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ENVIRONMENTAL POLICY OF THE EUROPEAN UNION AND ENVIRONMENTAL PROTECTION IN POLAND

Introduction

European Union's involvement in environmental protection, which was limited first, grew significantly in the mid-eighties. The Maastricht Treaty already gave a clear vision of ecological policy from the legal point of view and indicated the necessity of extending the scope of this policy over a wider geographical area. It became clear that in order to improve the existing environmental situation, a common policy should be applied not only within the entire Union but also in the neighbouring countries, above all those of Central and Eastern Europe. Participation of the Union in international conventions on environmental protection was guaranteed much earlier[1]. Now the Union is becoming increasingly involved in environmental protection on a global scale (e.g. protection of the ozone layer).

The Europe Agreement concluded between Poland and the European Union as an association agreement provides for convergence between the future legislation of our country with that of the EU. Among the fields subject to the process of harmonisation art. 69 lists regulations on environmental protection (also art. 80 – environment and art. 71 – cooperation in economy) and art. 72 (industrial

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[1] E.g. „Bonn Convention" of 23 June 1979 on preserving migrating species of wild animals, also „Berno Convention" of 19 September 1979 on preserving European wildlife and natural habitat in which the Community participates as a party. Comp. **A. Przyborowska-Klimczak**, Ochrona przyrody. Przyrodnicze obszary chronione, Biała Księga, Polska – Unia Europejska, Seria: Prawo, nr 24, URM, Biuro Pełnomocnika Rządu ds. Integracji Europejskiej oraz Pomocy Zagranicznej, Warszawa 1995, p. 6-15.

cooperation). The processes of adjustment of the Polish law with the EU law on environmental protection have already started. However, according to most researchers these processes will require both a great deal of time and work[2]. Real cooperation between the EU and Poland in environmental protection at the stage of association and preparation of the basis for full membership requires also the recognition of the established EU principles of ecological policy and the binding environmental action programmes. Although crucial to this process, the legal regulations are merely an instrument for carrying out a defined policy.

It is also necessary to recognize the barriers to the realisation of the Union's ecological policy objectives and to define the effectiveness of instruments of environmental protection. It is probable that some of these barriers limit the effectiveness of activities designed to improve the quality of Poland's environment or will do so in the future.

1. Origins of the European Union ecological policy

The EU ecological policy has been developing for nearly 20 years. Many difficulties and problems have occurred in the course of its implementation and the search for legal solutions. However, we can now say that a system of ecological law has been created. This system is visible in many other legal spheres of the Union including its economy. This process has resulted in the emergence of Community's regulations not only referring to economic entities but also to particular elements of the environment[3].

The Treaty of Rome of 1957 establishing the European Economic Community did not contain any direct regulations related to environmental protection. However, by the end of the sixties the Community had recognized the need to create common standards of consumer protection in order to ensure a free flow of goods between member states and at the same time to prevent environmental threats and degradation due to the flow of chemicals, fuel-powered vehicles and detergents. The global extent of environmental degradation became visible at the beginning of the seventies. In 1972, during the first UNO conference on the environment, the EEC had to engage itself in environmental protection as a supranational or-

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[2] Comp. **J. Sommer**, Prawo Wspólnot Europejskich w zakresie ochrony środowiska a prawo polskie. Środowisko naturalne człowieka, Biała Księga. Polska – Unia Europejska, Seria: Prawo, nr 25, URM Biuro Pełnomocnika Rządu ds. Integracji Europejskiej oraz Pomocy Zagranicznej, Warszawa 1995, p. 113-118.

[3] Prawo ochrony środowiska Wspólnoty Europejskiej. t. 1: Zagadnienia ogólne; Ministerstwo Ochrony Środowiska, Zasobów Naturalnych i Leśnictwa, Warszawa 1994, p. VII.

ganisation, mainly due to political reasons. In the same year the Community devised the First Environmental Action Programme which defined the principles and priorities of environmental protection for the future. Since then EU ecological policy has been developed through formulation of successive five – or six-year Action Programmes (EAP). The fourth programme covered the years 1987-1992 and the current fifth programme has been extended over the years 1993 - 2000[4].

The EAPs are not a set of legal regulations in the strict sense of the word, they have the character of resolutions without binding force. They only define the principles and point out the directions of activities which should be taken up to achieve the desired objectives. The EAP principles are carried out through various kinds of Union legal acts (resolutions, decisions and directives) the incorporation of which into the legal systems of particular member states is differentiated[5]. This paper will only give a wider presentation of EAP IV and EAP V. It must be underlined, however, that the main principles of environmental protection were already defined in the initial Programmes and that they were incorporated in each of the subsequent ones.

