

OFFSHORE POLAND LEGAL & TAX



OUR
EXPERIENCE

JDP Drapata &
Partners

Polish offshore wind is growing, but it is new area of business in Poland. New challenges will require solid legal support built on deep experience in dispute avoidance, claim management, contractual litigation. We are a leading Polish law firm specialising in contractual ongoing advice, regulatory issues and legal representation regarding large construction and infrastructure projects. We boast one of the largest teams in Poland providing legal support in infrastructure matters. We strictly cooperate also with our real estate team.

We are proud to be among top Polish law firms advising general contractors, subcontractors, investors, performing complex projects in the area of power facilities, hydrotechnical projects, engineering, renewables, buildings, public facilities, roads, sports facilities, and industrial facilities.

Our track record includes the largest projects in Poland, requiring technical expertise, experience, and tailored solutions. To provide comprehensive solutions to our clients we collaborate with acclaimed consulting companies for the construction industry.

We have experience in supporting parties in financing of engineering projects in Poland. We have been also involved in reviewing periodic reports prepared by contractors for financing institutions.

We regularly advise 10 out of 15 largest Polish construction companies (according to Deloitte's report), in matters related to their business - critical claims. The Polish offshore market is just developing, but we see from the first contracts that it will be carried out in large part with the major contractors already present in Poland.

We provide ongoing legal advice on most >850 million EUR engineering projects in Poland.

Our energy experts advice on executing, amending and performing crucial agreements in the energy sector, including grid connection agreements, EPC contracts, BoP agreements, equipment supply agreements, O&M agreements, transmission and distribution agreements, and power purchase agreements (PPA, cPPA). They worked for financial institutions financing renewables projects.

Currently, we are handling more than 180 court and arbitration proceedings worth more than PLN 3,2 billion. Some of the cases that we work on involve claims worth PLN 200-500 million. In many of the disputes that we have handled, we have secured settlements beneficial to our clients.

JDP advised a general contractor in a settled dispute regarding a design and construction of a power unit with a steam boiler for pulverised fuel in a "turnkey" formula concerning an increase in remuneration due to an extraordinary increase in prices after 2014 (value in dispute: over PLN 252 million).

Final and binding judgment by the Appellate Court in Warsaw that, in late 2017, for the first time found that an increase in asphalt prices was extraordinary and unforeseeable, and the loss suffered by the contractor qualified as a "serious loss".

We have been advising on the construction of the Varso building complex in Warsaw. An important part of the complex is Varso Tower, which is currently the tallest building in the European Union. JDP has been advising the investor, which at the same time acts as the general contractor, on contract-related matters that are crucial for the timely completion of the project. The construction of the Varso complex is challenging from the legal point of view due to, among other things, the project location, use of unique materials and technologies, and the necessity to coordinate several subcontractors from various branches.



JDP's main assets are their proactive approach, understanding of client needs, and their business savviness. They deliver excellent advice and work is always done on time.

Legal 500



JDP understands foreign firms that enter the Polish market and is able to 'bridge the gap' with not only the language but also a different approach.

Legal 500



Team was excellent. I routinely work with firms around the globe and I can say JDP is among the best. Both in terms of affordability for quality of work and just good client care. In particular, Marcin Chomiuk was attentive to our needs and was able to accommodate our cost concerns.

Legal 500



Proactive approach, in-depth understanding of the business environment and the understanding of what is important for the client.

Chambers Europe



Przemysław Drapała



Wojciech Merkwa



They offer constructive solutions suited to the situation and problem.

Chambers Europe



Michał Drozdowicz



JDP Drapała & Partners

Energy & Renewables practice

We advise on energy infrastructure construction projects, assisting with issues including:

- conventional and renewable energy sources,
- transmission and distribution grids,
- energy storage.

We conduct legal and tax due diligence for the purpose of acquiring, or financing the acquisition and implementation of RES projects in Poland.

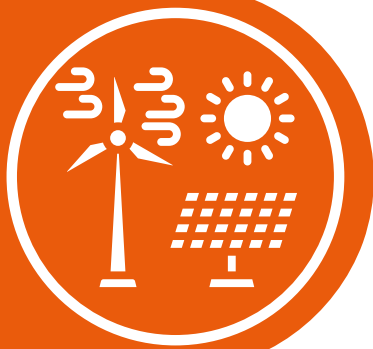
We assist energy companies in fulfilling their regulatory obligations (concessions, permits, registrations, disputes over grid connections, applying tariffs).

