

ELECTRONIC COMMUNICATION BETWEEN ENTERPRISES AND AUTHORITIES

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Abstract. A dynamic growth of electronic services in every area of human activity is a fact. This also applies to the ways in which enterprises communicate with public authorities. The legal regulations introduced in Poland bind enterprises to engage in electronic communication via a network of electronic public services. An analysis of the legal foundations of electronic communication between enterprises and authorities is the purpose of the article. The author defines the concept of electronic communication and how it links to electronic administration. The author presents the amended terms of serving documents in administrative proceedings. Electronic public services for enterprises are covered in the final section of the paper.

Keywords: public e-services; electronic administration; enterprise; electronic communication; electronic delivery

INTRODUCTION

Electronic administration and its application are becoming an alternative to services provided traditionally. The state can be observed to focus on dealing with customers in electronic format, a range of public e-services are implemented for citizens and enterprises. The legislative efforts that introduce electronic communication to the institution of deliveries in administrative proceedings show the application of IT technologies is the future of administration. This also applies to enterprises acting in connection to communication with authorities. They have the option of using a range of public e-services, including: Electronic Platform of Public Administration Services, (EPUAP), biznes.gov.pl portal, the Electronic Services Platform (PUE) offered by the National Insurance Company (ZUS), e-Tax Office, e-Pit system, and many others. Without leaving home and based on the Internet, a range of transactions can be undertaken, from starting to closing a business through a variety of formalities.

This paper will aim to analyse the legal foundations of electronic communication, to define it and determine its relation to the electronic public administration. The institution of electronic delivery in administrative

proceedings will be discussed then. Due to the space constraints of this text, only selected public services for enterprises will be discussed.

1. THE CONCEPT OF ELECTRONIC COMMUNICATION

The IT Implementation to Entities Discharging Public Duties Act of 17 February 2005 is crucial to electronic communication.¹ K. Wojsyk, Cz. Martysz and G. Szpor point out this Act and the executive acts grounded therein are the starting points for the participation of the state and its entities in electronic document flows and supplements to the regulations concerning electronic communication [Martysz, Wojsyk, and Szpor 2015]. The Provision of Services By Electronic Means Act of 18 July 2002,² the Trust Services and Electronic Identification Act of 5 September 2016,³ the Access to Public Information Act of 6 September 2001,⁴ as well as the Electronic Deliveries Act of 18 November 2020⁵ were the subsequent legal acts. They have defined the fundamental concepts, principles, duties, and competences of authorities regarding electronic communication.

Before defining the concept of electronic communication, it should be remembered attempts at definitions of communication have been undertaken in specialist literature a number of times. According to B. Dobek-Ostrowska, it's "a process of exchanging ideas and information among individuals, groups or institutions in order to share thoughts and knowledge. The process takes place at a variety of levels using diverse means and causing certain effects" [Drobek-Ostrowska 2002, 7]. This definition indicates communication among different entities by various means, including those of electronic communication. A. Monarcha-Matlak notes "communication takes place only after the contents of a message are decoded. This means electronic communication is an activity involving at least two parties, namely, a sender acting upon a receiver and a receiver acting upon a sender. Where intentions are not read and signs contained in transmitted signals are not interpreted, that is a case of control" [Monarcha-Matlak 2017, 142]. The author proceeds to define electronic communication as one by means of computers [ibid., 143]. It must be noted the communication is also possible by means of telephones

¹ Act of 17 February 2005, the IT Implementation to Entities Discharging Public Duties, Journal of Laws of 2021, item 2070 as amended [hereinafter: the IT Implementation Act].

² Act of 18 July 2002, the Provision of Services By Electronic Means, Journal of Laws of 2020, item 344.

³ Act of 5 September 2016, the Trust Services and Electronic Identification, Journal of Laws of 2021, item 1797.

⁴ Act of 6 September 2001, the Access to Public Information, Journal of Laws of 2022, item 902.

⁵ Act of 18 November 2020, the Electronic Deliveries, Journal of Laws, item 569 as amended.

with Internet access, tablets or other electronic devices featuring appropriate technical solutions which allow for the exchange of information.

