficient grounds for suspicion of a crime. The police/prosecutor's office must inform the NGO of its decision to initiate a criminal investigation within 6 weeks after the complaint is filed. If they decide against initiating proceedings, the NGO has 7 days to submit a complaint to the administrative court. If the decision is not communicated within 6 weeks, the NGO has the right to bring a case to the supervising prosecutor, who has 30 days to decide on it.

### Other key elements

- Domestic illegal logging is likely to be caught under the criminal offence of substantial damage to a plant or animal life, which is punishable by up to 5 years imprisonment. Furthermore, a person who logs trees illegally with the intention of acquiring timber or a person who acquires timber directly from the forest is always required to pay a fee similar to punitive damages in the amount of twice the value of the timber. Additionally, the perpetrator can be sentenced to short-term arrest or fine.
- Purchasing, helping to sell, accepting or helping to hide timber or timber products obtained as a result of a criminal offence is punishable under Polish criminal law. Sanctions vary from a fee to imprisonment for up to 5 years. This applies to both intentional and unintentional actions: if a person should or could have assumed, taking into account all circumstances, that the timber in question had been obtained as a result of criminal activity, they will face similar sanctions. Penalties for such cases can be as severe as in the case of intentional actions if the timber's value exceeds 200 000 PLN (approx. 47 000 EUR).
- In certain circumstances, a company may also be held liable and ordered to pay a fee similar to punitive damages if it benefited from criminal activities of its agent that were related to the company's business.
- No registration obligation for operators.

### Key implementation/enforcement strengths

- The CA cooperates with customs authorities, who provide quarterly reports on importers, and the volume, value and country of origin of the timber and timber products they import.

### Key implementation/enforcement weaknesses

- In case of EUTR-related sanctions, if the details of the case and the evidence indicate that violations have occurred as a result of events or circumstances which the fined persons could not prevent, the CA has to withdraw from imposing an administrative sanction.
- Pursuing a criminal case usually requires bringing evidence of intent of an individual. Corporate bodies can be prosecuted only under special regime after their agent is found guilty of a crime.

### Resource information

#### Law:

- [Ustawa o lasach](#) (Forestry Law), consolidated text of 10 December 2015
- [Kodeks karny](#) (Criminal Code), consolidated text of 29 July 2016
- [Kodeks wykroczeń](#) (Code of Offences), consolidated text of 4 August of 2015
- [Kodeks postępowania administracyjnego](#) (Administrative Procedure Code), consolidated text of 7 January 2016

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