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Poland *Country Profile*

Poland is an ancient nation that was conceived near the middle of the 10th century. Its golden age occurred in the 16th century. During the following century, the strengthening of the gentry and internal disorders weakened the nation. In a series of agreements between 1772 and 1795, Russia, Prussia and Austria partitioned Poland among themselves. Poland regained its inde-

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pendence in 1918 only to be overrun by Germany and the Soviet Union in World War II. It became a Soviet satellite state following the war, but its government was comparatively tolerant and progressive. Labor turmoil in 1980 led to the formation of the independent trade union "Solidarity" that over time became a political force and by 1990 had swept parliamentary elections and the presidency. A "shock therapy" program
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of the unlevel terrain. As a result, practically every square foot of flat land has cities or crops on top of it.

According to Asian Business Codewords, the Japanese government says that the Japanese act more like “one big happy family” than a country of single families like America. In most cases, at the end of a long workday, workers and bosses are more or less expected to have drinks together. Japanese workers, unlike typical American workers, are expected to show an almost undying loyalty to their employer. As a result, lifetime employment is common, and people believe that if they take care of their jobs in a sincere and professional manner and give their best effort every day, the company will thrive and in return will take care of them and their families.

Karoshi has taken the lives of many working men in Japan. It is so heavily male because Japan has traditionally held women in the role of servants and caretakers, while labeling men as providers. As a result, women in Japan are usually in charge of taking care of children and house finances while men go to work. This is why few women have died from karoshi.

Karoshi has become such an issue in Japan that in 1991, the Association of Karoshi Survivors was created. The rising court actions brought on by survivors of workers who died from overwork or suicide from overwork have directly attributed to government recognition. OSHA reported that suicide due to an occupational mental disorder, where significant impairment to a worker’s normal ability of recognition, ability for action judgment

or inhibitive ability to turn back from suicide, is considered compensable.

Mental stress and an accumulation of fatigue have both been added to the criteria of recognizing karoshi. One of the main factors playing into karoshi is the fact that the Japanese are taught to internalize their feelings, making any speech against working objectionable or even offensive. Because of this, many workers die instead of asking for a break or taking a day off. And while Americans can go so far as to sue their employers for unsafe and unhealthy working conditions, the Japanese remain loyal to their employers, literally until death. ☉

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Poland

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during the early 1990s enabled the country to transform its economy into one of the most robust in Central Europe, but Poland still faces the lingering challenges of high unemployment, underdeveloped and dilapidated infrastructure and a poor rural underclass. Poland joined NATO in 1999 and the European Union in 2004. With its transformation to a democratic, market-oriented country largely completed, Poland is an increasingly active member of Euro-Atlantic organizations. Poland’s

population of 38,441,588 (July 2011 est.) ranks it at 34th in the world.

Democratic rule returned to Poland in 1989, thus ending the Communist Party’s political reign. There have been several subsequent revisions to the Constitution, with the most recent full revision having been completed on April 2, 1997, and approved by a nationwide referendum on May 25, 1997. This constitution entered into force on Oct. 17, 1997.

The president, who is directly elected for a maximum of two 5-year terms, serves as head of state, the country’s highest representative in domestic and foreign affairs, and head of the armed forces. The prime minister, who is appointed by the president and approved by the lower house of a bicameral legislature, serves as the head of government. The prime minister is typically the leader of the majority party or coalition. The prime minister heads the Council of Ministers, which is responsible for carrying out decisions of the legislature. Other ministers on the Council of Ministers head various governmental departments. Council members, other than the prime minister, are appointed by the president and are responsible to the legislature.

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Editor’s Note: This is the 18th in a series of articles summarizing various countries’ government and SH&E legislative processes. It is intended to serve as a useful planning tool for SH&E professionals preparing to conduct business in the profiled country. Previous profiles include Australia, Brazil, Chile, China, Germany, India, Indonesia, Ireland, Italy, Japan, Kuwait, Mexico, the Netherlands, the United Kingdom, Singapore, South Africa and Spain. Country profiles are provided courtesy of AECOM and are also available on the [International Practice Specialty website](http://www.internationalpractice.com). AECOM offers complete SH&E protocols for these and many other countries. Requests for additional country-specific information should be directed to Halley Moriyama at halley.moriyama@aecom.com; +1-978-589-3233 or Jack Fearing, CPEA, at jack.fearing@dyn-intl.com; 1-703-462-7294.

The judicial branch is headed by the Supreme Court, which is Poland's highest court of appeal and is responsible for supervising all lower courts.

Poland is administered locally through a system of 16 provinces (województwa). The provinces are divided into 379 counties and cities (powiaty) and nearly 2,500 towns and boroughs (gminy); these are administered by local governors and provincial assemblies. Members of councils on all three levels of local government, as well as mayors and local governors (wójtowie), are elected in popular elections.

