



MINISTERSTWO ENERGII

Report on the implementation of the National Policy Framework for the Deployment of  
Alternative Fuels Infrastructure

Approved by the Council of Ministers on 25 October 2019.



## **Introduction:**

Monitoring achievement towards the objectives set out in the National Policy Framework for the Deployment of Alternative Fuels Infrastructure, hereinafter referred to as the “National Policy Framework”, which was adopted by the Council of Ministers on 29 March 2017, as well as assessing attainment of these objectives by the Minister of Energy, ensue from Directive of the European Parliament and Council 2014/94/EU of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1), hereinafter referred to as “Directive 2014/94/EU”, and from the Act of 11 January 2018 on electromobility and alternative fuels (Journal of Laws 2019, item 1124, as amended), hereinafter referred to as the “Electromobility Act”.

The National Policy Framework is a key strategic document created to support the development of the market and infrastructure for alternative fuels, including electricity, CNG and LNG, and hydrogen used in road and water transport. The National Framework sets quantitative targets for the construction of normal power or high power recharging points, CNG and LNG refuelling points and for the vehicle fleet.

Monitoring achievement towards the objectives set out in the National Policy Framework is based on data obtained, *inter alia*, from:

- The European Alternative Fuels Observatory,
- The European Automobile Manufacturers’ Association,
- The Register of Alternative Fuels Infrastructure,
- own studies.

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## **1. Assumptions underlying the National Policy Framework.**

The Electromobility Act and the National Policy Framework implement Directive 2014/94/EU, which requires Member States to develop alternative fuels infrastructure. States should ensure the deployment of electric vehicle recharging points, CNG and LNG refuelling points, and LNG bunkering points. The Directive also puts Member States under an obligation to adopt technical specifications, harmonised rules for recharging electric vehicles, and rules on consumer information, as provided for by the Directive.

Directive 2014/94/EU requires that Member States develop national policy frameworks. The document represents a strategy that sets the goals for developing the market and infrastructure for alternative fuels in transport. In line with the requirements of Directive 2014/94/EU and the anticipated development of the alternative fuels market in Poland, the document sets the goals for EV recharging, natural gas vehicle refuelling and natural gas bunkering infrastructures. Pursuant to Article 3 of Directive 2014/94/EU, the National Policy Framework includes an assessment of the current state and future development of the market as regards alternative fuels in the transport sector, as broken down into electricity, LNG and CNG, and other alternative fuels. The Framework also presents the legal aspects of the alternative fuels market and the development objectives for the alternative fuels market.

The National Policy Framework sets the targets for the deployment of alternative fuels infrastructure, according to which, by the end of 2020, 32 Polish agglomerations are to be provided with:

- 6000 normal power recharging points,
- 400 high power recharging points,
- 70 CNG refuelling points.

In addition, by 2025, alternative fuels infrastructure is to be developed on the TEN-T networks. The following are planned:

- construction and deployment of 14 public LNG refuelling points,
- construction and deployment of 32 public CNG refuelling points,
- Provision of bunkering services in the ports of Gdańsk, Gdynia, Szczecin, and Świnoujście.

## **2. Degree of attainment of National Policy Framework targets.**

As at the end of August 2019, in Poland, there were:

- 1128 normal power recharging points,
- 483 high power recharging points,
- 28 CNG refuelling stations.

and the following were in use:

- 4178 electric vehicles,
- 2494 plug-in hybrid vehicles,
- 4900 CNG-powered vehicles.

Notably, in 2016, there were 290 normal power recharging points and 34 high power recharging points nationwide, which means an increase in the number of the former by 288.97%, and in the latter by 1320.59%.

This also means that the target of 400 high power recharging points has been achieved.

As regards CNG refuelling stations, there were 26 of them in 2016, which indicates a growth of 7.69%.

## **3. Information about direct support instruments used, in particular tax instruments and non-financial incentives to purchase vehicles powered by alternative fuels or to develop infrastructure for such fuels.**

The Electromobility Act is the principal legislative act that governs the deployment of electromobility and alternative fuels. It sets out the rules for the deployment and operation of infrastructure for the key alternative fuels in transport, including public transport infrastructure, the obligations of public entities related to the development of the electromobility market, alternative fuels-related information obligations, conditions applicable to low-emission transport zones, and the principles underlying the preparation and content of the National Policy Framework. The above Act is the first item of legislation which sets forth comprehensive principles for the operation of the market. The Electromobility Act defines and partly incorporates into the Polish legal order the key concepts relevant for developing the alternative fuels market and infrastructure, which responds to one of the key barriers to the development of an alternative fuels market in Poland, namely the absence of normative

definitions. Thus, the Electromobility Act has introduced new concepts, including, *inter alia*, recharging of EVs, alternative fuels, recharging point, recharging station, natural gas refuelling station, public recharging station operator, natural gas refuelling station operator. The terms defined by the Act are consistent with Directive 2014/94/EU, which will be useful in measuring progress towards the objectives of the Directive and the National Policy Framework.

### **Tax and financial incentives.**

#### 1. Excise duty exemption for electric vehicles.

Pursuant to Article 85(2) subparagraphs 1 and 2 of the Electromobility Act, Article 109a and Article 163a of the Excise Act of 6 December 2008 (Journal of Laws 2019, item 864, as amended), which provide for excise duty exemptions, apply to electric vehicles, hydrogen-powered vehicles, and plug-in hybrid vehicles for which the excise duty obligation arose after 18 December 2018. At the same time, the exemption will apply to plug-in hybrid vehicles until 1 January 2021.