The legislation, meanwhile, defines the means of electronic communication⁶ as technical solutions, including ICT equipment and the associated software tools, which enable remote individual communication using data transmission between ICT systems, in particular, electronic mail. M. Błażewski notes “the means of electronic communication serve to facilitate the transmission of information within public administration or between private actors, public administrative authorities, and administrators” [Błażewski 2017, 272]. The legal definition of the electronic provision of services, that is, the execution of a service without a simultaneous presence of parties (remotely) by transmitting at an individual request of a service user, sent and received by means of equipment for electronic data processing including digital compression and storage, sent, received or transmitted in full by means of a telecommunications network under the Telecommunications Law of 16 July 2004,⁷ is important from the viewpoint of electronic communication as well. An electronic service is strictly dedicated to a specific person and delivered with electronic equipment and Internet connections [Romaniuk 2022, 272]. Thus, a public e-service can be defined as one provided by means of electronic communication between entities of different types, including a public administrative authority. P. Romaniuk points out e-services are based on several identical conditions, that is, an almost fully automated transmission (provision) with state-of-the-art information/IT technologies, realisation (at least in part) on and via the Internet, personalisation for a specific user, and different locations of actors involved in a service [Idem 2019, 272].

P. Ruczkowski notes the extent of electronic communication continues to expand also in citizens’ contacts with public authorities, part of the process of the IT implementation to the state [Ruczkowski 2016, 149]. The notion of electronic communication is addressed in the context of electronic administration. Electronic public administration is tasked with building a kind of “a digital bridge” between authorities and the users of public services to streamline economic processes and simplify administrative procedures while reducing operational costs [Stempnakowski 2007, 58]. M. Ganczar and A. Sytek say all the actions of the public administration using new information technologies are known as e-government [Ganczar and Sytek 2021, 60]. Electronic administration should be seen in the context of digital technologies, the Internet, and the means of electronic communication used

⁶ Act of 18 July 2002, the Electronic Provision of Deliveries, Journal of Laws of 2020, item 344 [hereinafter: EPD], Article 2 point 5.

⁷ Act of 16 July 2004, the Telecommunications Law, Journal of Laws of 2022, item 1648 as amended.

to support the public, enterprises and other actors. J. Janowski points out electronic administration allows for access to authorities from any location and at any time, for dealing with a case via the Internet, a simplified service, uninterrupted supply of information, and lower operating costs. It should also provide a flexible and open mechanism for the cooperation among staff of various levels in order to settle the cases of individual customers (including citizens, enterprises, private individuals, and corporations) and to meet their collective needs [Janowski 2009, 52-53]. These advantages also include the ongoing operation of public administration, like at the time of COVID-19 pandemic [Śwital 2022, 20], when movement and contacts were restricted. A. Skóra and P. Kardasz claim the benefits of electronic communication may give rise to a variety of problems resulting from this form of contacts between authorities and individuals. They emphasise the breakdowns of technical means and ICT network for electronic communication, data transmission errors or interruptions and slow data transfers, among other issues [Skóra and Kardasz 2021, 303]. The need of access to the Internet infrastructure, which is becoming widespread, is a major condition that directly affects the dynamics of e-service development. An insufficient access to broadband connections is highlighted, though [Romaniuk 2022, 451]. D. Skoczylas also indicates a variety of threats to the correct functioning of electronic communication, key and digital services, and critical infrastructure. These include hacking, the installation of malware, prevention of access to system data by data theft, disclosure to third parties, unauthorised use, and stopping the operation of critical infrastructure and public registers [Skoczylas 2020, 951]. Therefore, ensuring the efficient system operation, standardisation, interoperability, and above all an adequate protection and cybersecurity of electronic systems will be crucial to the electronic administration.

2. ELECTRONIC DELIVERY AS A FORM OF CHANGING CONTACTS WITH AUTHORITIES

Delivery is defined as an act of a public administrative authority to which the Code attributes legal effects [Wróbel and Jaśkowska 2013, 356]. In line with Article 14 of the Code of Administrative Procedure,⁸ cases should be dealt with in writing or in the format of electronic documents served by means of electronic communication. In the case of electronic delivery, correspondence is served on a party to or another participant in proceedings to: an electronic mailing address recorded in an electronic address database

⁸ Act of 14 June 1960, the Code of Administrative Procedure, Journal of Laws of 2022, item 2000 as amended [hereinafter: CAP].

and, in the case of an attorney, to an electronic mailing address designated in the application; an electronic mailing address associated with the qualified service of registered electronic delivery through which the application has been submitted if an electronic mailing address of a party to or another participant in proceedings is not recorded in an electronic address database (Article 39¹ CAP). The institution of electronic delivery, like M. Adamczyk stresses, had been known in Article 63(1) CAP prevailing until 5 October 2021, which allowed applications in writing, by telegraph, telefax or orally for the record, as well as by other means of electronic communication via an electronic inbox of a public administrative authority established under the IT Implementation to Entities Discharging Public Duties Act of 17 February 2005 [Adamczyk 2022, 9]. The regulations concerning electronic deliveries are amended to adapt the Polish legislation to the Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC [Kardasz 2021, 446]. The Regulation understands the service of registered electronic delivery as enabling data transmission between third parties by electronic means and ensuring the evidence of the data transmitted, including proof of data sending and receipt, and protecting the data from the risk of loss, theft, damage or any unauthorised modification. Thus, the service provides for the integrity of data transmitted electronically, allows for an unambiguous identification of their sender and recipient and for a confirmation of both dispatch (sending) of the data by the sender and their receipt by the addressee.⁹

