

THE CONCEPT OF THE CIRCULAR ECONOMY IN POLISH LEGISLATION

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1. Introduction

Over the past several years, the concept of the circular economy has become firmly established in the legal acts and documents of the European Union and its Member States. This economy departs from the previously prevailing linear model of “take – use – dispose” and shifts towards a circular model. It is therefore distinct from the earlier classical (traditional) model.

The starting point for considering the beginnings of the implementation of this concept is the Seventh Environmental Action Programme of the European Union, adopted by Decision No. 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020, “Living well, within the limits of our planet.”¹ It set out for the Union the objective of achieving by 2020 an intelligent and sustainable economy, conducive to social inclusion, by defining a number of policy areas and measures aimed at transitioning towards a low-emission and resource-efficient economy.

On the basis of the Seventh Programme, in 2014 the EU strategy on waste management was published – *Towards a Circular Economy: A Zero Waste Programme for Europe*². This document was soon replaced: on 2 December 2015 the European Commission presented the Communication *Closing the Loop – An EU Action Plan for the Circular Economy*³, which provided a strong foundation for introducing the circular economy concept into EU legislation⁴.

A new impulse in implementing the circular economy concept was the European Green Deal⁵. Its consequence was the adoption in 2020 of the *New Circular*

¹ Official Journal of the European Union L 354 of 28 December 2013, pp. 171–200.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2014) 398 final, 2 July 2014.

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2015) 614 final, Brussels, 2 December 2015.

⁴ See: BUKOWSKI, Z., *Gospodarka odpadami jako element gospodarki o obiegu zamkniętym w polityce i prawie Unii Europejskiej*, in: *Zarządzanie gospodarką odpadami*, ed. ZABAWA, S., Poznań 2017, pp. 27–41.

⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: “The European Green Deal”, Brussels, 11 December 2019, COM(2019) 640 final.

*Economy Action Plan for a Cleaner and More Competitive Europe*⁶. All these EU documents became the basis for preparing a number of legislative changes in EU law⁷, which also resulted in changes in the legislation of the Member States.

Among the changes was the incorporation of the very notion of the circular economy into legal acts. From a theoretical and conceptual perspective, this notion should be treated as a programmatic term, setting out the goal towards which we strive – a closed loop of natural resources. The changes mainly consisted of introducing legal instruments intended to implement the circular economy concept.

The circular economy concept is, of course, already subject to scientific⁸, including legal, analysis⁹.

The purpose of this article is to analyse Polish law in terms of the implementation of the circular economy concept. The analysis will cover Polish legal acts related to this concept.

Beyond legal acts, attention should also be paid to policy documents related to the circular economy. In September 2019, the Roadmap for the Transformation Toward a Circular Economy was adopted. It was one of the projects under the Strategy for Responsible Development by 2020 (with a perspective to 2030). Its implementation was planned for 2021–2023. The main ministries responsible for carrying out its measures were: the Ministry of Development and Technology, the Ministry of Climate and Environment, the Ministry of Agriculture and Rural Development, the Ministry of Infrastructure, and the Ministry of Education and Science. It should be stressed that the implementation period of this document has expired, and no new one has yet been adopted (although work is underway).

The Productivity Strategy 2030, adopted in July 2022, also plays an important role. Its aim is to modernise the structure of the Polish economy, including by increasing the use of secondary and renewable raw materials, reducing industrial

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: “A new Circular Economy Action Plan for a cleaner and more competitive Europe”, COM(2020) 98 final, Brussels, 11 March 2020.

⁷ For example, the amendment of the Waste Framework Directive. See: BUKOWSKI, Z., Nowelizacja dyrektywy odpadowej, in: Zarządzanie gospodarką odpadami, ed. MANCZARSKI, P., Poznań 2018, pp. 181–198.

⁸ Handbook of the Circular Economy, eds. LAZAREVIC, D., FINNVEDEN, G., BRANDÃO, M., Edward Elgar Publishing 2022; Handbook of the Circular Economy. Transitions and Transformation, eds. ALEXANDER, A., PASCUCCHI, S., CHARNLEY, F., De Gruyter 2023; KUMAR, A., The Circular Economy: Future of Sustainable Development, 2025; Circular Economy and Sustainable Development. A Necessary Nexus for a Sustainable Future, eds. STEFANAKIS, A. I., NIKOLAOU, I. E., Springer International Publishing 2024.