#### 2. Deductibility of depreciation charges.

Pursuant to Article 85(1) subparagraphs 1 and 2 of the Electromobility Act, Article 23(1) subparagraph 4 of the PIT Act of 26 July 1991 and Article 16(1) subparagraph 4 of the CIT Act of 15 February 1992, increased depreciation rates may be applied for electric vehicles put into service after 18 December 2018.

#### 3. Establishment of the Low-Emission Transport Fund.

The Low-Emission Transport Fund, hereinafter referred to as “the Fund”, was established by the Act of 6 June 2018 amending the Act on biocomponents and liquid biofuels and amending certain other acts (Journal of Laws 2018, item 1356 and 2533, and of 2019, items 412 and 1527), hereinafter referred to as the “LETf Act”.

Support from the Fund will be available both for initiatives related to electromobility deployment and for transport based on alternative fuels, such as CNG, LNG, and hydrogen. The LETf will finance projects referred to, *inter alia*, in the Electromobility Development Plan for Poland, the National Policy Framework, and the Electromobility Act.

The scope of projects eligible for funding is very wide, with support available, *inter alia*, for entrepreneurs that build recharging and refuelling points for vehicles powered by alternative fuels, manufacturers of environmentally-friendly vehicles, local governments investing in clean public transport, producers of biocomponents, and entities intending to buy new zero- and low-emission vehicles.

The Fund is disposed of by the Minister of Energy, and managed by the National Fund for Environmental Protection and Water Management. Bank Gospodarstwa Krajowego, which provides banking services for the Fund, is the third participant that supports the Fund's operation.

The benefits to be produced by the Fund are as follows:

- (a) development of infrastructure for recharging EV and for refuelling natural gas, liquid biofuels, and other alternative fuels;
- (b) opportunities for putting in place new business models as regards electromobility;
- (c) development of zero- and low-emission vehicle fleets and public transport;
- (d) decrease in the cost of using vehicles based on alternative fuels for the public;
- (e) improved air quality resulting from reduced emissions of harmful substances from road vehicles, especially in large agglomerations.

The Ministry of Energy is currently working on implementing acts for the Act establishing the Fund. The launch of the first round of competitive procedures has been scheduled for the second half of 2019. By the end of 2027, the resources available to the Fund will have amounted to more than PLN 6.7 billion.

Pursuant to Article 28ze of the LETF Act, the Fund's resources are allocated for:

- (1) supporting investments related to the production of biocomponents, liquid biofuels, and other renewable fuels;
- (2) supporting the construction or development of infrastructure for the distribution or sale of compressed natural gas (CNG) or liquefied natural gas (LNG), including that derived from biomethane, or for the distribution and sale of hydrogen, or the construction or development of infrastructure for recharging electrical vehicles, used in transport;
- (3) assistance for manufacturers or producers of biocomponents, liquid fuels, liquid biofuels, other renewable fuels, compressed natural gas (CNG), or liquefied natural gas (LNG), including that derived from biomethane, used in transport;
- (4) supporting:



- (a) producers of vehicles powered by electricity, compressed natural gas (CNG), or liquefied natural gas (LNG), including from biomethane, or hydrogen,
- (b) entrepreneurs within the meaning of the Entrepreneurs Law of 6 March 2018 who/which run a business operation involving the production of vehicle components, as referred to in point (a) and;
- (5) supporting public transport based on liquid biofuels, other renewable fuels, compressed natural gas (CNG) or liquefied natural gas (LNG), including from biomethane, hydrogen or electricity, especially in urban agglomerations, health resorts and nature conservation areas delimited pursuant to nature protection laws;
- (6) subsidising port fees charged for the mooring of vessels propelled by compressed natural gas (CNG), or liquefied natural gas (LNG), including that derived from biomethane, or by hydrogen, or powered by electricity;
- (7) supporting:
  - (a) research aimed at developing new types of biocomponents, liquid biofuels, other renewable fuels, or the use of compressed natural gas (CNG) or liquefied natural gas (LNG), including that derived from biomethane, or hydrogen, or electricity, used in transport, or at developing new design-related solutions in this area,
  - (b) operational implementations of the outcomes produced by the research referred to in point (a);
- (8) supporting educational programmes intended to promote the use of liquid biofuels or other renewable fuels, compressed natural gas (CNG) or liquefied natural gas (LNG), including that derived from biomethane, or hydrogen, or electricity, used in transport;
- (9) supporting the purchase of new vehicles and vessels powered by liquid biofuels, compressed natural gas (CNG), or liquefied natural gas (LNG), including that derived from biomethane, or by hydrogen, or powered by electricity;
- (10) supporting analyses and research of the market for biocomponents, liquid fuels, liquid biofuels or other renewable fuels, or the use of compressed natural gas (CNG) or liquefied natural gas (LNG), including that derived from biomethane, or hydrogen, or electricity, used in transport;
- (11) promoting the production and use of biocomponents and liquid biofuels;
- (12) supporting the purchase of new M1 category vehicles, as referred to in Annex 2 to the Road Traffic Law of 20 June 1997 (Journal of Laws of 2018, item 1990, as amended), namely hydrogen fuel cell vehicles or fully electric vehicles.

In order to operationalise the Fund, the Ministry of Energy has prepared, pursuant to the LETF Act, the following draft implementing acts:

1. Draft Regulation of the Minister of Energy laying down detailed conditions for awarding and accounting for support granted to natural persons other than business operators.