Today the following principles are listed among the fundamentals of the EU ecological policy[6]:

1) The principle of prevention; prevent is better than cure.

2) Environmental effects should be taken into account at the earliest possible stage in decision making.

3) Any exploitation of natural resources which causes significant damage to ecological balance must be avoided. It is an asset which may be used but not abused.

4) Scientific knowledge should be improved to enable action to be taken.

5) The "polluter pays principle": the costs of preventing and eliminating destruction must be borne by the polluter, although some exceptions are allowed.

6) Activities carried out in one Member State should not cause deterioration of the environment in another.

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[4] Main assumptions of the particular Programmes of Action are generally discussed in the Polish literature comp. e.g. **J. Ciechanowicz, J. Gwizdała**, The Membership of Poland in the EU and Eco-Development, Paper at An International Conference "The Assessment of the Implementation of Europe Agreement in Poland", Research Centre on European Integration, University of Gdańsk, Gdańsk, October 1995. Comp. also Prawo ochrony środowiska Wspólnoty, p. IX-XVI, here also full text of the 4th EAP, p. 89-166.

[5] Comp. **J. Sommer**, op.cit, where directives of the EU ecological law are discussed; also: Prawo ochrony środowiska Wspólnoty, where both directives, main acts and resolutions are presented.

[6] According to **A Gouldson**, The Development of EC Environmental Policy, Forum Ecology-Industry, Bradford, 7.09.1993 and Prawo ochrony środowiska Wspólnoty, p. XXII.

7) The effects of environmental policy in the Member States must take account of the interests of developing countries.

8) The Community and the Member States should act together in international organizations and in promoting international and world-wide environmental policy.

9) The protection of the environment is a matter for everyone.

10) The principle of the appropriate level. In each category of pollution, it is necessary to establish the level of action (local, regional, national, Community, international) best suited to the type of pollution and to the geographical zone to be protected.

11) National environmental policies must be coordinated within the Community without hampering progress at the national level.

Some of these principles, due to their significance to environmental protection, were expressed in the Single European Act amending the Treaty of Rome and being in force since July 1987. It was assumed that "Community policy on the environment shall contribute to pursuit of the following objectives:

– preserving, protecting and improving the quality of the environment;

– protecting human health;

– prudent and rational utilisation of natural resources;

– promoting measures at international level to deal with regional or worldwide environmental problems[7]".

The Programme restates the principles of environmental protection included in the Single European Act:

1) to take up preventive measures and to rectify damage at source,

2) the polluter should pay,

3) environmental protection requirements will become a component of the Union's policies in other fields and

4) the member states will cooperate with third countries and relevant international organisations.

The Programme is to be convergent with the principle of subsidiarity. In fact this has only been implemented to a significant extent in environmental protection[8].

According to the EAP in question the activities of the Community were to take into account:

1) the condition of the environment in different regions of the Community,

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[7] Article 130r, Title XVI – Environment, European Union, Selected Instruments Taken from the Treaties, Book 1, ECSC-EC-EAEC, Brussels, Luxembourg 1995, p. 297. See also: art. 100a, 130s and 130t.

[8] Dział VII, art.130r, ust. 3 i 4 Jednolitego Aktu Europejskiego, in: Prawo ochrony środowiska Wspólnoty, p. 81, 165-166.

2) potential advantages and costs of activities for environmental protection or effects and costs of resignation from them,

3) economic and social growth of the Community as a whole and a balanced development of its regions.

At the same time – according to the principle of subsidiarity – the Community is to undertake environmental action only when the environmental objectives could be achieved better at the Community level than at the level of the member states. In all other cases action should be taken at lower levels.

This principle provided the member states authorities, regional authorities or even the local ones with greater possibilities to take concrete actions aimed at environmental protection. The principle is convergent with a more general principle "think globally and act locally" for the sake of the environment. The main effect of the principle of subsidiarity or so its authors assumed, was to accelerate environmental decision-making. However, since this principle is not precise enough (it lacks detailed regulations) contradictions and conflicts of interest may appear between particular members of the Union. This can particularly refer to the problems of trans-border movement of waste and dangers related to waste storage which were not fully explained in the Programme.

The fourth EAP also assumed that environmental protection can accelerate economic growth and favour job creation. It was the first assumption of this kind in the Union's programmes for environmental protection. This approach was justified in the annexe to the general principles of the fourth EAP[9]. The suggested actions, which were to prevent job cuts and counteract decline in other macroeconomic indicators of regional development were very general and probably insufficient.

As regards the implementation of principles and realization of the established goals of environmental protection, the fourth EAP concentrated on legal instruments, possibilities of taking directives while maintaining the principle of unanimity and extending these directives over the national legislation of Union members[10]. Much less attention was paid to the economic instruments of environmental protection which may have guaranteed competitiveness of ecological products.