⁹ LESNIEWSKA, F., STEENMANS, K., Circular Economy and the Law. Bringing Justice Into the Frame, Routledge 2023; BUKOWSKI, Z., Gospodarka o obiegu zamkniętym a prawo ochrony środowiska, in: Sprawiedliwość ekologiczna w prawie i praktyce, ed. BOJAR-FIJAŁKOWSKI, T., Gdańsk 2016, pp. 45–54.

waste generation, and supporting the transition towards a circular economy. However, these strategic documents will not be subject to further in-depth analysis.

2. The Circular Economy Concept in the Scope of Polish Waste Law

The most extensive introduction of instruments connected with the circular economy concept has taken place within waste management law. It is only in waste-related legislation that the term “circular economy” explicitly appears.

The term “circular economy” was introduced in the Waste Act of 14 December 2012 in relation to the scope of this Act. Article 1 of the Act states:

“The Act sets out measures to protect the environment, human life and health by preventing the generation of waste and reducing its quantity, as well as the negative impacts of waste generation and management, and by reducing the overall impact of resource use and improving the efficiency of such use, in order to transition to a circular economy.”

This wording of Article 1 was introduced by the Act of 17 November 2021 amending the Waste Act and certain other acts (Journal of Laws 2021, item 2151). In its earlier version, Article 1 read:

“Article 1. The Act sets out measures to protect the environment, human life and health, preventing and reducing the negative impacts on the environment and human health arising from waste generation and management, and limiting the overall effects of resource use and improving the efficiency of such use.”

These changes must be clearly linked with the transposition of EU law. The original wording of Article 1 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives was as follows:

“Article 1

Subject matter and scope

This Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use.”

Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (OJ L 150, 14.6.2018, pp. 109–140) amended the wording of Article 1 as follows:

“Article 1

Subject matter and scope

This Directive lays down measures to protect the environment and human health by preventing or reducing the generation of waste and its adverse impacts, and by reducing the overall impacts of resource use and improving the efficiency of such use,

which is crucial for the transition to a circular economy and for ensuring the Union's long-term competitiveness."

In the explanatory memorandum to the draft Act of 17 November 2021 amending the Waste Act and certain other acts, the change was presented as follows:

"In Article 1 of the Waste Act, the subject matter of regulation was supplemented by indicating that the measures established are of fundamental importance for the transition to a circular economy and for ensuring the EU's long-term competitiveness. Waste management should be based on the principles of the circular economy and support the pursuit of such an economy. The circular economy means an economic system in which the value of products, materials and other resources in the economy is maintained for as long as possible, their efficient use in production and consumption is increased, thereby reducing the environmental impacts of their use, and the generation of waste and the release of hazardous substances at all stages of their life cycle is minimised, including through the application of the waste hierarchy. Both the changes introduced in Article 1 of the Waste Act and in the individual provisions of this draft reflect these assumptions."

The second statutory act in which the term circular economy appears is the Act of 4 September 1997 on Departments of Government Administration (consolidated text: Journal of Laws 2024, item 1370). This Act defines the scope of government administration departments and the competences of the minister responsible for each department. One such department is the climate department (separate from the environment department). This department covers climate and sustainable development matters, in particular in the following areas:

1. participation in shaping climate policy, including within the EU, particularly in negotiations concerning international climate and sustainable development policy;
2. implementation of EU climate policy, including the management of funds for ecological and climate transformation, in particular the management of greenhouse gas emission allowance auctions and the use of funds obtained thereby, taking into account national energy security, including security of energy, energy resources, and fuel supply;
3. protection and management of the environment and rational use of its resources, subject to Article 28;
4. ecological living conditions resulting from the protection of air, soil, protection against noise and electromagnetic fields;
5. control of compliance with environmental requirements and monitoring of the state of the environment;
6. greenhouse gas and other emissions management systems and emissions trading;

7. waste management, including as part of the circular economy;
8. support and promotion of ecological innovations and technologies, taking into account climate and energy transition goals;
9. achieving climate neutrality, in particular through the use of hydrogen technologies, biocomponents and liquid biofuels;
10. management and coordination of programmes for the dissemination, development and promotion of low- and zero-emission technologies, particularly renewable energy sources and transport;
11. socio-economic aspects of ecological and climate transformation;
12. energy efficiency;
13. development and use of renewable energy sources, including prosumer and distributed energy;
14. environmental education and promotion of ecological living conditions – within the department's scope.

