

# 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 March 2019. 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 (CA) 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 500 000 PLN (approx. 4600 – 115 000 EUR);
  - Does not exercise due diligence. Fines range from 5000 PLN to 500 000 PLN (approx. 1150 – 115 000 EUR); or
  - Does not maintain or regularly evaluate their due diligence system. Fines range from 5000 PLN to 500 000 PLN (approx. 1150 – 115 000 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 5000 PLN to 20 000 PLN (approx. 1150 – 4600 EUR); or
  - Does not provide relevant information to the CA at their request. Fines range from 5000 PLN to 20 000 PLN (approx. 1150 – 4600 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

- The Polish CA conducted 100 checks in 2016 and 115 checks in 2017. From January 2018, to September 2018, 80 checks were conducted by the Polish CA.

## Substantiated concerns (SCs)

- No special form for SCs and no specific national rules on how the CA should handle an SC.

## 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.

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### 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 illegally acquires timber directly from the forest is required to pay a fee, similar to punitive damages, of twice the value of the timber.
- 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 10 years.
- 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 13 November 2018
- Kodeks karny (Criminal Code), consolidated text of 21 August 2018
- Kodeks wykroczeń (Code of Offences), consolidated text of 26 March 2018

#### Competent Authority contact information:

Główny Inspektorat Ochrony Środowiska, Wawelska 52/54, 00-922 Warszawa | [gios@gios.gov.pl](mailto:gios@gios.gov.pl) | T: + 48 22 825 04 65 | Find the Competent Authority online [here](#)