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Opinion of the Energy Expert of the Union of Entrepreneurs and Employers (ZPP): The prospects for the development of wind farms and photovoltaic sources in light of the laws currently under way

In spite of the holiday period, legislative work on investment issues in the area of renewable energy sources remains intensive. This is, of course, understandable, as our energy industry finds itself in an extremely difficult position, due to both the geopolitical situation, which is new for our country, and the legislative backlog in the field of energy from previous years.

On 4 July 2022, the Council of Ministers adopted a draft amendment to the *Act on Investment in Wind Power Plants* and certain other Acts (UD 207). The draft will now be directed to parliamentary work. This is an amendment to the so-called "10 H" law, introduced in 2016 and essentially preventing the development of onshore wind farm investments. By passing such a controversial law, work on new wind farm projects was made practically impossible, fortunately leaving the possibility to invest in those projects that already had building permits. The deceleration in investment has occurred just now, when essentially all buildable structures have been constructed on the basis of building permits issued before 2016.

In the meantime, onshore wind power has become the cheapest source of electricity, which becomes particularly relevant in the current situation related to the war in Ukraine. Work on the shape of the amendment took quite a long time and was initially carried out in the Ministry of Development, but it was only after the Ministry of Climate and Environment took over the work that the procedure for the document gained momentum and specific provisions, restoring investment opportunities, saw the light of day. The restoration of investment opportunities for onshore wind energy is very good news, not only for investors, but also for the Polish economy in general.

The green energy supply deficit is growing and wind farms are the most promising renewable energy technology for investment. However, let us be aware that the provisions of the amendment will not immediately result in an abrupt increase in expenditure. There will remain for some time a distrust of the sustainability of the state's energy policy in the area of renewables. As a result of the virtual ban on investment in onshore wind energy in 2016, many investors suffered tangible losses, which reverberated negatively for the industry as a whole in Poland, and it must take time to restore confidence in the legal framework guaranteed by the State.

The law has been refined by the Ministry of Climate and Environment and approved by the Council of Ministers. This is very good news for the Polish economy in general, and the Ministry of Climate and Environment should be commended for its determination in this matter. However, as someone who has been investing in onshore wind farms for twelve years and has

some experience of the investment process for this type of energy source, I am concerned whether a rapid increase in investment can be expected in the light of the provisions of this amendment. Probably not, as the level of complications concerning the arrangements related to obtaining a building permit and the uncertainty as to the fate of the project after the arrangements have been made, related to possible public opposition, will discourage some investors from starting new projects. The amendment will certainly make it possible to complete those projects that have a significant degree of progress, for example, having obtained an environmental decision in the past, which remains in force. This is far too little. The requirements of the Polish economy are about 10 GW of new onshore wind projects, from now until 2028.

An additional factor limiting investment will be the upcoming election period, which will affect the restraint of the institutions set up to issue decisions. Meanwhile, the legislation leaves a considerable gap in interpretation and the possibility of stalling the issuing of decisions.

In conclusion, the passing of the amendment to the 10 H Act is very positive news proving that our authorities are returning to a green deal policy, giving a wider room for negotiation with the European Commission as to the pace and dimension of Poland's energy transition. It also reopens investment opportunities for both private investors and state-owned companies in onshore wind energy. However, in my opinion, the regulations will need further liberalisation and fine-tuning if we want these investments to reach the desired scale for the economy.

When discussing the role of wind power in the Polish energy balance, it is also worth assessing the potential of offshore wind power in the overall supply of green energy for the Polish economy. According to the Polish authorities' assumptions, at least 6 GW of offshore wind power should be built in the next decade, and further plans even talk about 10 – 12 GW of installed capacity by 2040. Even the former involves a very tight, albeit manageable, implementation schedule. However – subject to close cooperation between legislators, the regulator and investors. We do not see any particular momentum in this area, and we desperately need the energy from such investments. These are fairly stable and affordable sources of energy. With the commitment of the above-mentioned parties, the economy could receive the first megawatt hours from offshore wind as early as 2025, to be followed by a significant upward trend in the subsequent years. Recently, the issue of the European Commission's notified maximum price for offshore wind energy has come up in industry discussions, which is putting an increasingly heavy burden on investors in the face of changing investment conditions (war, inflation, disrupted supply chains, rising raw material costs, changing reference interest rates, increasing global activation within offshore wind). Especially as regulatory solutions are emerging that potentially put additional strain on project budgets and may lengthen project timelines. An example is the idea of certification of the onshore section of an offshore wind farm infrastructure, which de facto duplicates existing regulations and procedures already present in the area of quality assurance and grid safety. Offshore wind power is an extremely important part of the overall Polish economy due to the creation of a new sector and thousands of jobs, which will increase the potential production capacity of Polish industry. Any legislative barriers should be removed immediately in this sector.

Onshore and offshore wind power should be complemented by solar investment, as their joint operation results in a more stable energy supply for consumers. Large-scale solar plants are low-complexity investments, with minimal environmental impact, and as desirable as possible

in terms of our energy balance. Everything possible should be done to facilitate the rapid development of these investments. These are also socially anticipated projects that do not raise such concerns as wind investments.

Meanwhile, the draft amendments to the *Act on Spatial Planning* include proposals to make investment in photovoltaic sources more difficult. This is because the draft stipulates the obligation to locate solar sources with a capacity of more than 1 MW on the basis of an MPZP (Local Development Plan). This is a change that blocks the further development of such renewable sources and is highly detrimental to the Polish economy. The effects of such an obligation could be similar to those caused by the 10 H Act in wind investments. Organisations affiliated to the Coordinating Council for the Development of Photovoltaics, under the Ministry of Climate and Environment, protested against such restrictions and put forward a different proposal – promoting the development of solar sources. The need to draw up a Local Development Plan would arise for investments whose area would exceed 10 ha, which translates – with the use of modern photovoltaic panels – into a farm with a capacity in the range of 12 to 15 MW. And such a farm would already constitute a significant supplier of green energy. A hybrid power plant consisting of a 15 MW solar farm, a 25 – 30 MW wind power plant and stabilised by a 7 – 10 MW gas block is an optimally designed source of low-cost energy. It can be said to be a model example of distributed energy in Polish conditions. The price of energy from such a source should not exceed PLN 300 – 350 per MWh of energy, which suggests the use of such a source for heating. Let us bear in mind that today's electricity prices in contracts for 2023 have already exceeded PLN 1500 per MWh. The Coordinating Council's proposal has been supported by some of the state-owned companies, which are proposing even broader facilitation of investments. Companies have post-mining and post-industrial sites on which renewable installations can be built quickly and cheaply, subject to legislative facilitation. Both proposals should be supported as they can significantly facilitate investment in photovoltaic sources which, working together with onshore wind farms, increase the country's energy security while guaranteeing a sustainable and reasonable level of energy prices. And this, in turn, enables the development of CHP based on green sources. The problems associated with the modernisation of heating industry are currently posing a huge challenge in the energy transition process.

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