Thanks to the legal inputs from our infrastructure, M&A, real estate and tax teams, we can advise on all aspects of complex and multifaceted projects.

The areas we advise on include:

- obtaining real estate title and required administrative permits (such as environmental decisions, zoning decisions, building permits) for energy infrastructure projects, in particular RES and energy storage projects;
- legal and tax due diligence for the purpose of acquiring, or financing the acquisition or implementation of RES projects;

- drafting and advising on concluding and performing agreements for the construction and use of renewable energy sources, including, EPC, BoP, and equipment supply and O&M contracts;
- advising on support systems, including auction procedures on the RES market;
- advising on regulatory issues including concessions, tariffs, and reporting and disclosure obligations of energy companies;
- providing advice and representation in a case before the President of the Polish Energy Regulatory Office and the Court of Competition and Consumer Protection;
- drafting and advising on concluding and performing sales, transmission, and distribution contracts, comprehensive contracts, and interconnection contracts;
- advising on price limiting mechanisms for energy, heat and gas prices, including price caps, compensation for price caps, and Price Difference Payment Fund write-offs.



RENEWABLE ENERGY: CONSTRUCTION PROJECTS, LEGAL DUE DILIGENCE AND ENERGY CONTRACTS

- legal and tax advice to a company, being part of an international holding with 20 years' proven experience and an long track record in constructing offshore wind projects, with regard to construction of **Baltic II Offshore Wind Park**;
- advising on a **joint venture in the offshore sector** involving a state-owned investment fund as the project partner; The joint venture was set up to construct and run a production plant for offshore wind farm foundations of an area of 29,760 m², and is located on Gryfia island near Szczecin; Our legal and tax services included:
 - devising the legal and tax concept for the joint venture, i.e. the construction of a metal foundations production plant for offshore wind farms, involving two minority shareholders – a Polish joint-stock company and a state-owned investment fund, in addition to a foreign investor,
 - establishing a legal framework for the client's operations in Poland within the joint venture, including drafting an investment agreement that comprehensively governed the relationships between the joint venture partners,
 - advising on legal and tax aspects of the financial plan for the joint venture (additional contributions, loans, etc. as the construction progressed; drafting the necessary documentation; and advising on all aspects of the project / joint venture financing),
 - representing the client before the European Commission and the Polish Office of Competition and Consumer Protection, and
 - advising on a full range of issues relating to the project to construct the production plant, a bridge, and an underground power cable.
- advisory in a process restructuring of the financial structure of a joint venture in an industrial sector of development of components for offshore wind farms and subsequent reorganization of the owner structure in the joint venture company. Our role was advising on all legal aspects and preparation of all respective documents related to the joint venture. We were also involved in ongoing legal advice with regard to the joint venture company and legal negotiations with the joint venture partner (state-owned investment fund). Successful restructuring process significantly increased its role on the relevant market.
- advisory to RES companies and banks financing/refinancing development of renewables projects, including full due diligence (Red Flag) of such projects from banking perspective;

- advising an institution financing a RES producer on the provisions and parties' rights and obligations under a power purchase agreement (cPPA) negotiated and concluded to be in effect for more than 14 years between a RES producer and an end user (nationwide retail chain);
- advising an institution financing a RES producer on the provisions and parties' rights and obligations under a power purchase agreement (cPPA) regarding energy produced from a photovoltaic power plant portfolio, to be in effect for more than 11 years between a RES producer and an end user (industrial sector);
- legal due diligence for foreign and domestic investors regarding the acquisition of a portfolio of photovoltaic facilities with a capacity of 66–800 MW at various stages of project development;
- advising an investor including legal due diligence regarding a portfolio of wind energy projects with a total capacity of around 101 MW;
- advising a foreign fund including legal due diligence regarding an investment agreement to finance the construction of a portfolio of photovoltaic power plants with a total capacity of 66 MW;
- advisory to a foreign investor considering participation in the upcoming round of Polish offshore on offshore regulations and support system;
- advisory to a Polish leading energy utilities company in a process of selecting a partner to JV operating in Polish offshore.