The analysis of the fourth EAP together with its annexes makes it possible to state that since 1987 the EU ecological policy has entered a new stage of development and become more significant while its implementation was accelerated.

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[9] See Prawo ochrony środowiska Wspólnoty, p.104-109.

[10] See Prawo ochrony środowiska Wspólnoty, p. 93-103, 106. See also **J. Ciechanowicz, J. Gwizdała**, op.cit., p. 9, where it is said that inadequate incorporation of the law still remained an unsolved problem in the 4th EAP.

What makes the Programme significant is that it pays attention to the positive relations between protection of the environment and economic growth and that it definitely advocates the necessity of introducing more rigorous standards of environmental protection, not only from the ecological but also the economic point of view. The Programme was realized in the period after ratification Single European Act but before Maastricht Treaty. Theoretically this offered great possibilities for introducing uniform standards of environmental protection over a large area. However, the Programme did not specify concrete actions in this field.

A significant achievement as regards environmental protection was the establishiment in 1990 of the European Environment Agency and the information network for monitoring the environment[11]. The task of this agency was to ensure objective, reliable and comparable information on the state of environment to the Union and its member states. At the same time the Agency was to secure the necessary scientific and technological support to monitor changes occurring in the environment. The decision where the Agency was to be located (Copenhagen) was made in October 1993 and at that time the act on its establishment came into force. The real work of the Agency only started in 1994 and its first materials were published one year later.

2. The Union's ecological policy after 1992 – initial assessment of its effectiveness

The fifth EAP[12] entitled "Towards sustainability" started in 1993 is of a slightly different nature than the previous programmes. It was formulated when the Union was granted considerable competence in the field of environmental protection, guaranteed by the Single European Act and confirmed by the Maastricht Treaty. It is a long-term strategy of environmental protection in order to achieve sustainable growth of the Union. In a simplified approach "sustainability" means continued economic and social development without detriment to the environment.

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[11]Directive of the EEC Council/1210/90 of May 1990 (Polish translation), see Prawo ochrony środowiska Wspólnoty, p. 167-179. Directive are considered as binding and applied directly in all member states. Directive on the establishment of EEA complied with regulations of the 4th EAP on increasing the range of information necessary to carry on actions for the sake of environmental protection.

[12]Towards Sustainability: A European Community Programme of Policy and Action in Relation to the Environment and Sustainable Development, Commission of the European Communities COM (92) 23 final, EC Brussels, 1992. See also: **D. Fleming**, The Fifth EC Environmental Action Plan, in: European Environment Special Supplement 1993, vol. 3.

This growth requires that the current use of the environment and its resources should not be a barrier to the development of future generations.

The most important point of the fifth EAP is that it definitely pays more attention to the implementation of various economic instruments and "backing horizontal instruments" (scientific research, ecological education, information) and also extended financial mechanisms (structural funds) into environmental protection. In the previous programmes legal instruments played the most important role. The change in approach to the tools of the Union's ecological policy was possible after the basic principles of environmental protection had been guaranteed in the European treaties. It must be emphasised, however, that the Maastricht Treaty on European Union changed some of the articles of the Single European Act.

The most significant resolutions include[13]:

– a commitment to sustainable growth respecting the environment. This commitment can be understood as the most important objective of ecological policy;

– extension in the use of qualified majority voting for decisions about environmental legislation in the Council of Ministers instead of unanimous voting. This change is assumed to prevent delays in pro-ecological solutions caused by some members of the Council and to therefore accelerate decison-making;

– extending the principle of subsidiarity (previously limited to ecological policy) over the remaining areas (sector policies) of the Union. This gives better possibilities for local and regional authorities to make pro-ecological decisions but on the other hand involves the previously mentioned threats;

– the principles of ecological policy contained in the Single Act were supplemented by the precautionary principle which assumes that measures should be taken to protect the environment from potential damage, without clear scientific evidence being required.

The fifth EAP distinguishes five basic sectors of ecological policy, so called target sectors: manufacturing, industry, energy, transport, agriculture and tourism. Each sector was offered a series of actions at the entire Union level and at the national levels. For example, for the sector of industry these actions covered improvement of strategic planning, extended evaluation of the influence of undertakings on the environment, introduction of eco-management and monitoring of production processes as well as stricter standards for different commodities. Each sector refers to addresees and executors of the proposed actions. According to the principle of shared responsibility these may be: enterprises (of different

[13]See: **P. Barnes**, Environmental Policy, The European Union and The 1996 IGC. Crisis or Opportunity? Environmental Policy, A Discussion Paper of the Jean Monnet Group of Experts; Hull 1994, p. 2-3.

scale), consumers, non-government organisations, representatives of institutions responsible for implementation of the Union's activities, representatives of the Commission and member states.