The draft lays down the conditions under which support can be granted to natural persons who do not run a business operation. Support will be provided upon request, on a continuous basis until the allocation for this measure for the respective year is exhausted. No competitive procedure will apply, which will translate into better availability of electric and hydrogen powered vehicles for many Poles.

The draft regulation provides that the maximum subsidy for the purchase of an EV cannot exceed 30% of the vehicle purchase price, but not more than PLN 37 500. In the case of hydrogen fuel cell vehicles, the maximum level of co-funding may not exceed 30% of the vehicle purchase price and is capped at PLN 90 000.

The purchase prices for fully electric vehicles and hydrogen fuel cell vehicles will also be subject to a ceiling of PLN 125 000 and of 300 000, respectively. Support will not be available for vehicles sold for higher prices.

Beneficiaries will be required to refrain from selling their vehicles for 1 year from the date of purchase. In order to prevent vehicles receiving support from being exported, they will need to be registered in Poland. Given the purpose of the Fund, which is to reduce emissions of harmful substances to the environment, a condition has been put in place for vehicles to remain roadworthy throughout their useful service life. This is to prevent situations in which, following a damage, beneficiaries cease to use the vehicle and do not proceed to repairing them.

2. Draft Regulation of the Minister of Energy laying down specific criteria for selecting projects to be supported by the Low Emission Transport Fund.

The draft Regulation is intended to define the criteria for selecting projects to receive support from the Fund. The LETF Act sets out four general criteria that are made more specific in the draft Regulation. Projects selected for support through competitive and non-competitive procedures will be evaluated against the following criteria:

- 1) the significance of the project for the market for biocomponents, liquid fuels, liquid biofuels, or other renewable fuels, or the use of compressed natural gas (CNG) or

liquefied natural gas (LNG), including that derived from biomethane, hydrogen and electricity, used in transport;

- 2) the suitability and relevance of the planned activities and methods of their delivery for the objectives pursued by the Fund;
- 3) assessment of the planned costs of the project relative to its material scope;
- 4) the applicant's organisational capacity and institutional preparedness to deliver the project.

Following the adoption of the draft Regulation, submitted projects will be assessed according to criteria whose scope (general criteria from the LETF Act, specific criteria common to all measures, specific criteria common to specific groups of measures and criteria applicable to specific measures only) and relevance (score weight) will, on the one hand, reflect the Fund's objectives, and on the other, work towards the respective policy objectives in this area (as foreseen, *inter alia*, by the Electromobility Act, the Electromobility Development Plan, and the National Policy Framework).

3. Draft Regulation of the Minister of Energy laying down detailed conditions for awarding and accounting for support granted by the Low-Emission Transport Fund.

The purpose of the draft Regulation is to define the rules under which support for the instruments specified in the LETF Act is awarded and accounted for.

The values and types of support for investments linked to alternative fuels infrastructure and the purchase of vehicles are presented in the following tables:

		ALTERNATIVE FUEL			
		EV	CNG / LNG	HYDROGEN	
VEHICLE CATEGORY	M1	Carriage of passengers < 8 places GVW<3.5 t <i>Passenger motor cars</i>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 36 thousand</b> per vehicle maximum purchase price: <b>PLN 125 000</b>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 20 thousand</b> per vehicle maximum purchase price: <b>PLN 125 000</b>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 100 thousand</b> per vehicle
	M2	Carriage of passengers > 8 places 3.5 < GVW < 5 t <i>City, intercity, tourist, school bus</i>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 70 thousand</b> per vehicle	support up to <b>30%</b> of eligible costs, not more than <b>PLN 30 thousand</b> per vehicle	
	N1	Freight transport GVW < 3.5 t <i>Heavy goods vehicles: load platform, van, tipper truck, tanker Tractors: tractor unit for semi-trailer or ballast tractor</i>			
	N2	Freight transport 3.5 < GVW < 12 t <i>Heavy goods vehicles: load platform, van, tipper truck, tanker Tractors: tractor unit for semi-trailer or ballast tractor</i>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 150 thousand</b> per vehicle	support up to <b>30%</b> of eligible costs, not more than <b>PLN 35 thousand</b> per vehicle	
	N3	Freight transport GVW > 12 t <i>Heavy goods vehicles: load platform, van, tipper truck, tanker, special vehicle: rubbish truck Tractors: tractor unit for semi-trailer or ballast tractor</i>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 200 thousand</b> per vehicle	support up to <b>30%</b> of eligible costs, not more than <b>PLN 100 thousand</b> per vehicle	
	L	two or three-wheeled vehicles, certain four- wheeled vehicles <i>motorcycles and mopeds</i>	support up to <b>30%</b> of eligible costs, not more than <b>PLN 5 thousand</b> per vehicle		

	<b>M3</b>	Carriage of passengers > 8 places GVW > 5 t <i>City, intercity, tourist, school bus</i>	support up to <b>55%</b> of eligible costs, not more than <b>PLN 1 045 000</b> per vehicle	support up to <b>15%</b> of eligible costs, not more than <b>PLN 150 thousand</b> per vehicle	support up to <b>55%</b> of eligible costs, not more than <b>PLN 2 000 000</b> per vehicle
	-	Trolleybus	support up to <b>45%</b> of eligible costs, not more than <b>PLN 720 thousand</b> per vehicle		