Thus, waste management has been directly linked to the circular economy, indicating that waste management constitutes an element of the circular economy.

This provision, creating the climate department as a new department of government administration, was introduced by the Act of 23 January 2020 amending the Act on Departments of Government Administration and certain other acts (Journal of Laws 2020, item 284). This move was more political than substantive, as it aimed to divide the environment department into two separate departments, thereby enabling ministerial positions to be held by individuals from coalition parties forming the then government majority. Incidentally, this situation was short-lived, as after a few months the dualism of ministerial positions was abolished, while the separate departments remained, each headed by the minister responsible for climate and environment.

Among the key instruments introduced in recent years to implement the circular economy are:

- higher targets for preparing municipal waste for re-use and recycling,
- mandatory separate collection of biowaste,
- mandatory separate collection of construction and demolition waste and sorting of fractions from such waste generated by the producer,
- mandatory separate collection of textiles,
- provisions to prevent waste generation, including the planning instrument – the National Waste Prevention Programme,
- the planning instrument – the Food Waste Prevention Programme, as part of the National Waste Prevention Programme,
- a ban on the thermal treatment of selectively collected waste intended for reuse or recycling,

- tightening the system of entries in the electronic Database on Products and Packaging and on Waste Management,
- enabling the identification of municipal waste generated in individual premises of multi-dwelling residential buildings,
- stricter control of municipal waste management by municipal executive authorities,
- bans or restrictions on the use of single-use plastic products,
- tougher administrative fines for unlawful waste management.

This category of legal regulations also includes provisions aimed at introducing, as of 1 October 2025, a deposit-return system for packaging and packaging waste.

The most controversial issue in Poland at present, in the context of potential inclusion in the circular economy concept, is the thermal incineration of waste, particularly municipal waste. The trend towards building new municipal waste incineration plants is so strong (especially with co-financing from external or national sources) that if all plans in this respect were implemented, most municipal waste in Poland would have to be incinerated, making it impossible to achieve recovery and recycling targets.

3. The Circular Economy Concept in Polish Legal Acts Outside Waste Law

The concept of the circular economy also appears in legal acts outside the scope of waste management law. This concerns one type of legal act – executive regulations to acts in the field of financial assistance. Examples include the following legal acts and areas of financial assistance:

- Regulation of 7 November 2022 of the Minister of Funds and Regional Policy on financial assistance granted by the Polish Agency for Enterprise Development under the European Funds for a Modern Economy 2021–2027 programme (consolidated text: Journal of Laws 2025, item 748), in the field of investment aid for efficient resource management and supporting the transition to a circular economy (§ 4(1)(15));
- Regulation of 20 December 2022 of the Minister of Funds and Regional Policy on financial assistance granted by the Polish Agency for Enterprise Development under Priority 1 – Entrepreneurship and Innovation, and Priority 5 – Sustainable Tourism of the European Funds for Eastern Poland 2021–2027 programme (consolidated text: Journal of Laws 2024, item 1729), in the field of investment aid for efficient resource management and supporting the transition to a circular economy (§ 4(1)(1g));
- Regulation of 7 December 2023 of the Minister of Funds and Regional Policy on granting investment aid for efficient resource management and supporting the transition to a circular economy under regional programmes for 2021–2027 (Journal of Laws 2023, item 2664), in the field of investment

aid for efficient resource management and supporting the transition to a circular economy (§ 1(1));