Having defined the tasks for the main agents responsible for environmental protection, the Programme sets basic goals to be achieved for specific parts of the environment. It can be assumed that the Union's ecological policy will concentrate on these environmental problems in the nearest future. The following problems have been distinguished: counteracting changes in the climate and destruction of the ozone layer, improvement of air quality, protection of natural resources and preservation of biological variety, protection and management of water resources, urban environment, noise, coastal areas and waste management. The objectives (e.g. how much greenhouse gases emission is limited within a certain period of time) are formulated both at the Union level and at the level of its member states. Such an approach results from the different environmental conditions of particular regions and from a differentiated level of development in the member states. It is also convergent with the principle of subsidiarity. In contrast to previous programmes, the current Programme pays more attention to the protection of atmosphere.

Provisions on the development and dissemination of defined instruments of ecological policy constitute a separate part of the Programme. This part of the Programme contains both purely economic instruments (e.g. a tax on carbon dioxide emissions per unit of energy, rights to emit polluting substances, grants, loans, bank guarantees and subsidies) and supportive instruments (assuring access to information on the environment[14], support for scientific research and environmentally neutral technologies, spatial planning, wider education, building up ecological awareness and pro-ecological administration). The Programme indicates wider possibilities of using structural funds as well as the new Cohesion Funds. There is also a special Programme LIFE (The Community Financial Instrument for the Environment) which could assure better coordination of the use of the Union's structural funds for environmental protection. The final part of the Programme deals with the Union's cooperation proposals at the international level as well as bilateral cooperation including the countries of Central and Eastern Europe, the latter defined in PHARE and TACIS.

Before evaluating the Union's ecological policy, and above all the implementation of the current environmental action programme, it is worthwhile to quote the features of this programme, as defined by A. Gouldson[15]:

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[14]Europejska Agencja Ochrony Środowiska began to operate in 1994, i.e. in the period covered by the 5th Programme.

[15]**A. Gouldson**, op. cit., p. 3.

– Rather than concentrating on environmental controls, its objective is to promote sustainable development;

– Instead of just trying to solve problems of pollution and environmental damage, it aims to change the patterns of human consumption behaviour which cause these problems;

– Rather than relying on legislative controls, the programme is based on the concept of shared responsibility on the part of all the principal groups in of society (administrations, enterprises, consumers and the general public);

– It will seek to promote such a sharing of responsibility through implementation of a broad range of instruments including legislation, market related measures, financial support mechanisms and information (education) training.

The Maastricht Treaty and the 5th Environmental Action Programme both require that environmental policy should be fully incorporated into all other Community policies.

The ecological policy of the EU was frequently criticised and although "in principle" the necessity of environmental protection was unquestioned, it was treated as the "Cinderella" of Community policies[16]. First of all its effectiveness and the extent of the implementation of its regulations and solutions were severely criticised.

Part of the problems related to the implementation of the Community's ecological policy was identified in the course of preparation of the 5th EAP in 1991. The difficulties resulted from[17]:

– lack of internal coherence of ecological policy revealed in the changes of goals set in the assumptions of successive programmes of actions and ad hoc development of eco-legislation;

– too narrow range of proposed instruments for implementing the policy, command and control type tools dominating;

– requirement of unanimous voting in the Community's Council of Ministers while making eco-decisions this caused a lot of compromises hindering further realisation of the goals;

– using directives as a principal instrument of ecological policy, which led to many problems (a long-lasting process of incorporation into the legal systems of the member countries) and inconsistency in their interpretation;

– improper eco-management at all administrative levels, from the Union to the local authorities level.

The intention of the authors of the 5th EAP was to eliminate these difficulties in implementing ecological policy in the proposed solutions of the programme

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[16]See **A. Syngellakis**, EC Environmental Policy in 1992 and Beyond: Economic Growth Versus the Environment? Journal of Area Studies, Issue 1992, no. 1, p. 125-143.

[17]Comp. **D. Flemming**, op. cit., p. 18-19.

for the years 1993-2000. At least some of these difficulties were eliminated (e.g. resignation from unanimous voting to qualified majority voting, substitution of directives with instructions, acceptance of a superior, long-term eco-policy objective – sustainable growth), but the remaining problems require additional regulations, and above all a longer period to state whether the proposed solutions are effective.

It seems, however, that further threats to realisation of the superior objective of eco-policy can be pointed out. Some of them are identified by Pamela Barnes[18]. The most important of these are:

1) Despite the rhetoric declarations of the Treaties on sustainable growth these declarations are not apparent for decision makers both in the sphere of politics and economics. Environmental protection is still treated rather as an add-on to economic policy than an integral feature, both at the Union and member states. Despite numerous attempts made from the mid-eighties onwards, it was not possible to achieve real integration and coherence of ecological policy with other policies of the Community.

