

# TELECOMMUNICATIONS LAWS OF THE WORLD

Poland



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# POLAND



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## OVERVIEW OF LEGAL LANDSCAPE

### Regulatory body

The UKE (*Urząd Komunikacji Elektronicznej* – the Office of Electronic Communications) is the Polish telecommunications and postal services regulatory body.

### Applicable telecom regulations

The [Telecommunications Law \("TL"\)](#) is the main telecom law in Poland.

Several executive regulations have been issued on the basis of the TL, including the [National Frequency Allocation Table](#) and the [Regulation on radio devices which can be used without a radio licence](#).

It should be noted that legislative work on a new telecom regulation (the Electronic Communications Law) is currently ongoing in Poland. The law implements the European Electronic Communications Code (Directive (EU) 2018/1972) and it will supersede the TL. It is difficult to predict how this legislative work will progress or when the new law will be passed.

### Scope of each regulation

The TL is applicable to both fixed and mobile telecommunications activities, including ISPs and networks and services for the dissemination or distribution of radio and television programmes. The scope of the regulation includes:

- the conducting of telecommunications activities and the supervision thereof;
- the rights and obligations of telecommunications undertakings;
- the rights and obligations of users and users of radio devices;
- the conditions for undertaking activity consisting in the provision of networks and associated facilities and the provision of telecommunications services, including networks and services for the dissemination or distribution of radio and television programmes;
- the conditions for regulating telecommunications markets;
- the conditions for the provision of the universal service;
- the protection of service users, in particular as regards the right to privacy and confidentiality;



- the conditions for the management of frequencies, orbital resources and numbering;
- the conditions for data processing in telecommunications and the protection of telecommunication secrecy;
- the tasks and duties in the field of telecommunications related to defence, state security and public safety and order;
- the requirements that radio devices should meet;
- the functioning of the telecommunications administration body and its cooperation with other national bodies and European Union institutions in the field of telecommunications regulation;
- the requirements regarding facilitation of access to telecommunications services for people with disabilities.

Regulations issued on the basis of the TL contain implementing rules and technical details.

## KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

### Key regulatory provisions

Key provisions of the TL include:

- General rules on conducting telecommunications activities [Art. 10 et seq.];
- Rules on the powers and tasks of the UKE concerning the regulation of the telecommunications market [Art. 21 et seq.];
- Telecommunications access [Art. 26 et seq.];
- Regulation of services in the retail market [Art. 46 et seq.];
- Consumer and end-user protection [Art. 56 et seq.];
- Universal service [Art. 81 et seq.];
- Liability for non-performance or improper performance of telecommunications services [Art. 104 et seq.];
- Administration of spectrum and numbering assignments [Art. 110a et seq.];
- Use and operation of radio devices [Art. 143 et seq.];

### Key features of the laws, regulations and policies

The TL ensures freedom to conduct telecommunications activities, subject to being entered in the Register of Telecommunications Undertakings (General Authorisation). Registration must be completed prior to the commencement of telecommunications activities, but it is a relatively straightforward process. Use of a radio device generally requires obtaining a separate licence, but there are numerous exemptions.

## REGULATORY BODIES OR AUTHORITIES

### Urząd Komunikacji Elektronicznej

Address: ul. Giedowa 7/9, 01-211 Warszawa

Telephone number: +48 22 33 04 000

Website: [www.uke.gov.pl](http://www.uke.gov.pl)

## **TYPES OF TELECOMMUNICATIONS ACTIVITIES AND/OR PERSONS WHICH ARE SUBJECT TO LEGAL AND REGULATORY REQUIREMENTS**

### **Who is subject to the regulations?**

The TL distinguishes between providers of telecommunications networks, providers of telecommunications services, and providers of ancillary services as follows:

- the provision of telecommunications networks means the provision of transmission systems and commutation or routing devices, as well as other resources, including inactive network elements, which enable the broadcasting, reception or transmission of signals by means of wires, radio waves, optical waves or other means using electromagnetic energy, regardless of their type [Art. 2(35)];
- the provision of telecommunications services means the provision of services consisting mainly in the transmission of signals in a telecommunications network [Art. 2(48)];
- the provision of ancillary services means the provision of services related to a telecommunications network or telecommunications services, which enable or support the provision of services through those networks or services, or which may serve that purpose, and include number translation systems or systems with equivalent functions, conditional access systems and electronic programme guides, as well as other services such as identification, localisation and presence signaling services [Art. 2(44a)].

