

ACT

of...

on the protection of minors from pornographic content on the Internet
and amending the Telecommunications Act

Article 1. [Scope of the regulations]

The Act defines:

- 1) obligations of providers of pornographic content on the Internet,
- 2) obligations of payment service providers and telecommunications undertakings relating to the protection of minors from access to pornographic content,
- 3) powers of the President of the Office of Electronic Communications, hereinafter referred to as "the President of the UKE", relating to the protection of minors from access to pornographic content,
- 4) rules for lodging an objection by an entity holding a legal title in an Internet domain against the registration of that domain in the Register of domains used to make pornographic content available in violation of the Act.

Article 2. [Definitions]

Terms used in the Act shall have the following meanings:

- 1) a minor – a person under eighteen years of age.
- 2) pornographic content provider – an entity that:
 - a) makes available, within the scope of the Internet domain held by that entity, pornographic content on the Internet in a manner allowing access to such content from the territory of the Republic of Poland, or
 - b) enables, within the Internet domain owned by this entity, pornographic content to be made available by recipients of services in a way that allows access to such content from the territory of the Republic of Poland,
– in so far as pornographic content constitutes a substantial part of the content of the website to which the domain leads.
- 3) pornographic content – content depicting, in any visual form, actual, pretended, produced or processed:
 - a) sexual intercourse involving visible genital anastomosis and oral-genital, anal-genital, oral-anal positions, between persons of opposite or same sex,
 - b) the act of masturbation,

- c) an act of zoophilia or
- d) an image of sadistic or masochistic practices in a sexual context.

Article 3. [Obligations of providers of qualified pornographic content]

1. The provider of pornographic content is obliged to use effective age verification systems to prevent minors from accessing such content.
2. The age verification must be carried out in a way that protects the privacy of users and complies with personal data protection rules.
3. Systems for verifying the age of a recipient shall be considered effective even when circumvention by minors is possible where this requires extraordinary measures and actions by such minors that cannot be expected from the average recipient.
4. The minister responsible for computerisation, in consultation with the President of the UKE and after obtaining the opinion of the President of the Personal Data Protection Office, shall lay down, by means of a regulation, detailed criteria to be met by effective systems for verifying the age of the recipient, based on the need to ensure the most effective protection of minors, taking into account technical capabilities and ensuring an adequate level of protection of personal data and privacy.

Article 4. [President of UKE]

1. The competent authority in matters of protection of minors against pornographic content on the Internet is the President of UKE.
2. Duties assigned to the President of UKE include:
 - 1) monitoring compliance with provisions of the Act;
 - 2) monitoring compliance with the prohibition on making pornographic content available in a manner that facilitates consultation of the content by minors;
 - 3) examination of the effectiveness of the mechanisms for verifying the age of the user, their inspection and assessment as to compliance with the criteria referred to in art.

3 item 4:

 - 4) maintaining a register of parties making pornographic content available in violation of the Act;
 - 5) researching legal solutions and protecting minors from pornographic content in other countries;
 - 6) conducting research on the impact of pornography on minors and promoting solutions to protect against pornographic content.
3. The President of UKE shall act ex officio and on request.

Article 5. [Council for the Protection of Children against Pornography on the Internet].

1. The Council for the Protection of Children against Pornography on the Internet, hereinafter referred to as “the Council”, operates under the President of UKE. The Board is the opinion-giving and advisory body of the President of UKE.
2. The Council’s fields of activity include:
 - 1) initiating research on the impact of pornographic content on minors and the protection of minors from pornographic content,
 - 2) initiating projects on the protection of minors from pornographic content,
 - 3) giving opinions on draft legal acts and other documents that may have an impact on the protection of minors from pornographic content.
3. The Board shall be composed of five members appointed by the President of UKE as follows:
 - 1) three members of the Council shall be appointed from among candidates nominated by organisations concerned with the protection of children and young people from pornography;
 - 2) one member of the Board shall be appointed from among candidates nominated by organisations having privacy interests;
 - 3) one member of the Council is appointed from among candidates nominated by organisations representing the interests of service providers referred to in Article 12 or Article 14 of the Act on electronic services.
4. Expenditure relating to the activities of the Council shall be covered from the part of the state budget administered by the minister responsible for computerisation.
5. Office support for the Council shall be provided by the President of UKE.
6. Members of the Council and professionals who are invited to attend the meeting and who reside outside the locality where the meeting is held and attend the meeting shall be entitled to allowances and reimbursement of travel and accommodation expenses in accordance with the rules laid down in the rules on the establishment and amount of entitlements payable to staff members in respect of missions within the national territory.
7. The minister in charge of information technology shall determine, by means of a regulation, the detailed manner of functioning of Council for the Protection of Children from Pornography on the Internet, taking into account the need for efficient functioning of the Council.
8. In the regulation referred to in item 1 shall lay down:
 - 1) the organisation of the Council;
 - 2) rules of procedure of the Council.