2) The principle of subsidiarity was extended over other areas but the absence of clear regulations as regards its practical application can result in the fact that differentiated ecological standards of the member states will be a threat to the free market of the Community.

3) Enlargement of the Union anticipated for the nineties will reveal further problems with the unification of ecological standards. In 1995 the Union was joined by Austria, Finland and Sweden, countries where environmental standards are strict (but differentiated) and where specific eco-solutions are applied. Moreover, the possibility of the erosion of high environmental standards was a major factor influencing the vote of the Norwegians against joining the Community. High ecological standards which are in force among the new members are obviously favourable for environmental protection but they also carry a threat of conflicts with the already existing solutions, a threat of formulating specific objectives of environmental protection and transfer of financial means to other fields of activities within a short period of time. On the other hand, the anticipated enlargement of the Union to the area of Central and Eastern Europe, where there is a severe degradation of the environment and where environmental costs of production are high, can result in the necessity of using specific solutions, lowering ecological standards and allocating more means for protective activities in this region.

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[18]See **P. Barnes**, Environmental Policy, p. 4-9, comp. also **P. Barnes**, Industrial Competitiveness and the Environment: The Need for EU Policy Integration, European Environment, vol. 3, 1993, p. 11-15.

4) Differentiated levels of economic growth and the increasing unemployment rates in many regions in the first half of the nineties are responsible for the domination of short-term economic goals over a long-term objective of sustainable growth. A dominating problem in regional development strategies is elimination of unemployment, creation of new jobs or saving the existing plants from being closed down. Above all it is important to prevent the decline in other macroeconomic indicators over a short period of time in less developed member states and in those which aspire for the membership in the Union (among these indicators, apart from the rate of unemployment, the rate of inflation and the amount of public debt are mentioned). Due to political reasons local administration is first of all interested in achieving spectacular quick effects in its economic objectives and it does not always perceive the links between the quality of the environment and the possibilities of development. However, the job creation potential of the "eco-industry", suggested in the previous EAPs has now been recognised. New pro-ecological technologies, however, are not able to liquidate the structural unemployment which appears in many underdeveloped regions. Moreover, these new technologies carry a heavy burden for research and development and require substantial investment outlays.

5) Persisting concern that protection of the environment can be a barrier to the functioning of the common market within the Union. Eco-regulations and standards of the member states can be (and at least partly are) actually used as subtle tools of protecting national industries. Thus, to a certain extent they distort the free market through creation of non-tarrif barriers to trade (e.g. chemical industry products, regulations regarding packaging in Germany, some products in the food industry and biotechnological products).

6) Lack of sufficient convergence between industrial policy and eco-policy, which prevents industrial plants from taking up pro-ecological actions but makes them realise short-term goals aimed at maximization of profit. This is particularly true for small and medium size enterprises. Increases in the costs of production in environmentally friendly technologies over a short period of time as well as unreliable and hard to quantify long-term advantages are frequently the reasons for abandoning pro-ecological actions. Pro-ecological behaviour can be forced by legal regulations (e.g. technological norms) but the effectiveness of such solutions, and above all administrative costs of their implementation, were frequently evaluated negatively. At the same time, the nineties have seen politicians trying to avoid imposing more rigorous eco-standards, fearing that the Union's industry will lose its competitiveness on the world market and thus hinder the rate of growth. Instead of legislative solutions the current Programme suggests that enterprises should voluntarily apply the principles of eco-management, eco-auditing and eco-labelling. All new industrial investments, in accordance with binding regulations must evaluate their impact on the environment. Simultaneously, the

Union does not implement any special consumption policy and ecological awareness of both consumers and entrepreneurs is very differentiated. The analysis of relations between industry and eco-policy permitted P.Barnes to formulate a thesis that if further actions are not taken up the integration of policies and the attempt to achieve sustainable growth of the Union can remain only a rhetorical, unreal declaration[19].

Following criticism of the implementation of eco-policy principles in the second half of 1995, the Commission of European Communities ordered an analysis which would identify the impact of the 5th EAP on the environment and evaluate the progress in attaining sustainable growth. In January 1996 the Progress Report on Implementation of the Programme[20] was submitted to the Commission. Until the end of this year proposals for improvement and acceleration of actions in favour of the environment are to be presented on the basis of the analyses.

The fifth EAP recognised that the road to sustainable development will be a long one. In its assumption the Programme was to initiate changes in the behaviour and trends of growth at the Community level, at the level of the member states, in the world of business and also at the level of ordinary citizens. Evaluation of the effectiveness of suggested solutions is very difficult, mainly due to the fact that the objectives were not well defined in operational terms and actions are foreseen at a number of different levels. Moreover, evaluation of the possibilities of the Programme's implementation is rather difficult because the time span is too short and sustainable growth is in its initial phase.