LEGISLATIVE PROCESS

Legislative authority in Poland rests with the parliament. Legislative bills are voted upon in accordance with legislative procedure, as provided for by the Polish constitution and by the internal rules of the parliament. This procedure involves the following stages:

LEGISLATIVE INITIATIVE

Legislative initiative allows an entitled entity to submit draft bills, which are subsequently considered by parliament. The right of legislative initiative is vested in members of the Sejm (on behalf of whom a parliamentary committee or a group of at least 15 Sejm members may submit a proposed draft bill), the Senate, the president, the Council of Ministers and a group of at least 100,000 citizens. The draft bill is filed with the speaker of parliament, who verifies the draft from formal and constitutional points of view and, if there are no objections, passes it on for further consideration.

WORK OF THE SEJM ON A DRAFT BILL OF LAW

The plenary assembly of the Sejm conducts preparatory work on a draft bill in three readings, which are the stages of considering the draft. During the first reading, the draft bill is presented, along with its main assumptions and justification.

This first reading is generally performed by a parliamentary committee, with the exception of extraordinarily important acts (draft constitution, acts on human rights, budget and taxes acts or draft codes), which are considered by the Sejm as a whole. The Sejm is entitled to reject the draft after the first reading. Upon acceptance by the Sejm, the draft is directed to the appropriate parliamentary committee. The work of the committee results in a report describing its position with respect to the draft.

The second reading consists of a presentation of the proposed act by a representative of the committee, a debate and the raising of any amendments or motions

with respect to the text. Once no further amendments are proposed, the Sejm may commence the third reading.

The third reading encompasses the introduction of any amendments and motions proposed during the second reading, followed by a vote on them and on the passage or rejection of the entire draft bill by the Sejm.

Work of the Senat: If approved by the Sejm, the draft bill is then directed to the Senat. The upper chamber of the parliament has 30 days in which to pass the bill without amendments, pass amendments to the bill or reject the entire bill. The acceptance of the draft bill by the Senat completes the legislative procedure in parliament.

Work of the Sejm: If the draft bill is either amended or rejected by the Senat, it may still be passed by the Sejm with the prior wording (i.e., without amendments) by being voted through the Sejm.

The President: Once a bill of law is passed by the parliament, it is directed to the president to be signed. The president may, within 21 days, sign the act, transfer the bill to the constitutional tribunal to confirm that it complies with the constitution or return the act to the Sejm for reconsideration.

Publication: The president's signature is the last stage of the legislative procedure. However, an act does not become law until it is published in the official journal, Dziennik Ustaw (Dz. U.).

HIERARCHY OF LEGISLATION

The Constitution of the Republic of Poland establishes the types of Polish legal acts. The constitution provides for two sources of law:

- generally binding legal acts, including the constitution, acts, international agreements and ordinances; and
- Local acts.

Local acts are issued by local authorities and are binding only on the divisions of the issuing authority.

SH&E GOVERNMENTAL AUTHORITIES ENVIRONMENTAL AUTHORITIES

The following are environmental authorities:

- The Minister of the Environment;
- The head of province (Wojewoda);
- The head of county (Starosta); and
- The head of borough (Wójt) or the mayor (Prezydent or Burmistrz) of the town or city.

Environmental protection falls under the auspices of the minister of the environment. It is authorized to audit the state of environmental protection within the territory of Poland, to propose draft acts and programs on environmental protection and to coordinate and supervise administrative authorities in activities related to environmental protection.

The primary authority responsible for enforcing environmental legislation in Poland is a public agency called the Environmental Protection Inspectorate, headed by the chief inspector of environmental protection. The powers and responsibilities of the Environmental Protection Inspec-

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torate are determined in the Environmental Protection Inspectorate Act of July 20, 1991 (unified text: Dz. U. 2007, No. 44, item 287, as amended). The inspectorate supervises how companies comply with Polish environmental protection regulations and with any permits they are issued. The inspector has the right to impose sanctions on entities that do not comply with environmental regulations and/or permits; such sanctions range from fines and penalties to prohibiting the entity from continuing to carry out a given activity that is causing a serious hazard to human health, or to the environment. The powers of the Environmental Protection Inspectorate include the following:

- verifying compliance with environmental protection provisions;
- verifying compliance with decisions and rules for use of the environment;
- participating in the proceedings concerning the location of the investment;
- verifying installations and facilities intended to protect the environment;
- discontinuing activities that breach the requirements for environmental protection, or use of the environment;
- verifying compliance with provisions on packaging and packaging waste;
- verifying compliance with provisions on managing of particular wastes, and product and deposit charges;
- verifying products introduced into the market which are subject to conformity assessments in regard to their compliance with environmental protection requirements;
- verifying compliance with provisions on recycling of end-of life vehicles;
- verifying compliance with provisions on waste electrical and electronic equipment;
- authorizing the transboundary movement of waste; and
- verifying annual reports regarding the emissions allowances trading scheme.