		<b>Construction or development of fuel distribution or sale infrastructure</b>			
		<b>EV</b>	<b>CNG</b>	<b>LNG</b>	<b>HYDROGEN</b>
Beneficiaries	<b>Entrepreneurs</b> (Local government units cannot apply for support, municipal companies are eligible)				
Level of support	<u>Normal power recharging stations</u> (EV < 22 kW) support up to <b>50%</b> of eligible costs, not more than <b>PLN 25 500</b> per station  <u>High power recharging stations</u> (EV > 22 kW) support up to <b>50%</b> of eligible costs, not more than <b>PLN 150 000</b> per station  <u>Public transport vehicle recharging stations</u> (chargers at depots, pantograph) support of <b>up to 50%</b> of eligible costs, not more than <b>PLN 240 000</b> per station	support up to <b>50%</b> of eligible costs, not more than <b>PLN 750 000</b> per station	support up to <b>50%</b> of eligible costs, not more than <b>PLN 1 200 000</b> per station	support up to <b>50%</b> of eligible costs, not more than <b>PLN 3 000 000</b> per station	

In addition to financial support for deploying alternative fuels infrastructure and financial assistance for the purchase of vehicles powered by alternative fuels, the draft Regulation also provides that support will be available for research aimed at developing new types of biocomponents, liquid biofuels, other renewable fuels, or the use of compressed natural gas (CNG) or liquefied natural gas (LNG), including that derived from biomethane, or hydrogen, or electricity, used in transport, or research towards new design-related solutions in this area.

The maximum levels of such support are as follows:

(a) for the research referred to in Article 2 point 84 of Commission Regulation (EU) No 651/2014 – 100% of eligible costs,

(b) for the research referred to in Article 2 point 85 of Commission Regulation (EU) No 651/2014 – 50% of eligible costs,

(c) for the research referred to in Article 2 point 86 of Commission Regulation (EU) No 651/2014 – 25% of eligible costs,

whereby the amount of support cannot exceed PLN 5 000 000 per research project.

## **Financial incentives.**

### 1. Making bus lanes available to electric vehicles.

Pursuant to Article 148a(1) of the Road Traffic Law of 20 June 1997 (Journal of Laws of 2018, item 1990, as amended), until 1 January 2026, electric vehicles will be allowed to use bus lanes designated by road managers. The Article allows all electric vehicles to use all bus lanes in Poland.

### 2. Right to enter Clean Transport Zones.

The Electromobility Act empowers municipal councils to delimit Clean Transport Zones, i.e. restricted vehicle traffic areas, to combat transport-related pollution in centres of cities with over 100 000 inhabitants. Setting such zones is not mandatory and it is up to municipalities to decide whether they are necessary. The Act allows electricity, hydrogen or natural gas powered electric vehicles to enter CTZs free of charge.

### 3. Free carparks and parking spaces dedicated for electric vehicles.

The Electromobility Act has amended the Public Roads Act of 21 March 1985 (Journal of Laws of 2018, item 2068, as amended). Following the revision, when mapping parking spaces

on roads, the authority competent for traffic management designates parking spaces adjacent to public EV and plug-in hybrid vehicle recharging stations. Such places should be designated on public roads, in residential areas, and in restricted public traffic areas. The number of places should at least correspond to the number of public recharging points in a given location. Electric vehicles and plug-in hybrid vehicles can only use the designated parking spaces for the duration of charging.

In order to promote electromobility or alternative fuels, authorities competent for managing road traffic are also authorised to designate parking spaces at locations with no public recharging stations. The above provisions create another incentive for purchasing and using electric vehicles by giving users confidence that they will be able to park their cars in reserved parking spaces.

In addition, electric vehicles are exempted from fees for parking on public roads within paid parking zones.

In the latter, parking spaces reserved for electric vehicles for recharging time are designated, too, with the proviso that they should be located at recharging points installed within public recharging stations.

#### 4. No need for a permit to build a recharging station.

The recharging station was defined by the Electromobility Act. Subsequently, the Construction Law of 7 July 1994 (Journal of Laws of 2019, items 1186, 1309, 1524, 1696, 1712 and 1815) were amended to simplify and accelerate the recharging station building procedure. In accordance with the amendments, constructing a recharging station will only require the project to be notified or a situational plan to be drawn up on a copy of a valid master map or unit map retrieved from the State Survey & Cartography Resource (in which case no construction notification is required).

#### 5. Improved information on the availability of EV recharging infrastructure.

On 1 January 2019, the authorities launched a database of recharging/refuelling sites known as the Register of Alternative Fuels Infrastructure, which is a public register kept to help users of electric and natural gas vehicles to get information that facilitates using them. The register contains coordinates of natural gas refuelling stations and EV recharging stations, current prices of alternative fuels, and information on the availability of recharging points installed at

public recharging stations. In addition, the register provides online services that can be used for:

- a) notifying to the register and update the details of a compressed natural gas (CNG) refuelling point, a liquefied natural gas (LNG) refuelling point, or a recharging point installed at a public recharging station;
- b) sending updates on the availability of a recharging point installed within a public recharging station and information about current alternative fuel prices.

## 6. Rules for constructing alternative fuels infrastructure.

The Electromobility Act provides that in the early period (2019-2020) the development of the EV recharging infrastructure will be market-based with those interested able to seek financial support from the Low-Emission Transport Fund. The municipalities that meet specific conditions defined by the Act will be obliged to monitor the infrastructure creation process. If it is demonstrated by the monitoring, which is to be completed by 15 January 2020, that the number of public recharging stations in a given municipality does not correspond to the minimum number envisaged by the Act for municipalities of the specific size, the authorities of the municipality will be required to prepare an infrastructure development plan. If this is the case, the responsibility for building the recharging points will rest on the power distribution network operator.