As regards progress in environmental protection, the main conclusion of the Report expresses cautious optimism. However, progress in the realization of the main objective of the Programme is differentiated in different sectors and fields of activity.

A detailed analysis covers, in a more or less precise way, all fields and objectives mentioned in the 5th EAP. As a result, the progress report is a very elaborate document (it contains over 130 pages plus 2 annexes) and there is no need to discuss it in detail here. However, it is worthwhile to get familiar with the main conclusions of the evaluation and to compare them with the previously characterised barriers to the realisation of EU eco-policy.

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[19]See **P. Barnes**, Industrial Competitiveness, p. 11-12, 16.

[20]Progress Report from the Commission. On the Implementation of the European Community Programme of Policy and Action in Relation the Environment and Sustainable Development. "Towards Sustainability", Commission of the European Communities, Brussels, 1996, COM (95) 624 final. Also paper which is a basis for preparing the Connission's document: **K. Wieringa** (ed.); Report for the Review of the Fifth Environmental Action Programme, European Environment Agency in Cooperation with Eurostat, Copenhagen 1995.

The most important conclusions from the evaluation of actions as regards the protection of environment and achievement of sustainable growth are as follows[21]:

1) Integration of environmental considerations into the different target sectors has made progress but at varying speeds. If integration of environmental considerations is generally most advanced in the manufacturing sector where legislation has existed for twenty years and where the economic advantages were quickly seen, it is least apparent in agriculture and in tourism, for diametrically opposed reasons. Agriculture is a sector into which it is difficult to introduce fundamentally new directions, and from which nature conservation has been largely isolated. Tourism is a highly fragmented and diverse sector where a very large number of economic and other interests need to be reached before the effects of change can be felt. In the field of transport, awareness of the problems is increasing, progress is being made on vehicle emissions, fuel quality and technology, but the overall growth in the vehicle fleet negates progress. In the energy sector, although the environment is seen as part of the problem and of the solution, and despite the existence of potentially effective instruments to bring about change, what is missing is an incentive to move to a more sustainable approach. In both of the latter sectors, there has been progresss in dealing with isolated issues but it has proved difficult to deal with the more structural problems.

2) In relation to the specific themes of the programme, there has been progress in the right direction in a number of areas – reduction of ozone depleting substances, emissions of heavy metals and sulphur dioxide, improvements in approaches to nature protection, surface water quality, industry-related risks and waste. Particular attention now needs to be paid to developing improved approaches to climate change and acidification, urban issues, including air quality, noise and waste, together with a comprehensive strategy for ground water and surface water resources.

3) Broadening the range of instruments has proved more difficult than envisaged and the real issue for the future is how to build on experience to date and to get the mix right. Until the 5th Programme, environmental policy was overwhelmingly a matter of tackling a problem with legislation. Whilst the approach satisfied some, it was not fully effective and there is a recognition of the need to simplify regulations and make them more coherent. Regulation helped resolve some problems but it brought about the realisation that there were issues which could not be successfully treated in this way and which therefore needed other instruments to complement the command and control approach.

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[21]On the basis of: Progress Report, p. 3-6.

4) Market-based instruments are seen as the most important group of tools available for future action. Despite this, there has been very little progress on the development of market-based instruments at EU level despite successful experience in some Member States. A general problem is the difficulty of defining on a unanimous basis the frameworks within which they can operate without disturbing the workings of the internal market. The 1992 energy/CO_2 tax proposal is a point in case. The solution might be to create frameworks which allow member states to introduce such measures where necessary.

5) Whilst there have been improvements in ensuring better integration of environmental considerations into the use of the Community's financial support mechanisms, there is a continuing need to improve the evaluation of the impact of such funding to avoid unsustainable approaches.

6) There has been some progress in integrating environmental and sustainable development considerations into the whole range of EU research and technological development policy and actions. More needs to be done to build up and strengthen links between environment and research policies.

7) Experience demonstrates that, if there is an extra need, it is to improve to coherence of actions across the Union to build awareness and further develop the concept of shared responsibility in a more coordinated way. Above all, the individual citizen has to see the importance and the relevance of the process. One area where this may be important in the future is the urban context which mirrors a lot of the difficulties in achieving sustainability and where there are possibilities to look to a more interdependent coordinated approach to urban and land use problems involving a horizontal, territorial approach.