- Regulation of 22 September 2023 of the Minister of Agriculture and Rural Development on detailed conditions for granting and paying financial assistance for operations under Priority 1 – Supporting sustainable fisheries and the restoration and protection of aquatic biological resources under the European Maritime, Fisheries and Aquaculture Fund 2021–2027, and the amount of such assistance (Journal of Laws 2023, item 2128), in the field of assistance under the measure “Environmental protection and reduction of the impact of fishing activities on the environment,” granted for operations contributing to the protection and restoration of aquatic biodiversity or ecosystems, including in inland waters, linked to the implementation of a circular economy, including heat recovery (§ 32(7));
- Regulation of 13 January 2023 of the Minister of Funds and Regional Policy on granting financial assistance by the National Centre for Research and Development under the “European Funds for a Modern Economy 2021–2027” programme (Journal of Laws 2023, item 187), concerning investments in efficient resource management and supporting the transition to a circular economy (§ 2(1p));
- Regulation of 25 April 2024 of the Minister of Development and Technology on granting financial assistance by the Polish Agency for Enterprise Development for projects related to the circular economy under the National Recovery and Resilience Plan (Journal of Laws 2024, item 692), in the field of investment aid for efficient resource management and supporting the transition to a circular economy under investment A2.2.1 “Investments in the implementation of environmental technologies and innovations, including those related to the circular economy,” specified in Component A “Resilience and competitiveness of the economy” of the National Recovery and Resilience Plan;
- Regulation of 15 February 2024 of the Minister of Climate and Environment on detailed conditions for granting horizontal State aid for environmental purposes by voivodeship environmental protection and water management funds (Journal of Laws 2024, item 213), in the field of investments in efficient resource management and supporting the transition to a circular economy (§ 4(11));
- Regulation of 8 July 2024 of the Minister of Development and Technology on granting de minimis aid and State aid for projects implemented under investment A2.2.1 “Investments in the implementation of environmental technologies and innovations, including those related to the circular economy” supported by the Recovery and Resilience Facility (Journal of Laws 2024, item 1042).

In these regulations, with respect to the types of investments eligible for financial support, reference is made to Article 47 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market pursuant to Articles 107 and 108 of the Treaty (OJ L 187, p. 1). That provision indicates that aid is granted for the following types of investments improving efficient resource management through one or both of the following actions:

- net reduction of the amount of resources used to produce a given quantity of output compared with the previously existing production process used by the beneficiary, or with alternative projects or activities listed in paragraph 7. The resources consumed include all material resources used, except energy, and the reduction is determined by measuring or estimating consumption before and after the aid measure, taking into account adjustments for external conditions affecting resource consumption;
- substitution of primary raw materials or feedstock with secondary raw materials or feedstock (reused or recovered, including through recycling).

Another area where changes related to the circular economy are evident is the bioeconomy, including regulations on fertilisers and fertilisation. In this field, the main changes were made directly at EU level through the adoption of Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products, amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003 (OJ L 170, 25.06.2019, p. 1, as amended). Provisions enabling the national implementation of this regulation were introduced by the Act of 29 September 2022 amending the Fertilisers and Fertilisation Act (Journal of Laws 2022, item 2364), which amended the Act of 10 July 2007 on Fertilisers and Fertilisation (consolidated text: Journal of Laws 2024, item 105, as amended). To this category of acts one may also add the Act of 13 July 2023 on Facilitating the Preparation and Implementation of Investments in Agricultural Biogas Plants and their Operation (Journal of Laws 2023, item 1597). It sets out special rules and procedures for the preparation and implementation of agricultural biogas plants, and rules on building permits and operation of such plants, with the aim of facilitating and accelerating such investments.

Another important area for the circular economy concept is water and wastewater management. Here too, key acts have been adopted at EU level. Of particular significance is Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (OJ L 177, 5.6.2020, pp. 32–55). It lays down minimum requirements for water quality and monitoring, and risk management provisions, for the safe reuse of reclaimed water in integrated water resource management, with the aim of ensuring that

reclaimed water is safe for agricultural irrigation, thereby ensuring a high level of environmental, human and animal health protection, promoting the circular economy, supporting climate change adaptation, and contributing to achieving the objectives of Directive 2000/60/EC¹⁰ by addressing in a coordinated way across the Union the problem of water scarcity and the resulting pressure on water resources, thus contributing to the proper functioning of the internal market.