In addition, the Electromobility Act defines a procedure for selecting the operator of a natural gas refuelling station if selection through a tendering procedure has failed. In such a situation, the function of the natural gas refuelling station operator will be entrusted to an energy company trading in gaseous fuels to which a contribution in kind has been made to cover its share capital, as referred to in Article 5b<sup>1</sup> of the Energy Law of 10 April 1997 (Journal of Laws of 2019, item 755, as amended).

The above will ensure that natural gas refuelling stations will operate even if no entity is interested in operating them on market terms and will guarantee the development of natural gas refuelling points.

As is required by the Electromobility Act, the gas distribution system operator, i.e. Polska Spółka Gazownictwa sp. z o.o., has developed the “Programme for the Construction of Natural Gas Refuelling Stations of Polska Spółka Gazownictwa sp. z o.o.”, which has been agreed with the President of the Energy Regulatory Office. The Programme foresees the



construction of 38 CNG refuelling stations in 36 municipalities by 31 December 2020, with a total of 76 refuelling points at the stations.

In addition, the Electromobility Act requires that the General Director for National Roads and Motorways draft a plan for siting public recharging stations, natural gas refuelling stations, and hydrogen refuelling points at TEN-T core network rest areas. The General Director for National Roads and Motorways has also taken steps to provide EV recharging stations on the roads of the TEN-T network by leasing land at Category I rest areas.

By specifying detailed rules and terms for the construction of alternative fuels infrastructure, the Electromobility Act also allows policy makers to monitor the development of this infrastructure and assess the actual chances of achieving the objectives set out in the National Policy Framework, and whether it is necessary to deploy or adjust the support instruments/mechanisms.

#### 7. Obligation to add EVs to vehicle fleets.

The Electromobility Act requires higher and central state administration bodies to ensure that the fleets of vehicles serving their respective offices include at least a 50% share of electric vehicles starting from 1 January 2025. As regards local government units with a population of more than 50 000, the percentage share of electric vehicles in the fleet of vehicles serving their offices is to be at least 30% from 1 January 2025. In addition, such local government units are required to perform their public tasks or entrust them to entities that ensure the use of electric or natural gas vehicles.

#### **4. Information about public procurement policy employed to support the use of alternative fuels in transport.**

When discussing public procurement policies, attention should be drawn to green public procurement. In accordance with the requirements set by the European Commission, green public procurement represents a policy whereby public entities include environmental criteria and requirements into the purchasing process (public procurement procedures) and seek solutions that minimise the negative impact of products or services on the environment and take into account the full product life cycle, thereby contributing to the development and promotion of green technologies. The definition of green public procurement comprises situations where the contracting authority takes into account one or more environmental

factors at the individual stages of the tendering procedure, i.e. when identifying the needs, defining the subject of the contract, formulating the technical specifications, and selecting the award criteria or contract delivery method. The goal of GPP is to ensure that environmental issues are taken into consideration in tendering procedures to the widest possible extent.

GPP may also generate financial savings for public authorities, especially when account is taken of the full product or service life-cycle costs and not just the purchase price. For example, buying low-energy or water-saving products can help significantly reduce utility bills. Reducing the amounts of hazardous substances in purchased products can translate into lower disposal costs. The authorities that use GPP will be better equipped to face the evolving environmental challenges and to achieve the policy objectives and binding targets for reducing CO<sub>2</sub> emissions and enhancing energy efficiency, as well as those of other environmental policies.

In Polish law, GPP is governed by the Public Procurement Law of 29 January 2004 (Journal of Laws of 2019, item 1843, hereinafter referred to as “PPL”) and Regulation of the Minister of Development of 26 July 2016 on the types of documents which the contracting authority may request from contractors in public procurement procedures (Journal of Laws of 2016, item 1126, and of 2018, item 1993). PPL refers to environmental issues in the following areas:

#### 1. Description of the subject of the contract

Pursuant to Article 30(1) of the Public Procurement Law, the contracting authority is required to describe the subject of the contract in one of the following ways, subject to specific technical provisions:

(a) by specifying performance or functionality requirements, including environmental ones, provided that the specified parameters are sufficiently accurate to enable contractors to identify the subject of the contract and to enable the contracting authority to award it,

(b) by referring, in order of preference, to standards, European technical assessments, technical specifications, and technical reference systems,

(c) by referring, in order of preference, to standards, European technical assessments, technical specifications and technical reference systems, and by referring to performance or functionality requirements with regard to specific characteristics,

(d) by referring to categories of performance or functionality requirements and by referring to standards, European technical assessments, technical specifications and technical reference systems as a means of presumption of compliance with such performance or functionality requirements;

## 2. Tender evaluation criteria.

Pursuant to Article 91(1) of the Public Procurement Law, the contracting authority selects the best tender on the basis of the tender evaluation criteria defined in the terms of reference for the contract, which include the price or cost or the price or cost plus other criteria relevant for the contract. Environmental requirements can be formulated under the following tender evaluation criteria, as specified by the legislator in a non-exhaustive list in Article 91(2) of the PPL:

- (a) quality, including technical parameters, functional properties,
- (b) environmental aspects, including energy efficiency of the subject of the contract,
- (c) innovation,
- (d) organisation, professional qualifications, and experience of persons designated to perform the contract, if they are likely to have a material influence on the quality of the contract,
- (e) terms of delivery, such as delivery method.