8) Changing attitudes has proved the most difficult task. However, some positive signs are noted in particular at local level. The work of ensuring acceptance of environmental policies and sustainable development involves more than getting instruments to work. It is also changing the way we live. It starts with providing the right information, from primary school to government administrations, it includes building the appropriate consensus and, for environment administrations in particular, being able to influence others. It should end in acceptance of the need for sustainable production and consumption patterns in the long run.

9) If the process of moving towards sustainability is to be successful, it involves increasing levels of awareness through better communication of the issues and the implications of particular types of action. Actors other than public authorities have an important role to play in this process.

The analysis of the progress in implementation of eco-policy in the first half of the nineties and the conclusions presented above and accepted by the Com-

mission of European Communities shows both success and failure on the road towards sustainable growth. Despite cautious optimism – presented in the official document – there seem to be more failure than success. Success was achieved in details or selected components of the environment rather than the whole system: natural environment – society – economy. Thus progress in one sphere (e.g. smaller SO_2 emission) can be reduced by a negative impact of pollution from other sources (e.g. emission of CO_2 and other greenhouse effect gases). In the sphere of industry progress can be reduced by e.g. a negative pressure of vehicle transport on the environment. Attention must be paid to the fact that the progress report practically ignores the considerable differences in approach to environmental protection and the idea of eco-development existing among the member states[22].

From the viewpoint of an economist the most important drawback is insufficient use of direct economic instruments and market mechanisms in environmental protection. The long-lasting discussion on introducing energy/CO_2 tax ended in a complete failure and no decision has been made so far. Such a tax would reflect to some extent environmental costs of production and energy use. Tradeable permits are also insufficiently used although they are successfully applied in the USA as a purely economic instrument which facilitates reconciliation between regional development and environmental protection. Nor have the market mechanisms been sufficiently worked out or properly implemented. An example can be eco-labelling for which no homogeneous principles of application have been established and which is frequently used not in accordance with (or to the detriment) the rules of environmental protection both in terms of consumer goods and packaging. Persistently insufficient use of ecological instruments contradicts the long established Polluter Pays Principle and ignores external environmental costs in the costs of production and consumption.

Among the most important achievements of the EU ecological policy carried out since the beginning of the seventies one can point to the higher ecological awareness of ordinary citizens and increased interest in environmental protection at the local administration level in many regions.

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[22]In Denmark effectiveness of the applied environmental protection instruments and progress in the eco-development ideas are positively evaluated, comp. **P. Christiansen, E. H. Nielsen**, Environmental Audtis, Clean Technologies and Environmental Protection, in: Denmark, European Environment 1993, vol. 3, part 2, p. 18-22. Proecological solutions in Germany are frequently compared to less effective solutions in Great Britain. See also **M. Wintle** (ed.); Rhetoric and Reality in Environmental Policy. The Case of the Netherland in Comparision with Britain, Avenburg Studies in Green Research, Aldershat, Brookfield USA, 1994, p. 1-8 and 118-143.

3. Bases of ecological policy in Poland

Ecological policy in Poland began to develop at more or less the same time as in the EEC, i.e. in the first half of the seventies. However, at least until 1990 it was subject to economic policy and partly to social policy[23]. Polish eco-policy was to a large extent passive and reactive (end of pipe character) and progress as regards improvement in environmental quality was forced by administrative decisions. Thus the effectiveness of actions was limited and environmental costs of economic growth (production and consumption) were very high as compared to West European countries (high consumption of energy, material intensity and generating of pollution, etc.).

Around 1990 ecological policy was distinguished from economic policy and in the mid-1991 the Polish Parliament approved an act on ecological policy[24]. This act assumes that the development of Poland should be convergent with eco-growth i.e. sustainable growth. At the same time it was assumed that growth should be based on the principles of a ecological-social market economy and that ecological criteria would have the same rank as economic ones. The only proposed and named instrument of ensuring eco-development is the plan of spatial development of the country.

Some trends of future actions have been determined. These actions were to take into account e.g.:

– urgent need to complete legislatory work on ecological acts and their execution;

– need to evaluate environmental losses seen as a basis for the future policy of fuel consumption, forestry, waste and sewage management, which should stimulate proecological behaviour of economic entities;

– increased share of the state budget in the financing of environmental protection;

– introduction of pro-ecological mechanisims into the tax system;

– initiating work on the promotion of pro-ecological technologies of production;

– establishment of principles for granting licences to use natural resources, including the obligation to recycle raw materials, as well as several other (13 points altogether), unfortunately even more general. If the actions regarding these

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[23]Comp. **K. Górka, B. Poskrobko, W. Radecki**; Ochrona środowiska. Problemy społeczne, ekonomiczne i prawne, PWE, Warszawa 1995, p. 67-70.

