

# Open letter to the International Commission for the Protection of the Odra River against Pollution (ICPO), and the Water Directors of Czech Republic, Germany and Poland

## NGOs call to address the impacts of lignite mining on water in the Oder river basin

2 June, 2021

Dear Mr. Daniel Pokorný

Dear Mr. Przemysław Gruszecki

Dear Mr. Thomas Stratenwerth

Dear Mr. Lukáš Záruba

The national and international River Basin Management Plans (RBMPs) for the Oder river basin are currently being updated. These plans, required by the Water Framework Directive (WFD), should define the measures that will allow the river basin to reach good water status by 2027.

Today, the Oder river basin water status is far from good. Less than 40% of the surface water bodies are in good chemical status, and not even 20% are in good ecological status<sup>1</sup>, with exemptions from the WFD environmental objectives becoming a rule. This is despite the goal of the WFD to reach good status of Europe's water bodies by 2015 and against the scientific evidence on the urgent need to curb pollution and restore biodiversity.

The review of the 3rd generation of the RBMPs takes place in the ongoing climate and biodiversity crisis. While coal combustion is recognised as a driver of climate change - and the UN is calling for a EU-wide coal phase out by 2030 - the impacts of coal on water and nature are overlooked, or ignored.

We welcomed the decision of the International Commission for the Protection of the Odra River against Pollution (ICPO) to follow calls from citizens to recognize lignite mining as a significant water management issue of transboundary concern at the end of last year. **We are now asking you to make sure the impacts of lignite mining are tackled in the upcoming river basin management plans and strategies.** In particular we urge you to consider the following recommendations:

**1. Hold prevention of lignite mines pressure on water bodies as a guiding principle.** This should exclude all plans for new lignite mines, as well as any extension of existing mines. In particular, we refer to the plans for a new lignite mine Złoczew in Poland, the extension of the Nochten lignite mine (Sonderfeld Mühlrose) in Germany as well as a prolongation of the mining license of the Turów lignite mine in Poland<sup>2</sup>. If these plans go through, they will only increase the already existing problems. Climate change is impacting available water resources and the longer lignite mines operate, the harder it will be to flood them and to

---

<sup>1</sup> EEA WFD data viewer <https://www.eea.europa.eu/data-and-maps/dashboards/wise-wfd>

<sup>2</sup> Granted until 2044 on the 28.04.2021

ensure good status of water bodies. As the recent order of the European Court of Justice<sup>3</sup> clearly shows, according to EU laws people's access to clean water is more important than coal companies' interests. As long as the Turów mine operates, transparent sharing of hydrogeological information, extension of the monitoring network, detailed information on the water protection measures and development of emergency scenarios shall be secured by the ICPO.

**2. Implement the polluter pays principle.** Lignite mining displaces large amounts of groundwater with dramatic impacts on water balances that take decades to restore. The mine drainage from the Bełchatów, Szczerców and Turów lignite mines alone is responsible for the poor quantitative status of a groundwater area of about 3000 km<sup>2</sup>. The WFD requires member states to implement water-pricing policies that provide incentives to use water resources efficiently. However, lignite mine drainage is explicitly excluded from fees in the Polish Water Law as well as in the German federal states of Saxony, while in Brandenburg the mines only pay if the water is further used. In the Czech Republic, the Mining Law allows the operators to use extracted mine water for free<sup>4</sup>. A mine drainage fee in line with what other industries are paying for groundwater should be introduced such as has been done in North Rhine-Westphalia. Transparent reporting on water abstraction by the coal industry should be included in the RBMP.

**3. Address pollution at source.** Atmospheric deposition of mercury is one of the main Significant Pressures in the International Oder River Basin, affecting over 500 surface water bodies<sup>5</sup>. Seventeen coal power plants in the Oder river basin report emissions of 3.8 tonnes mercury per year into the air (76% of total reported emissions in the catchment). Five of these plants do not even comply with the upper range of the emission ranges associated with the use of Best Available Techniques<sup>6</sup>. Yet, the RBMP does not mention any measures to reduce the load of hazardous substances from coal power plants. Mercury is a neuro-toxin and the WFD requires to phase it out. The RBMP should provide for a decrease of pollution load until 2027, including from atmospheric deposition.

Coal phase-out is the most efficient way to drastically reduce emissions of mercury and other hazardous substances into the environment. In the meantime it is imperative that operating permits require the use of dedicated mercury controls<sup>7</sup>, to reduce the load to the environment and the significant negative impact on the health of water bodies and population.

**4. Stop the abuse of exemptions.** 72% of surface water bodies and 30% of groundwater bodies in the Oder river basin are currently exempted from the WFD objectives, often due to lignite operations. The draft RBMP considers lignite mining as a reason to set lower environmental objectives for water bodies. Derogations are set without first implementing measures such as adequate water fees for mines or plants, or strict

---

<sup>3</sup> Court of Justice of the European Union order from 21.05.2021 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-05/cp210089en.pdf>

<sup>4</sup> Outlined in more details in the EEB report Mind the Gap <https://eeb.org/library/mind-the-gap-report/>

<sup>5</sup> WISE Water Framework Directive database, European Environmental Agency, 04.2021, <https://www.eea.europa.eu/data-and-maps/data/wise-wfd-4>

<sup>6</sup> Set to 7µg/Nm<sup>3</sup> in the EU Best Available Techniques Reference Document (BREF) for Large Combustion Plants [https://eippcb.jrc.ec.europa.eu/sites/default/files/2019-11/JRC\\_107769\\_LCPBref\\_2017.pdf](https://eippcb.jrc.ec.europa.eu/sites/default/files/2019-11/JRC_107769_LCPBref_2017.pdf)

<sup>7</sup> 1µg/Nm<sup>3</sup> (yearly averaged) is considered considered BAT and judged as economically and technically viable under the EU BREF for LCPs (ref above) and Minamata Convention BAT/BEP guidance on coal combustion

emission limits for hazardous substances. A RBMP should not be a wish list for coal companies, but a solid program of water protection, which all companies must abide by.

2027 marks the end of the 3rd cycle of River Basin Management. To ensure that Europe's water bodies are in good condition by then, we need to act today. Addressing lignite mining is a great opportunity to set the Oder river basin on the right path to achieving not only the WFD goals, but also the biodiversity, climate neutrality and pollution-free objectives of the European Green Deal. It is time for our governments to show greater ambition and put the protection of our health and ecosystems before coal companies' interests.

## Signatures

European Environmental Bureau

Europe Beyond Coal

Fundacja "Rozwój TAK - Odkrywki NIE"

Coalition Clean Baltic (CCB)

ClientEarth

Greenpeace Polska

Greenpeace Czech Republic

Stowarzyszenie Ekologiczne "EKO-UNIA"

Polski Klub Ekologiczny

Towarzystwo Przyjaciół Rzek Iny i Gowienicy

Zielone Wiadomości

Federacja Zielonych "GAJA" (Poland)

Fundacja Zielone Światło

Alliance of Associations Polish Green Network

Arnika (Czech Republic)

Koalice pro řeky (Czech Republic)

Stowarzyszenie Ekologiczne Eko-Przyjezierze (Poland)

Vides aizsardzības klubs, Latvija

Lithuanian Fund for Nature

APB-BirdLife Belarus

Association SOFIA

