



A NATIONAL ONLINE PLATFORM  
FOR SAFE WIND TURBINE SETBACKS FROM HOMES

Wind industry in Poland has had 15 years to become a responsible partner for rural communities. Now it cries wolf at first attempt of proper regulation.

Editors' comment, 8 March 2016

The Polish and European wind industry lobby are railing against the draft law providing for setbacks of giant wind turbines from people's homes. A clear example is a report published by the influential international business news provider, Bloomberg.com (see: Jessica Shankleman, "Wind farms now come with the threat of jail", [www.bloomberg.com](http://www.bloomberg.com/news/articles/2016-03-03/jail-and-new-fees-threaten-key-european-market-for-wind-turbines), 3.03.2016 - <http://www.bloomberg.com/news/articles/2016-03-03/jail-and-new-fees-threaten-key-european-market-for-wind-turbines> ).

Their aim is to discredit the Polish draft law as motivated by an unreasonable, ideological bias against industrial wind power.

Keep in mind that the Polish chapter of European wind industry lobby, or the Polish Wind Power Association (PSEW), has been a vigorous player in the country since 1999. That is plenty of wasted opportunities to demonstrate the industry's commitment to being responsible partners in the sustainable development of Polish rural areas. Perhaps PSEW should have been a little less single-minded in "overcoming barriers to wind energy development", that is to say in its focus on securing remarkably generous, by European standards, public subsidies and privileged treatment in the Polish electrical energy system.

A more socially responsible and inclusive approach would induce an honest pursuit of fair negotiations with real hosts of their gigantic industrial installations. These are not primarily mayors and local council members, who according to the 2015 report of the National Audit Office (NIK) are disturbingly frequently beneficiaries of land leases for wind farms, but rather actual rural communities. Stretching their comfort zone beyond expansion & profits issues would have helped the wind industry to focus on being good neighbours of residents living next to their industrial turbines. Was it wise to defend the option of planning procedures that exclude any meaningful participation of local communities, to be applied when the local authority is sufficiently amendable? With hindsight, making wind turbines exempt from any technical inspections or supervision, as has been the case to date, might have eased the imports of used German and Danish wind turbines into Poland but reflects badly on the wind industry's regard for the country's long-term interests.

Today the lobby is trying to scuttle the setback legislation. True to form, its arguments are based on half-truths or outright distortions.

1. The proposed legislation does not prevent the wind industry from carrying on its business or limit their freedom to undertake economic activity, but simply takes into account the social context (social externalities) of its expansion, in accordance with requirements of the Polish Constitution (protection of human health, proper spatial governance).

The legislation lays down a transparent criterion for siting wind turbines. It allows for the construction of new wind turbines on hundreds of thousands of hectares, in addition to the existing c. 3000 turbines. However, the proposed setback of 10 x turbine height does indeed foreclose the option of turning rural areas in Poland into an industrial zone for the wind industry – which is what the “European power house”, mentioned in the Bloomberg article, really amounts to. The European wind lobby’s apparent hope for tens of thousands of giant wind turbines to be built in our country cannot be realised for the simple reason that it entails no protection for the constitutionally guaranteed rights of rural residents.

2. Contrary to what the title of the Bloomberg article implies (jail terms for wind farm developers!), the proposed law does not threaten wind industry with any special sanctions. This title is a sad testimony to an unbalanced reporting on an issue of great public importance.

The draft legislation includes ordinary enforcement provisions, in particular with respect to the technical inspection of giant machinery. In fact, the law would close the period when the wind industry enjoyed an extensive *de facto* legal immunity in Poland. This applies in particular to the lack of any technical supervision whatsoever. The status quo was documented in detail by the National Audit Office in its 2014 report on “*Siting and Construction of Onshore Wind Farms*”. The fact that European wind lobby spokesmen believe such legal changes to be prejudicial reveals the mindset of an industry claiming special legal privileges, unavailable to other economic operators.

The loopholes in the Polish legal system effectively deprive Polish citizens of their right to effective remedy, including before administrative courts, in cases relating to the functioning of industrial wind power installations.

The Polish wind power lobby should not criticize the costs attendant on the transition to a sound regulatory environment, considering that it has opposed the introduction of such legal regulations in the past. The scale and seriousness of existing irregularities was amply demonstrated by the cited report of the National Audit Office, produced under the previous government of the Civic Platform and Polish Peasant Party, that is before the recent political changes in Poland, and without any involvement or inspiration of the then parliamentary opposition.

3. Increased costs of pursuing industrial wind business are largely due to the expected rise in taxes payable to the local authority’s budget, resulting from the elimination of a legal fiction that has existed in this area to date.

The draft legislation simply provides that local taxes would be assessed in relation to the wind turbine as a whole, and not only to some parts, as was the case so far. This means that wind turbines will be taxed just like any other commercial structures. In fact, the current practice

constitutes yet another form of public aid or a de facto transfer from local budgets to the industry.

4. The "mitigation measures" to limit the negative impacts of wind turbines on residents that are proposed in the cited article by Bloomberg's own analyst--as an alternative to the setback regulation--have proved not helpful in countless instances both in Poland and worldwide.

The power that local wind farm operators can exert on local communities, and in particular in their dealing with affected residents, makes any solution involving temporary shutdown of wind turbines to limit their noise emissions a largely theoretical possibility. This is because such measures would reduce the operator's profits. As a matter of fact, wind projects that exceed acceptable noise levels, for example during night-time, should not have been approved in the first place.