[24]Resolution of the Polish Parliament of 10 May 1991 on ecological policy, Monitor Polski, nr 18, item 118 and resolution of the Polish parliament of 10 May 1991 on realisation of act concerning protection and development of environment, Monitor Polski, nr 18, item 119.

trends are to be effective, they should be given concrete character both in the strategy of the country's development and at the level of particular economic spheres and projects.

Out of the trends of eco-policy mentioned in the act so far practically none have been fully realized. At the same time part of the proposed trends was contradictory to the general principles which were assumed initially and which were taken over from EU ecological policy. For example, eco-development was supposed to be based on market economy principles and the share of the state budget in the financing of environmental protection was supposed to be higher. However, statistics for the years 1992-1995 show that enterprises and local authorities are much more involved in the financing of pro-ecological solutions from their own means. Thus reality has modified the unreal assumptions of the parliamentary act. Legislatory actions mentioned in the act were limited to approving the act on environmental protection (seen as a novelty) and the act establishing the controlling body responsible also for environmental monitoring[25]. Practically no attempt has been made to introduce pro-ecological mechanisms into the tax system. At the same time the Polish systems of charges for economic exploitation of the environment (not so widely applied in the Union) are of limited effectiveness and they actually have so far not stimulated pro-ecological behaviour of economic entities.

The second resolution on the realisation of the act on environmental protection and development approved at the same time by the parliament was also of a very general nature and did not increase effectiveness of the actions. In both of the above-mentioned acts the parliament asked the government to take up certain activities (e.g. review of the applied legal-administrative mechanisms ensuring effective observation of the law). The political situation, particularly frequent changes of governments and premature elections did not favour concrete actions but merely repeated declarations.

Surprisingly, under such seemingly unfavourable conditions the negative impact of the economy on the environment began to diminish. For example there was a decline in air pollution (SO_2 emission in the years 1980-1994 dropped by 34% and NO_x – by 13%). The rate of decline was the highest in the period of economic breakdown when production declined and emission of certain gases was stabilised or gradually growing (e.g. NO_2 emission from mobile sources has been rising since 1992). There has also been considerable involvement from local admi-

[25]Act of 16 October 1991 on protection of natural resources; Dz.U. nr 114 (1991), item 492 and Act of 20 July 1991 on state Inspection of Environmental Protection, Dz.U. nr 77 (1991), item 335. But the Act of 31 January 1980 on the protection and development of environment is still binding in Poland, Dz. U. nr 49 (1994), item 196.

nistration in solving environmental problems, mainly as regards water economy. Substantial means from the local budgets are allocated for the construction of local sewage purification plants and for improving the aesthetics of the landscape. A gradual improvement in the air quality , in certain elements of surface waters and soil is also evident but to a smaller extent. However, there still exist regions in Poland (mainly industrial ones) where degradation of the natural environment is substantial, which significantly lowers the living standard of the population. There are also spheres of activity where no progress has been made or where environmental conditions have become worse. Waste management, transport and partly energy are also examples of sectors where eco-problems have not been solved (also as regards legislation).

Generally, the ecological awareness of the population is considered to be higher. This is only partly true – because as a rule it is a passive awareness, sufficient to become interested in environmental problems but insufficient to engage energy and means in environmental protection.

It seems that further improvement as regards implementation of eco-policy in Poland requires more complex solutions which would introduce ecological criteria to all economic spheres and that these criteria would be as important as the economic ones. So far such solutions have not been proposed. The idea of eco-development of the Polish economy presented by M. Nowicki[26] was not supported by a sufficiently concrete programme of action and the proposed instruments of its realisation, particularly economic mechanisms are too general and simplified. G. Kołodko's medium-term programme of socio-economic development of the country which can be treated as the programme of Poland's economic policy completely ignores the problems related to ecological criteria of development[27].

Final remarks

Although realisation of ecological policy in Poland is much less advanced than in the EU, barriers to the implementation of eco-principles identified here are to a certain extent comparable. Being well-developed, environmental protection in the EU also reveals uneven progress and insufficient complexity of ecological

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[26]See **M. Nowicki**, Strategia ekorozwoju Polski, Agencja Reklamowo-Wydawnicza A. Grzegorczyk, Warszawa 1993, p. 31-74. In the years 1991-1992 the author was the minister of Protection of Environment, Natural Resources and Forestry.

[27]**G. Kołodko**, Strategia dla Polski, Poltex, Warszawa 1994. The author has been Deputy Prime Minister and Minister of Finance from may 1994 to fabruary 1997.

actions. Attention should be paid to the fact that an essential barrier to the realisation of environmental protection programmes and to achieve sustainable growth in the EU is insufficient convergence and cohesion of the sector policies and a too slow and insufficient application of economic instruments and market mechanisms. It seems that the same mistakes are being repeated in Poland.

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