The tasks of the Environmental Protection Inspectorate are executed by the chief inspector of environmental protection (appointed and dismissed by the prime minister at the recommendation of the minister of the environment), and by the Voivodship Inspectors of Environmental Protection.

The compliance by individual entities with environmental regulations and permits to which they are subject is also supervised by regional and local level authorities—the Voivodes (województwie), the heads of counties (starostowie) and local mayors (wójtowie, burmistrzowie).

The minister of the environment issues most of the secondary legislation (ordinances) and coordinates policymaking in the area of environmental protection.

Other entities acting in the field of environmental protection include the National Fund for Environmental Protection and Water Management (for granting loans and subsidies to entities investing in the development of environmental protection systems), the State Forests Directorate and the seven River Basin Management Boards.

HEALTH & SAFETY AUTHORITIES

The key state authorities in the field of health and safety include the Ministry of Labor and Social Policy, the State Labor Inspectorate, the Sanitary Inspectorate and the Technical Supervision Office.

The State Labor Inspectorate is subordinate to the Sejm and is supervised by the Labor Protection Council. It consists of the General Labor Inspectorate and 16 Regional Labor Inspectorates. The chief labor inspector presents an annual report to the Sejm on its activities. The State Labor Inspectorate's responsibilities include:

- supervising the observance of labor law and in particular assuring safe and healthy working conditions;
- verifying compliance of the design of buildings and the rebuilding and modernization of workplaces with health and safety regulations;
- verifying compliance of equipment and technology with health and safety standards;
- providing comments on drafts of new legislation pertaining to labor law;
- issuing opinions and advice on eliminating health and safety threats to employees; and
- investigating the causes of workplace accidents.

The minister of health supervises the Sanitary Inspectorate. The scope of powers of the Sanitary Inspectorate, which is headed by the General Sanitary Inspector, includes the following:

- overseeing and ensuring healthy and sanitary conditions of the environment, workplaces and schools and other educational institutions; and
- overseeing and ensuring healthy conditions with regard to food and feeding.

The Labor Protection Council is an authority supervising labor conditions and the activities of the General Labor Inspectorate. The main tasks of the Labor Protection Council include:

- assessing the General Labor Inspectorate's activities; and
- initiating the ratification of international conventions and international standards for labor protection and ergonomics.

The minister of the economy supervises the Technical Supervision Office. However, the Technical Supervision Office is not obligated to report the results of its activities. The Technical Supervision Office exercises supervisory duties over certain types of machinery that are deemed dangerous to human life and health, the environment or property.

ENFORCEMENT OF SH&E LEGISLATION FINANCIAL & LEGAL INSTRUMENTS

The Environmental Protection Act (EPA) of April 27, 2001 (unified text: Dz. U. 2008, No. 25, item 150, as amended) is not the sole legal basis for environmental financial and legal instruments. The provisions of the Nature Conservation Act of April 16, 2004 (unified text: Dz. U. 2009, No.151, item1220, as amended), the Act

of Feb. 4, 1994—Geological and Mining Law (unified text: Dz. U. 2005, No. 228, item 1947, as amended) and numerous other acts establish principles for the payment of fees for the use of the environment and administrative fines.

To enforce environmental protection, EPA and other acts provide for several financial and legal instruments, which may be applied against entities that do not comply with the applicable provisions. The existing financial and legal instruments of environmental protection are, in particular, the following:

- fees for the use of the environment;
- increased fees;
- administrative fines; and
- product and deposit charges.

FEES FOR USE OF THE ENVIRONMENT

According to EPA, fees for the use of the environment are paid for:

- gas or dust emissions into ambient air;
- discharge of wastewater into waters or to land;
- water abstraction; and
- the landfilling of waste.

The fees for the use of the environment are calculated by the users of the environment themselves and are paid twice a year to the account of the relevant marshal's office. The fees are calculated according to the rates in effect when the use of the environment was made, according to The Ordinance of the Council of Ministers of Nov. 14 2008, on the Fees for the Use of the Environment (Dz. U. 2008, No 196, item 1217). EPA provides the upper limits for the unit rate of fees (raised annually, by an amount corresponding to the mean annual overall index of the prices of consumer goods and services). EPA provides many exemptions from the requirement to pay fees for the use of the environment.

INCREASED FEES

The increased fees provided by EPA are in fact sui generis fines. Such increased fees may be imposed on users of the environment in the absence of the required permit for gas or dust emissions into the ambient air, water abstraction or wastewater discharge into waters, or onto land. The user of the environment may be subject to increased fees for a waste landfill for which no approval has been granted on the instruction for the operation of the landfill for waste storage where no approval of the manner and place of waste storage has been granted, or for the landfill of waste at a site not destined for this purpose. Particularly high fees are provided, for example, when waste is discharged into inland surface waters, groundwater, inland seawaters or territorial seawaters.