Article 6. [Register of domains used to provide pornographic content in violation of the law]

1. The President of UKE maintains a register of domains used to share pornographic content contrary to the Act, hereinafter referred to as the "Register".
2. The following shall be included in the Register:
 - 1) the name and address of the internet domain through which the pornographic content is made available in a manner contrary to the provisions of art. 3;
 - 2) the date and time of the entry, amendment or deletion.
3. Internet domains referred to in item 2(1) shall be entered in the Register provided that a significant part of the content of the website to which that domain leads constitutes pornographic content.
4. The Register is open to telecommunications undertakings providing internet access services and payment service providers.
5. The register shall be maintained in an ICT system that enables the automatic transmission of information to the ICT systems of telecommunications undertakings providing Internet access services and payment service providers.
6. The Minister responsible for computerisation, in consultation with the President of UKE, shall determine by means of a regulation the detailed technical requirements for the operation of the Register, taking into account the need to ensure data security and the need for automatic provision of information to telecommunication enterprises providing internet access services and payment service providers.

Article 7. [Entry in the Register]

1. An entry in the Register, its amendment or deletion of an entry shall be made ex officio by the President of the UKE.
2. An entry in the Register, its amendment or cancellation shall take effect upon publication in the Register.
3. Anyone may report an Internet domain as referred to in art. 6(2)(1) to the President of UKE. The report may contain a justification.
4. The President of UKE shall, on his own initiative or after receiving the notification referred to in item 2, enter in the Register the internet domain referred to in Article 6(2)(1) of which he shall inform the notifier in a manner consistent with the manner in which the notification was made.
5. The President of the UKE shall make available on the website of the Public Information Bulletin of the Office of Electronic Communications information specifying how the notifications referred to in item 2 are to be made.

Article 8. [Notification of an entry in the Register]

1. When registering a domain in the Register, the President of UKE shall send a statement of the entry together with a justification and an indication of the possibility of lodging an objection to the e-mail address indicated under such Internet domain as the contact address.
2. The information referred to in item 1 shall be drawn up in Polish. If the domain referred to in Article 6(2)(1) is not maintained in Polish, this information shall additionally be provided in all the official languages of the European Union.
3. Information addressed to an electronic address shall be deemed effectively delivered on the date of its entry into the ICT system, unless the President of UKE receives an automatic message from the ICT system that the information was not delivered to the indicated electronic mail address. In this case, the President of UKE will make a second attempt to contact, not earlier than 24 hours after sending the first information.
4. The President of UKE shall not be obliged to provide the information referred to in item 1 if at least one of the following circumstances applies:
 - 1) the Internet domain does not clearly and unambiguously contain information on the e-mail address on the home page of the Internet domain, on a clearly and unambiguously marked contact information subpage on the home page or in the content of the regulations available from the home page of the Internet domain, and such e-mail address for the domain subscriber cannot also be obtained from the publicly available Whois database relevant to the country of domain registration;
 - 2) the Internet domain is maintained in a language other than one of the official languages of the European Union;
 - 3) in spite of two attempts to provide the information referred to in item 1 with an interval of not less than 24 hours, the President of UKE will receive in response to such attempts an automatic message from the data communications system about the impossibility of delivering this information to the indicated e-mail address.