ENERGY INFRASTRUCTURE PROJECTS



- advising a consortium with respect to a tender for the construction of an installation for polypropylene production, and a production and offshore infrastructure; support to both consortium members on the conclusion of a consortium agreement, and on the negotiations with an employer; employer: Grupa Azoty; project value: over **PLN 6.5 billion** – one of the largest projects of this type in Europe;
- advising a general contractor modernising a boiler furnace system in units 7–12 in the PGE Bełchatów Power Plant; employer: PGE GiEK; project value: over **EUR 475 million**;
- advising a consortium of Polish and foreign companies on the EPC construction of a new power unit; project value: **PLN 3.25 billion**;
- advising an investor on the EPC construction of a power plant with a 600 MWe gassteam unit; project value: over **PLN 1.6 billion**;

- advising a consortium of Polish and foreign companies on the EPC modernisation of units 4–6 in the Turów Power Plant; employer: PGE GiEK; project value: over **PLN 625 million**;
- advisory to a foreign investor considering participation in Polish offshore on offshore regulations and support system for offshore;
- advising a Lithuanian operator of a transmission system regarding a cooperation agreement with a Polish operator of a transmission system in connection with the construction of the Harmony Link HVDC submarine cable;
- advising on the preparation of a project involving the construction of a propylene glycol production plant with auxiliary installations and infrastructure;
- advising a contracting entity on the performance of an EPC contract for design, supply and turnkey construction of a metathesis plant at a production plant in Płock;
- advising the selected tenderer for supply and 10-year maintenance of a set of 10 compressor units for 3 gas compressor stations (Goleniów, Gustorzyn and Odolanów) within the Baltic Pipe program; project value: around **PLN 550 million**;



WATER INFRASTRUCTURE

- advising contractors modernising the Nysa water reservoir with regard to flood safety in proceedings against a public contracting authority;
- advising a contractor constructing a yacht marina in Szczecin in proceedings against a public contracting authority;
- advising an entity implementing a programme and spatial concept and a comprehensive technical documentation for the restoration of the Kożuszna Canal river;
- advising a contractor modernising and improving the Flood Canal and the Old Oder River in proceedings against a public contracting authority;
- advising a contractor modernising the Świnoujście – Szczecin waterway (Piast Canal and Mielin Canal) in proceedings against a public contracting authority.



PUBLIC FACILITIES / AIRPORTS

- advising general contractors constructing the National Stadium in Warsaw; contracting authority: State Treasury – Ministry of Sports and Tourism and the National Sports Centre (SPV); project value: over **PLN 1.5 billion**;
- advising general contractors constructing the PGE Arena stadium in Gdańsk; contracting authority: the city of Gdańsk and BIEG 2012 Sp. z o.o.; project value: over **PLN 780 million**;
- providing contract advice, including in the guarantee and warranty period, to a top general contractor listed on the Italian stock exchange on the extension of one of the largest passenger terminals in Poland; project value: approx. **PLN 370 million**;
- advising a general contractor constructing a waste incineration plant in Rzeszów; project value: over **PLN 350 million**;
- advising a general contractor constructing a public facility – a school and educational centre; project value: approx. **PLN 42 million**;
- advising a general contractor constructing a sports hall in Łódź; project value: over **PLN 30 million**.



ROADS AND BRIDGES

- advising a general contractor constructing a section of the Cracow – Zakopane (Zakopianka) national road with the longest tunnel in Poland (section of the S-7 expressway); contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: over **PLN 1 billion**;
- advising a general contractor constructing a section of the S-5 expressway (Wrocław – Poznań); contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: over **PLN 1 billion**;
- advising a general contractor constructing a section of the S-7 expressway (Widoma – Cracow); contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: over **PLN 1 billion**;
- advising a general contractor performing a road project that ended with a contract termination due to mining damage caused by one of the largest listed companies in Poland; contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: over **PLN 600 million**;

- advising a general contractor extending the S-8 expressway (section Mężenin – Jeżewo); contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: over **PLN 440 million**;
- advising a general contractor extending the S-8 expressway (section Wiśniewo – Mężenin); contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: over **PLN 434 million**;
- advising a general contractor constructing the so-called Upper Route in Łódź; contracting authority: the city of Łódź; project value: over **PLN 421 million**;
- advising a general contractor constructing a section of the S-6 expressway (Nowogard – Płoty); contracting authority: General Directorate for National Roads and Motorways (GDDKiA); project value: approx. **PLN 400 million**;