ADMINISTRATIVE FINES

Administrative fines may be imposed by the Voivodship Inspector for Environmental Protection by way of a decision of noncompliance with a permit or with the conditions of other decisions. The system is based on a running



fine (including hourly or daily rates) and a cumulative fine (a fine for the period over which the violation lasted). The cumulative fine is imposed after the violation has already ceased, or for the period until Dec. 31 of each year, if the violation has not been eliminated by that date. EPA provides for the upper limits of fines, while the operational (existing) amounts of unit fine rates are prescribed by The Ordinance of the Council of Ministers of Dec. 20, 2005, on the Amount of Unit Fine Rates for a Violation of the Conditions of Wastewater Discharge into Water or Land (Dz. U. 2005, No. 260, item 2177, as amended) and The Ordinance of the Council of Ministers of Sept. 29, 2001 on the Amount of Unit Rates of Fines for Exceeding the Permissible Noise Level (Dz. U. 2001, No. 120, item 1285, as amended).

At the request of a user of the environment who is obliged to pay increased fees or administrative fines, the date of the payment can be deferred, if the user implements a corrective project in a timely fashion, and that will eliminate the reasons for the increased fees or fines (the project must be implemented within 5 years from the date the request was submitted). If the timely implementation of the project has eliminated the grounds for the payment of an increased fee or administrative fine, the competent authority may reduce the fee or defer the fine by the amount of the party's own resources spent on the implementation of the project. If timely implementation of the project does not occur, the user of the environment must pay the deferred fee or fine, along with a prolongation charge.

PRODUCT & DEPOSIT CHARGES

Product and deposit charges were introduced by the



Product and Deposit Charges Act of May 11, 2001 (unified text: Dz. U. 2007, No. 90, item 607, as amended). Under the Product and Deposit Charges Act of May 11, 2001, manufacturers, importers and retailers are obligated to meet annual targets for recovery and recycling of packaging waste and certain post-user waste. These entities have the following options to meet the recovery and recycling targets: manage their own waste, commission specialized companies or pay product fees. The Ordinance of the Minister of Environment of Dec. 29 2010, on the Rates of Product Charges (Dz. U. 2010, No. 259, item 1774) provides for unit rates of product fees and the Product and Deposit Charges Act of May 11, 2001 establishes the upper limit of unit rates of deposit charges.

LIABILITIES

2007 Environmental Damages/Liability Act

The Act of April 13, 2007 on Prevention and Repair of Damages to the Environment (Dz. U. 2007, No. 75, item 493, as amended) transposes the requirements of Directive 2004/35/CE of the European Parliament and of the Council of April 21, 2004, on Environmental Liability with Regard to the Prevention and Remedying of Environmental Damage into Polish law and specifies the principles of liability for prevention and repair of damages to the environment. This act came into force on April 30, 2007.

According to Article 6(11) of this act, “damage to the environment” may be caused by the direct or indirect activity of an entity using the environment; such use may include the use of protected species, natural habitats, water and the surface of the earth (soil or ground). In accordance with Article 9(1) of this act, a “liability” aris-

es when a direct danger/threat/risk of damage to the environment occurs. In such cases, an entity using the environment (e.g., an entrepreneur) is obliged to undertake immediate preventive activities. In accordance with Article 9(2) of this act, a “liability” also arises when there is an actual occurrence of damage to the environment. In such cases, the entity using the environment must meet the following requirements:

- Limit existing damage to the environment and prevent further damage to the environment and the negative consequences for human health, in particular, by controlling, preventing, removing or otherwise limiting any pollution or other harmful factors.

- Repair the damage to the environment after settlement/agreement with the environmental authority.

If the entity using the environment does not undertake the corresponding preventive or corrective activities, the environmental authority may issue an administrative decision requiring the entity to undertake such activities.

In general, the act does not impose auditable requirements on entrepreneurs/facilities. However, the relevant environmental authority may impose certain obligations (e.g., information or notification duties or the duty to measure the content of specific substances in soil, ground or water) resulting from the occurrence of a liability. The entity using the environment bears the costs of preventive and corrective activities. Furthermore, an entity using the environment may be fined for not undertaking preventive and corrective activities, for not notifying the environmental authority of the occurrence of an incident that presents a danger of actual or potential damage to the environment, or for not complying with conditions required by the environmental authority to repair the damage to the environment.

ADMINISTRATIVE LIABILITY

According to EPA, the appropriate environmental authorities may impose bans and orders on the regulated entities (installations, other users of the environment). Primarily, the appropriate environmental authority may order an entity that has a negative impact on the environment to do the following:

- minimize its influence on the environment; or
- restore the environment to the appropriate state.

The authority may also impose a financial fee equal to the cost of the damage to the environment if it is not possible to undertake such activities.