Since the TL contains general regulations on the use of radio devices, certain provisions are also applicable to users who are not conducting business activities.

### **Who is not subject to regulations?**

Entities that do not fall within the scope described above.

### **Which activities are regulated?**

The provision of telecommunications networks, telecommunications services and ancillary services and the use of radio devices.

### **Which activities are not regulated?**

Activities that do not fall within the scope described above.

## **OVERVIEW OF CONSENTS, LICENCES AND AUTHORISATIONS REQUIRED PRIOR TO THE COMMENCEMENT OF TELECOMMUNICATIONS ACTIVITIES**

### **Do telecom providers need special licensing or authorization from a regulatory body?**

Yes, in order to be able to provide telecommunications services in Poland, it is necessary to be entered in the Register of Telecommunications Undertakings kept by the UKE [Art. 10 of the TL].

### **What is needed to be granted a consent, license, and authorization?**

In order to be entered in the Register of Telecommunications Undertakings, it is necessary to file an application with the UKE. The application must include information about the applicant as well as a general description of the telecommunications network, telecommunications service or accompanying services which the application concerns, an indication of the area in which the telecommunications activity will be conducted, and the anticipated date of commencement of the telecommunications activity.

### **What is the scope of consents, licences and authorizations?**

Being entered in the Register of Telecommunications Undertakings enables the registered entity to conduct the telecommunications activities indicated in the application.

## DOMICILE RESTRICTIONS PREVENTING THE OPERATION OF CERTAIN TELECOMMUNICATIONS ACTIVITIES BY NON-DOMICILED ENTITIES

### Do providers need to live or conduct business in the country?

Telecommunications activities may be conducted by:

- a domestic undertaking, i.e. either a company established in Poland or a branch of a foreign undertaking which is entered in the business register in Poland;
- a telecommunications undertaking from any EU Member State or a country which has concluded an agreement with the European Community and its Member States governing the freedom to provide services, which **temporarily provides services** in Poland, under the terms provided for in the Treaty establishing the European Community, in the Agreement on the European Economic Area, or in any other agreement on freedom to provide services.

### Are their regulations for global businesses?

There are no specific regulations for global businesses. In order for global businesses to conduct telecommunications activities on a permanent basis in Poland, they just have to establish a local company or branch - this is relatively common.

### Are there special regulations for specific geographic locations?

No, there are no special telecommunications regulations for specific geographic locations.

## EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

The TL sets out the rules ensuring network interconnection, i.e. a specific type of telecommunications access provided between operators by way of the physical and logical linking of public telecommunications networks to allow the users of the services or networks to communicate with the users of the services and networks of the same or another undertaking, or to access the services provided by another undertaking.

There are certain obligations imposed on operators of a public telecommunications network to ensure telecommunications access, such as:

- to negotiate an access agreement for network interconnection and for telecommunications access, to be provided in accordance with the regulatory obligations imposed on that operator, for the purpose of providing publicly available telecommunications services and ensuring the interoperability of services [Art. 26a of the TL]. The UKE may be involved in such negotiations and takes a decision on telecommunications access ensuring the interests of users of telecommunications networks and the continuity of provision of the universal service.
- to meet the technical or operational conditions set out by the UKE, necessary for the proper operation of the telecommunications network [Art. 35 of the TL];

Further obligations are imposed on an operator with significant market power:

- to meet reasonable requests from telecommunications undertakings to provide telecommunications access, including the use of specific network elements and associated facilities, taking account of, in particular, the level of competition in the retail market and the interests of end users [Art. 34 of the TL];

- to prepare and submit a draft reference offer for telecommunications access determining the terms and conditions of co-operation (in the case of an operator with significant market power on which the obligation to ensure equal treatment has already been imposed) [Art. 42 of the TL].