In the Polish context, under Article 2(2) of this Regulation, the Ministry of Infrastructure, by decision of 22 June 2023 (Ref. DGWiŻŚ-7.704.3.2023), decided on a temporary derogation from the application of Regulation (EU) 2020/741 on minimum requirements for water reuse on the territory of the Republic of Poland.

An important role should also be attributed to the revised Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment (OJ L 135, 30.5.1991, p. 40), which was recast as Directive (EU) 2024/3019 of the European Parliament and of the Council of 27 November 2024 concerning urban wastewater treatment (recast) (OJ L 2024/3019, 12.12.2024). However, the deadline for its transposition into national law is 1 August 2027.

4. Supreme Audit Office (NIK) assessment of circular economy implementation

The implementation of the circular economy concept in Poland was evaluated in a 2024 report by the Supreme Audit Office (NIK)¹¹. NIK highlighted that Poland failed to transpose crucial EU directives on waste (2018/851), packaging (2018/852), and single-use plastics (2019/904) within the required deadlines.

The Supreme Audit Office (NIK) further pointed to a high risk that Poland will fail to achieve the EU-required level of preparing municipal waste for re-use and recycling, i.e. a minimum of 55% by 2025, as well as a significant risk of not meeting the landfill reduction targets (a maximum of 30% by weight in 2025–2029, 20% in 2030–2034, and 10% from 2035 onwards). It was assessed positively that, on a national scale, the amount of separately collected municipal waste has been steadily increasing¹².

NIK also indicated that, according to data from Statistics Poland (GUS), the share of municipal waste recovery in Polish municipalities increased from 57% in 2018 to 61% in 2022, which was mainly the result of a rise in composting and

¹⁰ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327 of 22.12.2000, p. 1).

¹¹ Informacja o wynikach kontroli „Wdrażanie gospodarki o obiegu zamkniętym”, Najwyższa Izba Kontroli, Nr 1/2025/P23/013/KGP, Warszawa 2025, <https://www.nik.gov.pl/plik/id,30907,vp,33980.pdf>

¹² In 2018, more than 3.6 million tonnes of municipal waste were separately collected (29% of total generated municipal waste), whereas in 2022 – 5.4 million tonnes (40%).

anaerobic digestion (from 8% in 2018 to 14% in 2022), since the recycling rate remained at a similar level (26% in 2018 compared to 27% in 2022).

A negative trend identified in the report is that, according to Eurostat data, the use of recycled materials in Polish industry significantly decreased during the audited period—from 76 million tonnes in 2018 to 46 million tonnes in 2023. This translated into a decline in the circular material use rate from 10.5% in 2018 (10th place among EU Member States) to 7.5% in 2023 (16th place in the EU)¹³.

5. Conclusion

This analysis shows that Polish circular economy legislation remains secondary to EU legal acts. Domestic regulations either transpose EU directives or enable the implementation of directly applicable EU regulations. There are currently no purely national instruments specifically designed to advance the circular economy.

Timely and complete transposition of EU legislation is therefore essential. As NIK pointed out, Poland missed transposition deadlines and still has not incorporated all required provisions — for example, extended producer responsibility rules are still under development.

From a practical perspective, achieving municipal waste re-use and recycling targets appears to be the most pressing issue. These obligations fall primarily on municipalities and are backed by very high financial penalties. In view of the difficulties identified by NIK, temporary reductions in these penalties are now being prepared in legislation.

¹³ For comparison, the circular material use rate for the EU was 11.6% in 2018 and 11.8% in 2023.

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Abstract

This article analyses the implementation of the circular economy concept in Polish legislation. It shows that the concept has been introduced primarily through EU-driven changes, especially in waste law, financial-support regulations, the bioeconomy, and water and wastewater management. The article also refers to the 2024 report of the Supreme Audit Office (NIK), which points to delays in transposition and serious risks in achieving EU waste targets. It concludes that Polish regulation remains largely derivative of EU law and that the key challenge lies in timely transposition and effective implementation.

Key words

Circular economy; Poland; waste law; EU law; recycling; waste management; transposition; NIK.

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