EPA also provides for other sanctions. The appropriate environmental authority must issue a decision stopping a dangerous activity that causes a substantial deterioration of the state of the environment or poses a danger to human life or health. The Voivodship Inspector for Environmental Protection can issue a decision stopping the operation of an installation that operates without first having obtained the required integrated permit (as envisaged in the IPPC Directive), without having obtained a permit for emissions of substances, or energy to

the environment, or if it is operating in violation of the conditions of its permit.

With regard to a new or modernized building structure or a complex of structures or installations classified as likely to have significant impact on the environment, the Voivodship Inspector for Environmental Protection may order operations to stop under the following circumstances:

- requirements for environmental protection are not met;
- emissions standards (established by law or permit) are not met within 30 days from startup; and
- within 5 years of operation, it is revealed that the installation or structure failed, at startup and on an ongoing basis, to meet the requirements for environmental protection, and the owner has failed to notify the Voivodship Inspector for Environmental Protection about the operation of the installations or structures.

In addition, The Waste Act of April 27, 2001 (unified text: Dz. U. 2010, No. 185, item 1243, as amended) indicates circumstances under which the Voivodship Inspector for Environmental Protection is obligated to stop other activities conducted in violation of the requirements for environmental protection.

CIVIL LIABILITY

Pursuant to the provisions of the Act of April 23, 1964—The Civil Code (Dz. U. 1964, No. 16, item 93, as amended), liability for damage can be either fault-based or strict. In case of fault-based liability, anyone causing damage to others, due to his or her own fault, must provide compensation for such damage. However, the strict liability rule has much broader application to environmental issues. A person or entity operating on its own behalf or an enterprise or facility “entered into motion by natural forces” (**Note:** this Polish legal term essentially means a facility that uses certain types of energy, including steam, gas, electric energy, liquid fuels, etc.) is liable for damages caused to persons or goods by the operation of the enterprise or facility. Moreover, this rule states that the person or entity operating the enterprise or facility may be released from liability for damage only if the damage resulted from an event of force majeure or from the sole fault of the person incurring the damage, or if the damage was caused by an unrelated third party. If none of these absolving factors are satisfactorily established, the owner is liable for damage even if there is no fault on his part.

According to EPA, the provisions of the Act of April 23, 1964—The Civil Code will apply to liability for damages caused by the impact on the environment, unless EPA provides otherwise.

EPA provides that civil liability applies to damages or threats of damages resulting from an illegal impact on the environment. The entity responsible for such damages or threats must restore the environmental condition to a state that complies with law and must take preventive measures (in the case of potential damages). If it is impossible to undertake appropriate measures, or if

undertaking them would be too burdensome, the environmental authority may demand that the activity causing the threat, or disturbance be stopped. However, a practical problem may arise in defining whether an action constituted an illegal impact on the environment. A similar problem is posed by ambiguities in the phrase, “state complying with law,” as used in the act. The provision further provides that the state treasury, local or regional administration or environmental organization may bring an analogous legal action on the condition that the danger or violation refers to the environment as a common good. However, the phrase, “environment as a common good” may become difficult to interpret during litigation.

EPA also introduced a specific provision broadening the scope of strict liability. If damage is caused by an increased-hazard or high-hazard establishment, strict liability will apply regardless of whether the establishment is entered into motion by forces of nature. In addition, EPA excludes situations in which compliance with environmental permits conferred to the entity is an effective defense against civil liability for damage. Lastly, EPA modifies the rules on the burden of proof. At the time of filing the lawsuit, claimants may demand that the court require the tortfeasor to release any information necessary to establish the scope of the liability.

CRIMINAL LIABILITY

EPA and other environmental acts provide for many minor offenses within the meaning of the Act of May 20, 1971—Code of Minor Offenses (unified text: Dz. U. 2010, No. 46, item 275, as amended), which are subject to fines of up to PLN (Polish Zloty) 5,000 or prison sentences of up to 30 days. The Act of May 20, 1971—Code of Minor Offenses also contains a special chapter dealing with minor offences against the environment. The offenses against the environment are principally regulated by chapter XXII of the Act of June 6, 1997—The Criminal Code (Dz. U. 1997, No. 88, item 553, as amended), which is entirely devoted to the offenses, including crimes, against the environment (punishable by imprisonment for more than 3 years).

ENFORCEMENT PRACTICES OF HEALTH & SAFETY PROVISIONS

There is no general rule regarding the level of enforcement of provisions of health and safety law. However, a review of judicial decisions provides some guidance for identifying regulations that seem to be of greater importance to Polish authorities. For example, section X of the Act of June 26, 1974—The Labor Code (unified text: Dz. U. 1998, No. 21, item 94, as amended), which provides the rules regarding work safety and hygiene, is of primary importance. Many disputes and court decisions are related to matters that come under this section. The State Labor Inspectorate supervises and controls compliance with provisions of labor law, includ-

ing the provisions and the principles of work safety and hygiene. Also, the State Sanitary Inspectorate controls and supervises compliance with health and safety provisions. Finally, according to the general labor law rules, employees may seek enforcement of their rights in common courts. Consequently, compliance with those provisions is important for every employer, regardless of industry.