## 3. Life-cycle costing.

Pursuant to Article 91(3b) of the PPL<sup>1</sup>, the cost criterion can be determined with the use of life-cycle costing, which may comprise, in particular, the following costs:

(a) costs related to the purchase and use, in particular of the consumption of energy and other resources, maintenance, decommissioning, in particular collection and recycling costs, incurred by the contracting authority or other users;

(b) costs attributable to environmental externalities, inherent in the lifecycle of the product, service, or construction works in terms of emissions of greenhouse gases and other pollutants, and other costs related to climate change mitigation, as long as their monetary value is measurable and verifiable, in cases where the contracting authority estimates the costs using life-cycle costing for the subject of the contract and specifies in the terms of reference the data

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<sup>1</sup> The costs that can be included in life-cycle costing are regulated by Article 91(3c) of the PPL.

to be presented by contractors and the method it will use to determine the life-cycle costs on the basis of such data (Article 91(3d));

#### 4. Contract performance terms.

In the light of Article 29(4) of the Public Procurement Law, the contracting authority may specify in the description of the subject of the contract the requirements related to the delivery of the contract, which may include, *inter alia*, environmental aspects.

#### 5. Labelling.

Pursuant to Article 2 subparagraph 16 of the PPL, labelling means a certificate, attestation or any other document confirming that specific construction works, product, service, process, or procedure meet specific requirements. In line with Article 30a.(1) of the PPL, in the case of procurements with special characteristics, the contracting authority may require in the description of the subject of the contract, the tender evaluation criteria or in the contract performance terms that specific labelling be provided. The contracting authority may exercise the power to require such labelling when the following conditions are fulfilled jointly:

(a) the labelling requirements only pertain to criteria that are linked to the subject of the contract and are suitable for defining the characteristics of the construction works, supplies or services that are the subject of the contract;

(b) the labelling requirements are based on objectively verifiable and non-discriminatory criteria;

(c) the labelling award criteria must be adopted through an open and transparent procedure in which all stakeholders may participate, including public administration bodies, consumers, social partners, producers, distributors, and NGOs;

(d) the labelling is available to all interested parties;

(e) the labelling requirements are determined by a third party over which the contractor applying for the labelling cannot exercise control.

By requiring that specific labelling be provided, the contracting authority accepts any labelling confirming that the construction works, supplies or services meet the applicable requirements. If the contracting authority does not require the respective construction works, supplies or services to meet all the requirements attached to the respective labelling, it will only indicate the individual labelling requirements that apply.

#### 6. Abnormally low price.

Pursuant to Article 90(1) of the PPL, where a price or cost offered, or a material component thereof, seem abnormally low in view of the subject of the contract and raise doubts on the part of the contracting authority as to whether the subject of the contract can be delivered in line with the requirements specified by the contracting authority or arising under specific provisions, the contracting authority is required to request clarifications, including evidence concerning the price or cost calculation, in particular as regards savings generated by the contract performance method, selected technical solutions, and insofar as required by environmental laws.

#### 7. Exclusion of contractors from the procurement procedure<sup>2</sup>.

In accordance with Article 24(1) of the Public Procurement Law, a contractor who is a natural person must be excluded from the procurement procedure if he/she has been convicted of an environmental crime (Articles 181-188 of the Penal Code). In addition, in the light of Article 24(5) of the Public Procurement Law, the contracting authority may exclude a contractor:

(a) who has been finally convicted of an environmental offense if he/she has been sentenced to a community sentence or imprisonment, or a fine of not less than PLN 3000;

(b) against whom a final administrative decision has been issued regarding a breach of obligations arising from the provisions of environmental law, if the decision involved a fine of at least PLN 3000.

According to implementing provisions issued pursuant to Article 25(2) of the PPL (i.e. Regulation of the Minister of Development of 26 July 2016 on the types of documents which the contracting authority may request from contractors in public procurement procedures (Journal of Laws, item 1126, and of 2018, item 1993)), in order to confirm the absence of grounds for exclusion from the contract award procedure, the contracting authority may request, *inter alia*:

- an extract from the National Criminal Record insofar as specified by Article 24(1) subparagraphs 13 and 14 of the PPL, and with regard to imprisonment for an offense, insofar as specified by the contracting authority pursuant to Article 24(5) subparagraphs 5 and 6 of

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<sup>2</sup> The exclusions discussed in this section apply exclusively to entities that infringe upon criminal and administrative provisions regarding environmental protection. In relation to legal persons and organisational units without legal personality, the PPL provides that a contractor can be excluded from a public procurement procedure in the event that a member of its management or supervisory body, partner in a general partnership or professional partnership, or general partner in a limited partnership or a limited joint-stock partnership, or a proxy has been validly convicted of an environmental crime or offence.

the Public Procurement Law, which extract must be issued not earlier than 6 months before the deadline to submit tenders or requests to participate;

- the contractor's statement to the effect that he/she has not been sentenced to community work or a fine for an offence insofar as specified by the contracting authority pursuant to Article 24(5) subparagraphs 5 and 6 of the PPL;
- the contractor's statement to the effect that no final administrative decision has been issued against it for a breach of its obligations ensuing from labour, environmental or social security laws insofar as specified by the contracting authority pursuant to Article 24(5) subparagraph 7 of the PPL.

