

A. Lewandowska

M.A., PhD Student

Doctoral School of Social Sciences, University of Białystok, Poland

Ł. Presnarowicz

M.A., PhD Student

Faculty of Law, University of Białystok, Poland

THE ROLE OF THE OFFICE OF ELECTRONIC COMMUNICATIONS IN FORMING AN INFORMATION SOCIETY IN POLAND

The government administration divisions are listed in the Government Administration Divisions Act [1]. According to art. 5 item. 11 of this act - one of them is also "communications". Pursuant to Article 189 of the Telecommunications Law [2], the competent authorities in telecommunications are: the minister in charge of informatization and the President of the Office of Electronic Communications. The President of the Office of Electronic Communications is a central organ of government administration. It is appointed and dismissed by the Parliament upon the motion of the Prime Minister. The term of office of the President of the Office of Electronic Communications is 5 years. As S. Piątek pointed out: The President of the Office of Electronic Communications is a central organ of government administration. This category of government administration bodies has not been regulated in the Constitution of the Republic of Poland, despite the fact that it is becoming increasingly important in the context of increasing specialization of administrative activities. Regulations concerning the status of these bodies are highly varied and come from different periods of economic administration formation. Their common feature is that the heads of these bodies are not members of the Council of Ministers, while their local jurisdiction covers the territory of the whole country [3, access via Legalis database].

The legislator indicates in Art. 190 sec. 4aa of the Telecommunications Law the conditions to be fulfilled by a candidate for the President of the Office of Electronic Communications: holds a master's degree or equivalent; is a Polish citizen; enjoys full public rights; has not been convicted by a final judgment of an intentional offence or an intentional fiscal offence; has managerial competence; has at least 5 years of employment under an employment contract, appointment, selection, appointment, cooperative employment contract, or provision of services under another contract or self-employment, including at least 3 years of experience in managerial or independent positions or resulting from self-employment; has education and knowledge in the field of matters falling within the competence of the President of the Office of Electronic Communications; has at least 3 years of experience in working on positions related to telecommunications or postal services and has a good reputation.

An extensive catalog of the tasks of the President of the Office of Electronic Communications is included in Article 192 of the Telecommunications Law, but it should be emphasized that this is not a closed catalog. These tasks are also related to the postal services market, but this paper will focus only on telecommunications issues. However, among these tasks one can indicate those that lead to the development of the information society in Poland. Only some of these tasks will be indicated below.

First of all, it should be noted that the President of the Office of Electronic Communications is a regulatory authority in the telecommunications services market (article 190 item. 1 Telecommunications Law). The competent authorities shall pursue a regulatory policy with a view in particular to: promoting competition in the provision of telecommunications networks, as-

sociated facilities or services, promoting the development of the internal market, promoting the interests of citizens of the European Union, implementing policies to promote cultural and linguistic diversity as well as media pluralism, and ensuring the technological neutrality of the rules adopted [article 189 Telecommunications Law].

The President of the Office of Electronic Communications also develop draft legal acts in the area of telecommunications indicated by the minister in charge of informatization (article 190 item. 3 Telecommunications Law). The authority to order the drafting of bills is contained in § 20 item. 2 Regulation of Work of the Council of Ministers [4].

It is worth noting that the President of the Office of Electronic Communications, by 30 June, announces a report on the state of the telecommunications market for the previous year, including the coverage of the territory of the Republic of Poland by fixed and mobile public telecommunications networks and presents investment forecasts concerning the development of those networks. The report shall be publicly available (Art. 192, Sec. 3 Telecommunications Law).

The President of the Office of Electronic Communications analyzes and evaluates the functioning of the telecommunications and postal services markets, as well as intervenes in issues related to the functioning of the telecommunications and postal services market and the market of apparatus, including the market of telecommunications equipment, on its own initiative or brought by interested entities (article 192 sec. 4 and 5 Telecommunications Law). It does not, however, provide the ability to take action on any (i.e., potential, non-substantive law) matters. The regulations also do not allow the President of the Office of Electronic Communications to initiate such "intervention" proceedings for which there are no specific authorisations in the common law [5, access via Legalis database].

A very important task of the President of the Office of Electronic Communications is the area of cooperation undertaken. The Telecommunications Act specifies the cooperation with: national and international telecommunications and postal organizations, as well as competent authorities of other states, within the scope of its competence; the President of the Office of Competition and Consumer Protection in matters concerning the observance of rights of entities using postal and telecommunications services, counteracting practices limiting competition and anti-competitive concentrations of postal operators, telecommunications undertakings and their associations; the National Broadcasting Council (within the scope specified by the Act and separate regulations); the European Commission and European Union institutions, as well as with BEREC (Body of European Regulators for Electronic Communications) and regulatory authorities of other Member States.

The President of the Office of Electronic Communications shall be entitled to control the observance of regulations, decisions and provisions in the field of telecommunications, frequency management or meeting the requirements for electromagnetic compatibility (article 199 sec. 1 Telecommunications Law). If as a result of the inspection it has been found that an entity does not fulfil the obligations pertaining to it under the provisions of law or the decision issued by the President of the Office of Electronic Communications, the President may impose a fine (in the case of finding any infringements indicated in this provision, regardless of the post-inspection proceedings conducted with respect to such entity) or issue post-inspection recommendations calling upon the inspected entity to remove the irregularities or provide explanations. Removal of the irregularities or provision of explanations should take place within the deadline indicated by the President, but not shorter than 30 days from the date of delivery of post-control recommendations to the controlled entity (article 201 sec. 1 and 1a Telecommunications Law). However, the time limit may be shorter than 30 days, provided that the ins-

pected entity has agreed to it or that the violations indicated in the post-inspection recommendations have been repeated in the past. The President of the Office of Electronic Communications may also issue a ban on telecommunications activities, as well as a decision to change or withdraw frequency reservations, orbital resources or numbering assignments. It should be emphasized that in a situation where the entity's activity may violate "defense, state security or public security and order". - the President must also consult the Minister of National Defence, the minister in charge of internal affairs, the Head of the Internal Security Agency or the Head of the Intelligence Agency, within the scope of their jurisdiction (article 201 sec. 6 Telecommunications Law).

The Office of Electronic Communications consists of: Office of the Director General, Office of the President, Department of Consumer Policy, Department of Regulation, Department of Strategy and Analysis, Department of Postal Market, Department of Frequencies, Department of Technology, Department of Control, Department of Security, Department of Legal Affairs, Department of Foreign Affairs, Office of Finance, Office of Administration, Office of Information Technology and delegations (§ 3 Organizational Regulations of the Office of Electronic Communications). There are 15 delegations (one in each voivodeship). The headquarters is located in the capital city of Warsaw. This entire organizational structure is designed to assist the President of the Office of Electronic Communications in its activities.

The mission of the President of the Office of Electronic Communications is to provide citizens with access to modern telecommunications and postal services in a growing market and dynamic international environment [6]. The scope of tasks of the President of the Office of Electronic Communications is very broad, but by performing them, he is able to conduct his activity and monitor issues related not only to telecommunications, but also to the postal market. He takes care not only of entrepreneurs, but also of consumers, in order to contribute to reliable and efficient flow of information in the society.

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211440, ул. Блохина, 29,
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Тел. 8 (0214) 59-95-41, 59-95-44
<http://www.psu.by>