It is rather difficult to precisely identify the regulations that are most often enforced in Poland. Nevertheless, the rules identified here are frequently a basis for court disputes. It is worth noting that labor courts are rather proemployee oriented and, in case of conflict between employers and employees, are likely to protect the employees' interests.

AUDIT PRIVILEGE

No provisions in Polish law afford protection against enforcement action as a result of adverse findings uncovered during a self-initiated compliance audit.

Attorney-client privilege in Poland is comparable to that in other countries. In particular, rules of confidentiality are strictly adhered to and strongly protective of clients, and are imposed and binding in Poland, especially for advocates and legal advisors. These rules do not allow for the release of any information gathered during the course of legal advisory activity.

ACCESS TO INFORMATION

According to the Act of Oct. 3, 2008, on the Public Availability of Information about the Environment and its Protection, on Public Participation in Environmental Protection and on Environmental Impact Assessments (Dz. U. 2008, No. 199, item 1227, as amended), the administrative authorities must, as a rule, provide any information they hold regarding the environment and its protection to a requesting party. The act determines the scope of information which the authorities are obligated to disclose. Requested information may include the state of the elements of the environment; factors such as radiation; measures, including administrative measures, such as policies, legislation etc.; reports on the implementation of environmental legislation; cost-benefit and other economic analyses and assumptions; and the state of human health and safety, conditions of human life, cultural sites and built structures.

The Act of Oct. 3, 2008 on the Public Availability of Information about the Environment and its Protection, on Public Participation in Environmental Protection and on Environmental Impact Assessments also specifies the circumstances in which access to environmental information must or may be denied by public authorities. The exclusions relate generally to the protection of confidential information such as data obtained for public statistics purposes within the meaning of the Public Statistics Act of June 29, 1995 (Dz. U. 1995, No. 88, item 439, as amended); the protection of copyrights and patent rights,

which would be infringed by their disclosure to third parties; or the protection of information related to current judicial proceedings or disciplinary inquiries, where the disclosure of information could hinder the proceedings. Exclusions also cover the confidentiality of personal data; documents or data provided to the public authorities by parties with no legal obligation to do so, if the documents or data were restricted by the provider as confidential and not subject to public inspection; and documents or data which, once accessible, could pose danger to the environment or ecologic safety of the country. The authority must not disclose information if the data provided by an entrepreneur are of such nature that: their disclosure could damage that entrepreneur's competitive position (for example, technological data); information on activities carried out on closed areas could have a significant impact on the environment and are not disclosed to the public; national defense, safety and public security could be affected. The refusal to disclose the requested environmental information must be made in the form of a decision.

Exclusions from the obligation to provide environmental information also apply when the request for information has been formulated in too general a manner, the request is manifestly unreasonable, or when the authorities would have to disclose documents, or data only intended for internal communication, or that is not yet prepared in its final version (i.e., draft documents or data).

The duty to disclose environmental information to the public is of a general nature and a person requesting environmental information does not need to prove the existence of a legal interest in order to obtain access to such information.

The authorities must make the requested information available without undue delay and within 1 month from the submittal of the request. This period may be extended for up to 2 months (i.e., 3 months total) if the complexity of a request justifies it.

The documents available in publicly available records must be made available the same day that the motion is submitted. A refusal to disclose environmental information must be made in the form of an administrative decision. This enables the person requesting information to appeal a refusal.

PROPERTY TRANSFER REQUIREMENTS

No environmental obligations are imposed on the parties involved in transactions where a business or property is transferred. However, the law places the risk on the acquiring party and, therefore, environmental due diligence is usually performed.

The requirement to conduct an assessment of the implementation of environmental requirements applies to the sale of state-owned enterprises (whether through the sale of shares or the direct sale of the enterprise). In those cases and prior to the sale, it is obligatory to con-

duct an assessment on the performance of duties arising from the provisions of environmental protection.

CONTAMINATED LAND

Contaminated Land Requirements

In accordance with Article 35(2) of the Act of April 13, 2007, on Prevention and Repair of Damages to the Environment (Dz. U. 2007, No. 75, item 493, as amended), for any damages to the environment concerning land that occurred prior to April 30, 2007, the provisions set forth in the Environmental Protection Act of April 27, 2001, apply; these older requirements are described in the subtopic titled, "Previous Contaminated Land Requirements." However, for any damages to the environment concerning land that occurred on or after April 30, 2007, the general provisions concerning damages to the environment set forth in the act of April 13, 2007, on Prevention and Repair of Damages to the Environment apply; these damages include (among others) any damages to the environment that affect land. Additional details concerning the requirements of this new act are set forth in the first paragraph of the subtopic titled, "Liabilities."