The failure of such remedies is evidenced by hundreds of families who have fled their homes worldwide and many thousands of people reporting health problems across the world.

Two Polish Commissioners for Human Rights have formally requested the Polish government on two different occasions to regulate the distance between wind turbines and people's homes (in 2014 and again in February 2016). The official website of the Commissioner's Office explains that they receive "*more and more letters from citizens complaining about a deterioration of their health due to the wind turbines' influence*". This raises the risk of violation of the Constitution of Poland, namely of Article 38 ("*The Republic of Poland shall ensure the legal protection of the life of every human being*") and Article 68 ("*Everyone shall have the right to have his health protected*").

Greenpeace Polska is well-known for its commitment to renewable energy. Nevertheless, their own investigation into the practices relating the siting of wind farms in Poland induced Greenpeace Polska to issue already in 2012 a statement "*regarding the protests related to the construction of wind farms in Poland*". "*Greenpeace takes the view that wind farms should be built where they do not disturb people or endanger the environment, and in particular at locations where construction of them serves the Planet without becoming yet another source of division among people*". That 2012 statement described a number of needed reforms in wind farm project planning. Practically none of these recommendations have been implemented since 2012.

5. To win assent of rural residents to a life overshadowed by giant turbines, Bloomberg's in-house analyst suggests that local people should be encouraged to become shareholders in wind farms--in Poland, such schemes come under the catch-all slogan of "(green) energy grassroots democracy". For neighbours of giant turbines, this is a window dressing exercise, with serious social and financial consequences for rural communities.

How big a share in a multi-million euro wind farm can be acquired by a typical inhabitant of Polish countryside? How much would have to come from a bank loan? Who would then be the actual stakeholder--the bank or residents? What will happen if the farm goes bust or fails to generate profits sufficient to guarantee any return on investment or even to cover monthly payments on the bank loan? This is no scare-mongering, all of this we can see in Germany. Would the State step in with additional aid to keep the wind farm in operation and rescue local shareholders? There is plenty of evidence that shareholders of "citizen" or "community farms"

are hardly kinder than big outside companies to complaining neighbours or pesky raptors when their dividends are at stake. Currently, communities in Poland, just as worldwide, are split between land owners (who in Poland, as in Germany, France and elsewhere are frequently the very municipality officers who approved the local wind farm in the first place) benefitting from leases to wind companies and the rest of nearby residents. Dividing the village between wind farm shareholders and the rest is not likely to improve community ties, either.

Back in the 1990s we had plenty of first-hand experience with employee share ownership schemes during the drive to privatise state-owned companies in Poland. The lesson learned is that small minority stakeholders have no say in how the companies are operated, who gets elected to the board or in the choice of corporate policy.

The proper venue for local democracy, including “energy democracy”, to flourish is the local community meeting during which residents can make decisions about their common future in a free debate and on the basis of reliable information about the impacts and benefits of any proposed large-scale industrial projects.

6. Comparisons between the costs of wind energy or wind power sector as a whole and other forms of power generation, as presented in the lobby-inspired publications, are misleading. This is because a whole array of costs that are intrinsic to the expansion of wind power industry (especially on the scale hoped for by the wind lobby) are conveniently overlooked.

Wind lobby accounts exclude the cost of disorganisation of existing stable energy systems based on the supply of dispatchable energy. Such costs are visible wherever wind power is able to “realise its potential”. Not mentioned are the costs, including those to the environment, of experiments in converting existing power generators into the spinning reserve for unpredictable wind turbines. Missing from such calculations are the costs of hundreds of kilometres of additional power lines and systems to manage suddenly unpredictable energy production and markets. No consideration is given to the expense of setting up and operating programmes for exceptional emergency measures to prevent generalised blackouts when there is too little or too much wind, as are currently being introduced in Germany. And what about the cost of building gigantic energy storage facilities, using technology that is yet to be invented, of which there has been no need before.

7. In the light of independent research on wind conditions in Poland, wind lobbyists’ belief that the country represents excellent potential for the growth of wind power appears somewhat farfetched.

According to the data from Barometre Eolien – Euroobserver (February 2015), the capacity factor for Polish wind farms is 21.4%. This figure is among the lowest in Europe. When in summer of 2015 a heat wave raised the prospect of temporary shutdowns or even blackouts, the wind power industry made things worse, not better. *“Of the circa 4000 MW of installed wind power capacity, the production of electrical energy from these sources was less than 10% of that figure, and in some hours it barely exceeded 100 MW”*, according to the Polish network operator, PSE S.A..

Moreover, *„the sections of Poland that are allegedly favourable to industrial wind power developments are mostly high nature value areas under the Green Lungs of Poland conservation programme [the North- East region containing 2500 lakes and largely forested], including buffer*

*zones of several national parks, and also recreational highland areas and the Baltic coast; however, even there the wind conditions are not conducive to achieving capacity factors above 20%*" (Prof. Marek Lebedowski, "The Potential for Rational Use of Wind as Energy Source in Poland", 2016 - <http://kdepot.eu/lib/1146552>) (in Polish).

8. And finally, the proposed legislation is not a product of ideological bias of politicians of the party in power, but rather a response to clear, long-standing demands of social stakeholders. The same demands impelled two different national Ombudsmen, both of whom were nominated by the previous government, to intervene in defence of residents living in the proximity of wind farms. In February this year, the current Ombudsman, dr. Bodnar asked the minister of the environment: *"How can we help people who have wind turbines above their homes?"*