As regards international roaming, Poland is directly bound by the EU Roaming Regulation ([Regulation \(EU\) 2022/612](#)). Under the Regulation, the RLAH (Roam-Like-At-Home) rule was extended for another 10 years, i.e. until the end of June 2032. Consumers are entitled to the same quality of roaming services in other EU/EEA countries as at home, as well as access to emergency services without additional charges. The cost of wholesale roaming charges is capped at EUR 2 per gigabyte as of 2022, and will be further reduced gradually to EUR 1 in 2027.

## TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

### Are there specific consumer protections?

General rules on contracting with consumers are regulated by the [Consumer Rights Act](#), in particular the extensive right to information before concluding a contract [Art. 8, Art. 12] and additional rights to withdraw if the contract was concluded at a distance or off-premises [Art. 12 (9)].

Specific consumer protections applicable to telecommunications activities are regulated in the TL (see point 3 below).

In the case of the conclusion of contracts by telecommunications undertakings with consumers, the provisions of the TL and the Consumer Rights Act must be applied in an appropriate manner so that the provisions of both acts are not violated.

### Who is considered a consumer?

According to Art. 2(18) of the TL, a consumer is 'a natural person who requests the provision of publicly available telecommunications services, or who uses such services for purposes which are not related directly to the economic activity pursued or the profession practised by that person'.

As a side note, consumers of telecommunications services may also fall within broader categories of users, such as:

- end-user - defined as "an entity using a publicly available telecommunications service or requesting the provision of such a service for its own needs" [Art. 2(50) of the TL];
- subscriber – defined as "an entity who or which is a party to a contract with a provider of publicly available telecommunications services for the provision of such services" [Art. 2(1) of the TL].

### What are telecom providers' obligations to consumers?

The following obligations must be complied with when contracting with consumers:

- informing a consumer about the right to choose the form of the contract for the provision of telecommunications services, and providing that choice [Art. 56(2a) of the TL];
- the initial commitment period in a telecommunications services contract cannot exceed 24 months [Art. 56(4a) of the TL].
- recording and delivering the contents of the proposed and agreed terms and conditions of the contract to the subscriber along with the subscriber's statement on submitting to these on a durable medium, if declarations of will are submitted in document form [Art. 56a of the TL];
- providing a tool to monitor the use of services and notifying the consumer about reaching the limit of the chosen traffic package, if the services provided are in a mobile public telecommunications network and are accounted for on the basis of the used time or volume of data or tariff units [Art. 63a (1-1a) of the TL].

## REGULATORY TAXES AND FEES

### What is the cost of licensing?

Being entered in the Register of Telecommunications Undertakings or obtaining a licence to use a radio device does not require an application fee. The following annual fees are required under the TL:

- telecommunications fee applicable to telecommunications undertakings [Art. 183 of the TL];
- fee relating to the allocation of numbers [Art. 184 of the TL];
- fee relating to spectrum assignments [Art. 185 of the TL].

### Is there a tax for providing telecom services?

No, there is no special tax for providing telecom services.

However, it should be noted that in order to subsidise the universal service (i.e. a set of telecommunications services that includes facilities for people with disabilities, provided at a good quality and affordable price, which should be available in the territory of Poland [Art. 81 of the TL]), the UKE may require telecommunications undertakings to cover the costs of providing that service incurred by the entity selected through a competition [Art. 98 of the TL].