Previous Contaminated Land Requirements

The old principle that the polluter pays to clean up contaminated land has been supplemented with the principle that the holder of contaminated land is also liable for cleaning up pollution. The contaminated land regime, set forth in EPA, the Introductory Act on EPA and The Waste Act of April 27, 2001, applies to both soil and

subsoil, but it should be noted that groundwater is not included within the definition of contaminated land.

The detailed soil and subsoil quality standards, which allow for the determination of whether the land is contaminated, are set out in The Ordinance of the Minister of the Environment of Sept. 9, 2002, (Dz. U. 2002, No. 165, item 1359). This ordinance provides permissible soil content levels for more than 50 substances.

If land is deemed to be contaminated and it is not identified in a local zoning plan, it must be restored to a quality suitable for its current use. If contaminated land is identified in the local zoning plan, it must be restored to a quality level suitable for use envisaged in the local zoning plan. In both situations, land is classified according to three categories: (a) protected land; (b) agricultural or residential land; and (c) industrial land. If land is classified in a zoning plan as industrial land, the cleanup requirement is limited to the quality level deemed suitable for use as industrial land. If, however, land previously used as industrial land will be used for residential purposes in the future, the cleanup standard will be higher.

Polish environmental protection provisions do not contain any express obligation for the cleanup of groundwater. However, the need to implement groundwater cleanup can be inferred from a general obligation of the polluter to restore the environment to an appropriate state. However, such an obligation is rarely enforced.

If land is deemed to be contaminated, the obligation to clean up the contaminated land may be imposed on the holder (the owner or any person indicated in the land and buildings register). EPA provides that if, subsequent to Oct. 1, 2001, the land is polluted by an identified third party, then the holder may be exempted from the obligation to clean it up. In such a situation, the holder must prove to the head of county (Starosta) authority that the contamination was caused by the identified third party. If the contamination was caused with the consent or knowledge of the holder, the holder is jointly liable with the polluter for the cleanup.

Parties who held contaminated land before Oct. 1, 2001 had a right, until June 30, 2004, to notify the Starosta authority that the contamination took place before Oct. 1, 2001, and was caused by another entity. If the Starosta authority did not refuse this notification within one year, the holder was exempted from liability to clean up the land.

If the entity required to clean up the land proves that the contamination occurred before Sept. 1, 1980, the obligation is limited to eliminating any hazard to human life, "other damages," or the danger that contamination may spread. This solution was implemented to limit the retroactive impact of new regulations. A holder who has remediated contaminated land may claim damages from the person who caused the contamination.

The Starosta authority may, in certain circumstances, take over the holder's obligation to clean up contaminated

Websites

The website provided by the [Polish parliament of legal acts passed by the parliament](#) as well as other bodies and authorities.

The website of the [Ministry of the Environment](#) containing some existing law, as well as drafts of different acts and ordinances, referring to the environmental protection. The acts available do not contain subsequent amendments.

The legal service of the [Ministry of Economy](#) provides binding occupational safety and hygiene legislation, as well as law applying to industrial plants and activities as well as drafts of acts and ordinances regarding the abovementioned fields. The acts available on this web/Internet site usually do not contain amendments.

The website of [The State Labor Inspectorate](#) provides for binding legislation on Labor Law, Safety and Hygiene of Work as well as explanations of legal problems regarding labor.

The [private service](#), which provides legal acts passed by the parliament as well as by other bodies and authorities. The acts available on this site do not contain subsequent amendments.

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land, where it believes there is an immediate danger to human life, health or serious damage to the environment. To fulfill this duty, the Starosta authority can demand access to the land. The land holder must cooperate with the Starosta authority and cover the cost of cleanup.

The Starosta authority maintains a register of contaminated land that is updated on an annual basis. The Starosta authority is also required to undertake periodic inspections of land (however, no provisions state how often those inspections must be conducted).

SPILLS & RELEASES

Polish environmental provisions do not impose any specific obligations for reporting spills and chemical releases to the competent authorities. The Waste Act of April 27, 2001, (unified text: Dz. U. 2010, No. 185, item 1243, as amended) specifies a duty of notifying the Starosta authority when waste is generated in case of a serious accident (i.e., industrial spill and releases). There is a more general duty imposed on every entity running an industrial plant of increased risk or an industrial plant of high risk; if a serious industrial breakdown occurs, the entity must immediately inform the State Fire Services and Voivodship Environmental Protection Inspector and, without undue delay, must provide these authorities with the following:

- information on the circumstances of the breakdown;
- information on dangerous substances related to the breakdown;
- information allowing an assessment of the results of the breakdown for people and the environment; and
- information on rescue actions undertaken, as well as measures undertaken to limit the results/consequences of the breakdown and limit reoccurrence.