Article 9. [Obligations of telecommunications undertakings providing internet access services and payment service providers]

1. The telecommunications operator rendering services of the Internet access shall have an obligation to:
 - 1) prevent access free-of-charge to websites which operate internet domain names entered in the Register by removing them from the ICT systems of

telecommunications undertakings, used for changing internet domain names to IP addresses, no later than within 48 hours after making an entry in the Register;

- 2) redirect, free of charge, calls referring to internet domain names entered in the Register to a website designated for that purpose in the Public Information Bulletin of the Office of Electronic Communications, containing a communication addressed to recipients of the internet access service, including, in particular, information on the reason for entering the internet domain name sought in that register;
- 3) provide free access to websites which use domain names struck off the Register, no later than within 48 hours of deleting the internet domain name from the Register.

2. The suppliers of paid services shall be forbidden to give access to paid services on websites which use the internet domain names entered in the Register.
3. Where payment services are provided on a website using an Internet domain name entered in the Register, the payment service provider shall be obliged to cease providing such services within 30 days of the domain name being entered in the Register.

Article 10. [Filing an objection to the registration of an internet domain in the Register]

1. An entity holding a legal title to an internet domain name entered in the Register may lodge an objection with the President of UKE against the entry of the domain name in the Register.
2. The appeal referred to in item 1 shall contain:
 - 1) an indication of the Internet domain concerned;
 - 2) justification that the domain should be removed from the Register;
 - 3) identification data of the entity holding a legal title to the Internet domain:
 - a) first name(s) and surname, address of residence — in the case of natural persons,
 - b) name (company) of the entity, address of registered office, number from the relevant register — in the case of legal persons and organisational units without legal personality,
 - c) name and surname of the person authorised to represent the entity having legal title to the Internet domain along with the authorisation — if applicable,
 - d) data allowing verification of whether the person filing the notice of opposition has a legal title to the Internet domain that is the subject of the opposition.

3. If, after a domain name and address have been entered in the Register, an entity providing pornographic content via that domain ceases to provide pornographic content or introduces effective age verification tools, such entity may apply to the President of UKE to have the domain name and address removed from the Register.

Article 11. [Consideration of an objection to the registration of an Internet domain name in the Register]

1. The President of UKE shall:
 - 1) examine the appeal referred to in Article 10(1) within 14 days of receipt thereof; and
 - 2) immediately inform the objector of the manner in which the objection has been dealt with by means of the communication which the objector used to lodge the objection.
2. The President of UKE, in examining the appeal referred to in Article 10(1), shall:
 - 1) take this objection into account if:
 - a) the pornographic content is not made available through an Internet domain entered in the Register or the content does not constitute a substantial part of the content of the website to which that domain leads, or
 - b) effective systems are in place to verify the age of the recipient on the website to which the registered Internet domain leads;
 - 2) disregard this objection if the pornographic content:
 - a) constitute a substantial part of the content of the website to which the domain registered in the Register leads, and
 - b) are made available without the application of effective age verification systems referred to in Article 3(1).
3. The appeal referred to in art. 10(1) not complying with the requirements referred to in art. 10(2) shall not be examined.
4. Failure to accept the appeal referred to in Article 10(2) is another act in the field of public administration against which an action may be brought before the administrative court.
5. Provisions of the Administrative Procedure Code Act of 14 June 1960 shall not apply to the examination proceedings of the appeal referred to in art. 10(1).
6. With regard to the application referred to in art. 10(3), provisions of items 1 to 4 shall apply mutatis mutandis.
7. The President of UKE may ex officio remove a domain from the Register when it has been included in the Register by mistake or when an entity providing pornographic content through that domain has stopped providing pornographic content or has introduced effective age verification tools.

Article 12. [Amendments to existing legislation]

The Telecommunications Act of 16 July 2004 (Journal of Laws 2024.34) is amended as follows:

- 1) in art. 192(1)(2)(b), the following words are added:

"- of [...] on the protection of minors against pornographic content on the internet and on amending the Telecommunications Act;"

- 2) in art. 209(1)(32), a comma is inserted after the words 'President of UKE' and point 33 is added as follows:

"(33) fail to comply within the time limit with the obligations laid down in art. 9 of the Act of [...] on the protection of minors against pornographic content on the Internet and amending the Telecommunications Act"

Article 13. [Entry into force]

1. This Act shall enter into force 12 months after the date of its publication, with the exception of art. 5, which shall enter into force 14 days after the date of its publication.
2. The Regulation referred to in art. 3(4) shall be issued by the Minister responsible for computerisation within six months from the entry into force of the Act.