#### 8. Conditions for participation in the procedure.

As provided for by Article 22(1) of the PPL, contractors may apply if they are not subject to exclusion and meet the conditions for participation in the procedure, provided that the latter have been specified by the contracting authority in the contract notice or in the call for expression of interest. The contracting authority is required to specify the conditions for participation in the procedure and relevant evidence required from contractors in a way proportional to the subject of the contract and insofar as required for it to be able to assess the contractor's capacity to perform the contract duly, in particular by expressing them as minimum capacity levels (Article 22(1a) of the PPL).

Regulation of the Minister of Development of 26 July 2016 on the types of documents which the contracting authority may request from contractors in public procurement procedures (Journal of Laws, item 1126, and of 2018, item 1993) is another act of Polish legislation that pertains to green public procurements. Pursuant to the Regulation, in order to confirm that a contractor meets the conditions for participation in the procedure or the selection criteria regarding technical or professional capacity, the contracting authority may request the following documents:

- a) list of construction works completed in the last 5 years preceding the deadline to submit tenders or requests to participate in the procedure,
- b) list of deliveries or services completed or rendered periodically or continuously in the last 3 preceding the deadline to submit tenders or requests to participate in the procedure,
- c) list of tools, plant equipment or technical devices available to the contractor for performing the public contract, together with information about the basis under which these resources can be disposed of;

- d) a description of the technical devices and organisational and technical means used by the contractor to ensure quality, and a description of the scientific and research facilities that are held by the contractor or will be available to the contractor;
- e) list of environmental management measures that the contractor will be able to employ to perform the public contract;
- f) list of persons assigned by the contractor to perform the contract, in particular those responsible for service provision, quality control, or construction works management, including information on their professional qualifications, licences held, experience and education necessary to deliver the public contract, as well as the scope of actions performed by those persons and information on what basis the persons will be available.

In addition, the Public Procurement Office has developed the National Action Plan for Sustainable Public Procurements in 2017-2020. The National Action Plan for Sustainable Public Procurements in 2017-2020 is a planning document on the basis of which, *inter alia*, information and training activities are provided to representatives of contracting authorities to promote the inclusion of environmental and social aspects in public procurement procedures.

Another noteworthy initiative is the Agreement on cooperation for the development of green public procurements, concluded between the Public Procurement Office and the National Fund for Environmental Protection and Water Management. The purpose of the Agreement is to develop solutions and tools which support contracting institutions and authorities in using green public procurements and in providing mutual support in pursuing educational activities related to green public procurements. The agreement in this respect, which was signed on 26 April 2019 by Hubert Nowak, President of the Public Procurement Office, and Domink Bąk, Deputy President of the Management Board of the National Fund for Environmental Protection and Water Management, provides that the initiatives to be delivered first will address two priority areas, namely transport and construction. The initiatives will involve, *inter alia*, preparation of the following:

- a) guidelines on lifecycle environmental impact assessment (LCA) for vehicles purchased through public procurement procedures,
- b) an interactive environmental impact map for investment projects with guidance for contracting authorities on how to mitigate the negative impacts of such investments through instruments envisaged by the Public Procurement Law, and
- c) explanatory material on the use of the LCC-based cost criterion in construction.

In addition, there are plans to initiate work on system solutions that will ultimately intensify the use of green procurements by Polish contracting authorities, in particular those that deliver projects co-financed by funds managed by the National Fund for Environmental Protection and Water Management (NFOŚiGW).

In the era of struggle with climate change and air, water and soil pollution, the cooperation between the PPO and the NFOŚiGW in the area of green public procurement is a vital initiative supporting environmental efforts. The Agreement is an initiative that complements the endeavours envisaged by the National Action Plan for Sustainable Public Procurements in 2017-2020. It will also serve the implementation of assumptions regarding green public procurement set out in the Responsible Development Strategy for 2020 (with an outlook for 2030).

In addition, it should also be noted that the Act on electromobility and alternative fuels has put local government units, excluding those with a population below 50 000, under an obligation to entrust public tasks, excluding urban transport services, to entities that will ensure the use of electric or natural gas powered vehicles at a level of at least 30%. The above obligation will become effective on 1 January 2025, and will mean that the public procurement procedures run by the above local government units will include an environmental criterion requiring that a specific percentage of electric or gas-powered vehicles be used in performing the respective public tasks.

##### **5. Assessment of the need to install points for refuelling aircraft with renewable fuel at TEN-T Core Network airports.**

At the current stage of technological development, developing infrastructure for refuelling aircraft with renewable fuel is not economically viable. At present, such installations cannot be developed without financial support, and their advantages would be vastly outweighed by the costs. In search of savings and with a view to promoting a balanced approach to environmental protection, a programme for optimising aircraft refuelling by various methods seems worth considering. However, any measures should be economically justified and should be left to the discretion of individual airports, especially in the absence of a uniform system of support for such costly investments. Any plans and actions taken in this area must ensure that alternative green fuels can be made available by 2030.