ENVIRONMENTAL AGENCIES

Central Government Authorities

Ministry of Environmental Protection
ul. Wawelska 52/54
00-922 Warsaw, Poland
Tel: (00 48) 22 57 92 900
Fax: (00 48) 22 57 92 383
E-mail: info@mos.gov.pl
<http://www.mos.gov.pl/>

State Forests Directorate
ul. Bitwy Warszawskiej 1920 r. nr 3
02-362 Warsaw, Poland
Tel: (00 48) 22 58 98 100
Fax: (00 48) 22 58 98 171
E-mail: sekretariat@lasy.gov.pl
<http://www.lp.gov.pl/>

National Fund for Environmental Protection
and Water Management
ul. Konstruktorska 3a
02-673 Warsaw, Poland
Tel: (00 48) 22 459 00 01

Fax: (00 48) 22 459 01 01
E-mail: fundusz@nfosigw.gov.pl
<http://www.nfosigw.gov.pl/>

Inspectorate for Environmental Protection
ul. Wawelska 52/54
00-922 Warsaw, Poland
Tel/fax: (00 48) 22 825 04 65
E-mail: gios@gios.gov.pl
<http://www.gios.gov.pl/>

Health & Safety Authorities

Central Government
Ministry of Economy
Pl. Trzech Krzyzy 3/5,
00-507 Warsaw, Poland
Tel: (00 48) 22 693 50 00
Fax: (00 48) 22 693 40 46 to 48
E-mail: bpi@mg.gov.pl
<http://www.mg.gov.pl/>

The State Labor Inspectorate
(The General Labor Inspectorate)
ul. Krucza 38/42
00-926 Warsaw, Poland
Tel: (00 48) 22 420 37 56
Fax: (00 48) 22 625 47 70
E-mail: kancelaria@gip.pl
<http://www.pip.gov.pl/>

Office of Technical Inspection
ul. Szczesliwicka 34
02-353 Warsaw, Poland
Tel: (00 48) 22 57 22 100
Fax: (00 48) 22 822 72 09
E-mail: udt@udt.gov.pl
<http://udt.gov.pl/>

Ministry of Labor
and Social Policy
ul. Nowogrodzka 1/3/5,
00-513 Warsaw, Poland
Tel: (00 48) 22 661 10 00
Fax: (00 48) 22 661 13 36

The Sanitary Inspectorate
(General Sanitary Inspector)
ul. Długa 38/40
00-238 Warsaw, Poland
Tel: (00 48) 22 536 13 00
Fax: (00 48) 22 635 61 94
E-mail: inspektorat@gis.gov.pl
<http://www.gis.gov.pl/>

REGULATORY INFORMATION

The Polish official *Journal of Laws* (Dziennik Ustaw) (Dz. U.) publishes SH&E laws and regulations. The journal can be obtained through the following official institutions:

Centrum Usług Wspólnych
ul. Powsinska 69/71
02-903 Warsaw, Poland
Tel: (00 48) 22 628 36 05
Tel/fax: (00 48) 22 694 61 21
E-mail: sekretariat@cuw.gov.pl
<http://www.cuw.gov.pl/>

Wydział Wydawnictw i Poligrafii
Tel: (00 48) 22 694 67 52
Tel/fax: (00 48) 22 694 62 06
E-mail: dziust@cuw.gov.pl

Punkt Sprzedazy
(purchase of *Journals of Laws*)
ul. Powsinska 69/71
02-903 Warsaw, Poland
Tel: (00 48) 22 694 62 96

OTHER CONTACTS

American Chamber of Commerce in Poland
Warsaw Financial Center
ul. Emilii Plater 53
00-113 Warsaw
Tel: (48 22) 520 59 99
Fax: (48 22) 520 59 98

E-mail: office@amcham.com.pl
<http://amcham.pl/>

The American Embassy
Al. Ujazdowskie 29/31
00-540 Warsaw
Tel: (48 22) 504 20 00
Fax: (48 22) 504 23 13
E-mail: WarsawMedia@state.gov
<http://poland.usembassy.gov/>

Embassy of Poland
2640 16th St. NW
Washington DC 20009
Tel: (202) 234 3800
Fax: (202) 328 6271
E-Mail: polemb.info@earthlink.net
<http://www.polandembassy.org/>

Bank of Environmental Protection
Al. Jana Pawla II 12
00-950 Warsaw
Tel: (48-22) 850 87 35
Fax: (48-22) 850 88 91
E-mail: bos@bosbank.pl
<http://www.bosbank.pl/> ☎

The Future of IPS

A SSE and the International Practice Specialty (IPS) would like to thank the following IPS members who have committed to serve at least one more year on the IPS volunteer Advisory Committee. We thank you for your time and dedication to ASSE, IPS and the safety community.

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If you would like to get more involved and work with this great group of volunteers, [click here](#) for more information.