ADVISORY IN FINANCING PROJECTS IN POLAND

- advising a borrower in connection with a crossborder refinancing of a portfolio of over one hundred standalone discount stores with a project value of approx. **EUR 110 million**;
- advising a borrower in connection with a crossborder refinancing of a portfolio of forty standalone commercial buildings connected with a limited due diligence investigation with a facility value of **EUR 51 million**;
- advising a borrower in connection with a refinancing of a portfolio of seven shopping parks with a limited due diligence investigation with a facility value of **EUR 25 million**;
- advising one of the borrowers under a consortium facility agreement
- in connection with the restructuring of crossborder financing of a portfolio of properties located in England, Germany and Poland – project value of approx. **EUR 115 million**;
- advising a German bank in connection with the cross-border financing of purchase of office property in Warsaw by the bank's client valued at approx. **EUR 7 million**;
- advising a German bank in connection with the cross-border financing of purchase of office property in Warsaw by the bank's client valued at approx. **EUR 13 million**;
- advising a German bank in connection with the cross-border financing of purchase of office property in Warsaw by the bank's client valued at approx. **EUR 12.5 million**;



Professor Przemysław Drapała

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Partner heading the >40-person Infrastructure Team and the Litigation and Arbitration Team. One of the most sought-after figures in construction in Poland. He advises leading contractors and private investors on execution of complex infrastructure and industrial projects. A key adviser to the most influential construction organisations, e.g. The Polish Association of Construction Employers (PZPB). For over 20 years he has been representing Polish and foreign entities in complex court and arbitration proceedings, regarding in particular construction and infrastructure projects, including energy projects. Author of chapters concerning construction contracts in one of the most prominent commentaries to the Polish Civil Code and several other books concerning legal aspects of construction contracts. Ranked as “Leading Individual” in Poland in “Construction/Construction Disputes” by the international ranking The LEGAL 500 (2018 – 2023).

Marcin Chomiuk, PhD

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Partner, Head of the Transaction (Corporate M&A) and Contract Counselling Team. Expert on corporate law, M&A transactions, and contract advice. He specialises in advising leading automotive, production, and new-tech companies. Marcin has supervised M&A transactions both on the buy and sell sides and has supported clients in forming complex joint ventures. His experience also includes cross-border transactions carried out in cooperation with international law firms. He provides strategic and contract advice to businesses from the new technology sector, and he advises clients on implementing Industry 4.0. Marcin supports businesses on entering the Polish market, through acquisition, forming joint ventures, or establishing an own structure in Poland, including on constructing production plants or creating services networks. His assistance on company law and M&A transactions includes providing strategic advice on corporate disputes and post-M&A matters, where he combines corporate practice with theory.





Wojciech Bazan

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Partner in the Infrastructure Team and the Litigation and Arbitration Team. Contract advisory expert with over 10 years of experience in the construction industry. He has unique experience in construction – related issues in the energy, oil and gas industries, airports, road, railway, as well as public utility buildings (hospitals, train stations, etc.) He represents clients in court and arbitration disputes, a vast majority of which concerns large infrastructure. His experience also includes representation in disputes heard by international arbitration courts (e.g. a dispute before the ICC concerning a project carried out for an Asian counterparty on the African continent), including as part of investment disputes (BIT). In some cases, the value of claims exceeds PLN 200 million. In 2016 laureate of the prestigious competition “Rising Stars Lawyers – leaders of tomorrow”.

Michał Drozdowicz

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Attorney-at-law, head of Energy / Renewables, with over twenty years of experience in advising Polish and foreign companies on, among others, crucial domestic investment projects regarding (conventional) energy sources and energy infrastructure. He specialises in energy law with a focus on renewable energy. Michał advises clients on renewables development and acquisition projects, including in particular due diligence checks in M&A transactions and RES financing, primarily in the PV sector. He supports clients in regulatory issues, key aspects of energy agreements, including connection agreements, component supply agreements, construction contracts, O&M agreements, and long-term power purchase agreements between producers of energy and corporate recipients (PPA, cPPA).



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