### How are fees determined?

The telecommunications fee [Art. 183 of the TL] is the product of the annual telecommunications revenue of the undertaking in the financial year two years preceding the year for which the fee is due and the fee index. The fee index is determined annually by the Minister of Digital Affairs and it cannot exceed 0.05%.

The numbering fee [Art. 184 of the TL] – the TL determines the maximum rates for specific types of numbers. The current rates are set out in the [Regulation of 18 December 2013](#) (consolidated text of 3 February 2022).

The spectrum fee [Art. 185 of the TL] depends on the type of radiocommunications service. The TL determines the maximum rates for each service and the current rates are set out in the Regulation of 6 December 2013 ([consolidated text of 11 February 2016](#) amended by the [Regulation of 7 December 2017](#) and the [Regulation of 5 October 2018](#)).

## KEY SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENTION OF TELECOMMUNICATIONS LAWS AND REGULATIONS

### What governmental entity enforces telecom regulations?

The UKE is responsible for enforcing telecom regulations and can impose fines [Art. 210(1) of the TL]. A small number of requirements related to data privacy that are included in the TL are enforced by the Polish Data Protection Authority (*Prezes Urzdu Ochrony Danych Osobowych*) [Art. 210a of the TL]. In these cases, the provisions concerning fines imposed by the UKE are applied accordingly.

Additionally, the use of radio transmitting or transmitting and receiving devices without holding a radio licence (if required) constitutes a criminal offence and is therefore subject to punishment under the general rules of criminal law.

### What are the penalties for violating the law and/or regulation?

The penalty for violating the law is an administrative fine (see below).

In case of a criminal offence (i.e. the use of a radio device without a required licence), in addition to a criminal fine imposed on the perpetrator (see below), the court may order the forfeiture of the devices intended or used in the commission of the offence,

even if they do not belong to the perpetrator. The court is obliged to order the forfeiture of the devices if their use poses a risk to human life or health. If the perpetrator of the offence acts in a persistent manner, he/she is also subject to the penalty of a restriction of liberty or imprisonment of up to two years [Art. 208 of the TL].

### Is there a fine for violations?

Yes. The UKE can impose fines of up to 3% of the telecommunications undertaking's income obtained in the preceding calendar year. If the entity has not generated income in the calendar year preceding the year in which the fine is imposed or has generated income of less than PLN 500,000, the UKE takes into account the average income received during the three preceding calendar years. Where an entity has not generated income or has generated income of less than PLN 500,000 in this period, a fine of up to PLN 15,000 can be imposed [Art. 210 of the TL]. The UKE may also impose a fine on a person who is the head of a telecommunications undertaking, in particular a person who performs a managerial function or is a member of the management body of a telecommunications undertaking or an association of such undertakings. The fine can be up to 300% of his/her monthly remuneration [Art. 209(2) of the TL].

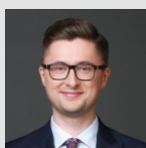
In the case of the criminal offence of using a radio device without a required licence, the perpetrator is subject to a fine of up to PLN 1,000. If the perpetrator of this offence acts in a persistent manner, a fine can be imposed under general criminal law rules, i.e. between 10 and 540 daily rates, where a daily rate is calculated taking into account the perpetrator's income, his/her personal and family situation, property relations and earning potential, and may range from PLN 10 to PLN 2,000. As a result, the maximum amount of a fine is PLN 1,080,000 [Art. 208 of the TL]. The fine is imposed on a specific person and not the entity on behalf of which this person acts. The commission of the offence may take place within the framework of telecommunication activities carried out by a telecommunication undertaking. In such a case, the director of the entity may be personally liable. In the case of the use of a device by an employee of the entity, the liability of the director is not excluded if he/she directs the performance of a prohibited act or orders the employee to perform such an act taking advantage of the employee's dependence on him/her.

### KEY CONTACTS



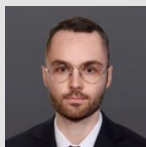
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