## **6. Information about procedures and legislation aimed at facilitating trade in alternative transport fuels.**

1. The Act of 20 July 2018 amending the Excise Act and the Customs Law (Journal of Laws of 2018, items 1697 and 2511, and of 2019, item 1520) introduced a zero excise duty rate for natural gas falling within CN codes 2711 11 00 and 2711 21 00 intended for propulsion of internal combustion engines. The introduction of a zero excise duty rate on LNG and CNG gas drives the development of infrastructure for alternative fuels in Poland, primarily that for natural gas, which will produce noticeable ecological benefits. Promoting broader use of LNG and CNG also contributes to the diversification of propellants, and thus it contributes to increasing transport safety in Poland.
2. The Electromobility Act has exempted the business activity of offering vehicle charging services from the obligation to hold a licence to sell electricity, treating it as a new type of business activity. Thus, the sale of electricity that has been supplied to a public recharging station and used exclusively for charging purposes, i.e. at a recharging point and for the needs of a public charging station, is not subject to a licence. However, it should be emphasised that entities which sell electricity to a charging service provider are required to have an electricity trading licence issued by the President of the Energy Regulatory Office, while those to whose networks the recharging station is connected must hold an electricity distribution license issued by the President of ERO.
3. By Resolution 17 October 2018, the Council of Ministers revised the National Policy Framework, *inter alia* by introducing technical specifications for hydrogen refuelling. The Polish legislation does not provide for technical standards applicable to hydrogen used in transport. Putting in place technical specifications for refuelling hydrogen will foster future development of technologies for the use of hydrogen in transport. However, it should be borne in mind that, despite the absence of generally applicable legislation in this area, interested parties can always apply the ISO standards listed in Annex II to Directive 2014/94/EU.
4. No obligation to obtain a licence for the production of biocomponents used for the production of liquid fuels or liquid biofuels.  
A producer of biocomponents is only obliged to register with the Producer Register, kept by the National Support Centre for Agriculture.

## **7. Information about annual allocation of public funds for deployment of alternative fuels infrastructure, support of production plants with regard to alternative fuels**

**technologies, support for research, technological development, and pilot projects related to alternative fuels, as broken down by individual alternative fuels and modes of transport.**

The launch of the first round of competitive procedures under the Low-Emission Transport Fund has been scheduled for the second half of 2019. By the end of 2027, the resources available to the Fund will have amounted to more than PLN 6.7 billion.

Financial support for R&D has been awarded by the National Centre for Research and Development. Funds amounting to:

- a) PLN 1 579 000 has been provided to co-fund R&D related to road transport based on natural gas,
- b) PLN 11 030 800 has been provided to co-fund R&D related to road transport based on hydrogen,
- c) PLN 14 069 404.30 has been provided to co-fund R&D related to road transport based on electricity,

## **8. Information about estimated number of alternative fuel vehicles registered in Poland in 2020, 2025 and 2030.**

The National Policy Framework provides that about 70 000 and about 1 million electric vehicles will be registered in Poland in 2020 and 2025, respectively. However, the draft National Energy and Climate Plan foresees 50 000 and around one million electric vehicles in 2020 and 2025, respectively. Similar values are envisaged in the draft Polish Energy Policy until 2040 – 50 000 electric vehicles in 2020 and one million in 2025.

On 24 September 2019, the Council of Ministers adopted the “Sustainable Transport Strategy for 2030”, which had been submitted by the Minister of Infrastructure. The Strategy anticipates that from 2022 the number of passenger cars will remain at a level of 26-27 million, but their breakdown will change, with an increase in the fleet of electric and hybrid cars to over 600 thousand in 2030. The Ministry of Energy treats this analysis as a baseline scenario, i.e. the number of electric cars expected to drive on Polish roads if no additional measures are taken in this respect.

The final report entitled “Analysis of the state of development and current development trends in the area of electromobility in Poland”<sup>3</sup> presents four scenarios of electrification of the transport sector. The PRE–S2 scenario assumes attaining the target set in the Electromobility Development Plan, namely 1 million registered electric vehicles in 2025, and then maintaining a rising trend in the number of electric vehicles used at a similar level. According to the scenario, there will be approx. 1.9 million electric vehicles in Poland in 2030.

However, it must be observed that the presented numbers are only indicative of the trend and the actual number of electric vehicles may differ from those stated above. The actual number of electric vehicles in 2020 and 2025 will depend on many factors, notably the technological progress in the development and improvement of electric drives, as well as changes in electric battery production technologies. In addition, expertise of research units and production plants operating in Poland should be used to boost R&D in the automotive sector. The number of electric vehicles is also bound to increase if adequate electric vehicle recharging infrastructure is provided. What is more, electric vehicles will be chosen more eagerly than at present when their prices equalise with those of vehicles powered by conventional fuels.

Social changes and changes in people’s attitudes will play a role, too. Growing public awareness, environmental trends, greater commitment to environment protection may cause potential users of motor vehicles to opt for urban transport or forms of shared mobility, such as car-sharing or car-pooling, which will ultimately reduce the number of purchased vehicles.

The presented figures are indicative only since it is difficult at the present stage to predict with absolute certainty when the number of electric vehicles will rapidly increase. The increase is forecast to take place between 2021 and 2024, when, in line with the projected trends, electric vehicle technology should have reached a sufficiently advanced state of development. The target set for 2025 will make it possible for Poland to develop properly the recharging infrastructure and reduce air emissions of harmful compounds from the transport sector. The anticipated steady growth will lead to the creation of the desirable EV recharging infrastructure and to the modernisation or construction of suitable electrical power infrastructure (transmission and distribution networks).

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<sup>3</sup> The report “Analysis of the state of development and current development trends in the area of electromobility in Poland” has been prepared by the consortium Atmoterm S.A. and Forum Elektromobilności at the request of the Minister of Entrepreneurship and Technology.

According to the data presented in the National Policy Framework, in the years 2020 and 2025, there will be 9592 and 54 206 CNG vehicles, and 492 and 2745 LNG vehicles, respectively. In addition, in 2030, the number of CNG and LNG vehicles is expected to increase to 60 871 and 4023, respectively. It must be highlighted that the values are indicative only and the actual number of vehicles may diverge from the forecasts.