This amendment to deliveries in administrative proceedings completely modifies the institution. Article 39(1) CAP binds a public administrative authority to serve correspondence to an electronic mailing address under Article 2(1) EPD, unless such delivery is effected to an account in the authority's ICT system or in the authority's offices [Gacek 2022]. The new system of deliveries is envisaged as universal, including a range of legal procedures both with public administration and courts [Wilbrandt-Gotowicz 2022, 557]. A. Skóra notes the design of the Electronic Provision of Deliveries Act rests on two basic principles adumbrated in Article 1 EPD: the universality of electronic deliveries and the primacy of electronic over traditional deliveries [Skóra 2022, 474]. The latter consists in the organisation of the correspondence exchange around the public service of registered electronic delivery to an electronic mailing address (in the electronic address database – Article 1 in conjunction with Articles 38ff. EPD) [ibid.]. As A. Bródka

⁹ The Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, EU OJ of 2014, No. 257.

points out, encouraging customers to make entries in the Email Address Base and a due, earlier testing of the system should be most pressing and important goal of public entities. Since public administrative authorities have not yet been obliged to make electronic deliveries, a customer, even if they have made their entry in the EAB, will not receive their correspondence at the address provided in the base [Bródka 2022, 18]. An entry of an address in the electronic mailing address database is tantamount to requiring that public entities deliver their correspondence to that address [Jaśkowska, Wilbrandt-Gotowicz, and Wróbel 2022].

A public hybrid service, on the other hand, is a postal service defined by Article 2(1)(3) of the Postal Law,¹⁰ provided by a designated operator where a letter is sent by a public entity. The other form, the public hybrid service, involves the sending of mail by means of electronic communication if it has the form of physical mail at the stages of receiving, moving or delivery of information messages [Gacek 2022]. The method is supplementary, however. M. Wilbrandt-Gotowicz notes the legislator has decided to regulate the service as part of a unidirectional model, only from public to non-public entities. A transformation of citizens' correspondence addressed to courts or authorities from the paper to the electronic format by an external entity would not provide an adequate guarantee of the rights to privacy and confidentiality of correspondence [Wilbrandt-Gotowicz 2022, 565].

The changing approach to deliveries and the shift from the traditional model to electronic communication are also part of the changes grounded in regulations for enterprises, mainly with regard to obligatory public e-services. One hopes the regulations, once introduced, actually improve the communication between enterprises and public administrative authorities.

3. ELECTRONIC SERVICES FOR ENTERPRISES

Like R. Biskup and M. Ganczar note, the process of introducing information technology to public administration focuses on providing for electronic support to citizens and other parties concerned by public authorities [Biskup and Ganczar 2008, 59]. Such actions are part of a broadly-defined introduction of IT to public administration. The process has gained rate lately, as evidenced by the implementation of a range of public services to virtually any area. These efforts are also addressed to enterprises as part of public e-services. The electronic portals and offices that supply electronic services are discussed in this section of the paper. Due to space constraints, the operation of *biznes.gov.pl* portal, *Elektroniczna Platforma Usług Administracji Publicznej* (Electronic Platform of Public Administration Services, ePUAP),

¹⁰ Act of 23 November 2012, the Postal Law, Journal of Laws of 2022, item 896 as amended.

the Electronic Services Platform (PUE) offered by the National Insurance Company (ZUS), and e-Tax Office will be discussed.

The portal [biznes.gov.pl](https://www.biznes.gov.pl) is the first of the government portals dedicated to enterprises. It is administered by the Ministry for Enterprise and Technology. It is addressed to those who intend to start and who run their businesses.¹¹ Its builders says the three key pillars of the portal are: services helping enterprises to deal with their cases on the Internet, up-to-date content about prevailing legislation, procedures and formalities required to start and run business in Poland and the European Union, as well as a Centre for Enterprise Assistance, where experts answer business questions. Present and future entrepreneurs, their representatives, and officials using the systems of the Central Registration and Information on Business (CEIDG) are the major beneficiaries.¹² The portal can be accessed after setting up an Enterprise Account. It provides more than 300 e-services on the [Biznes.gov.pl](https://www.biznes.gov.pl) and a full access to information available with the CEIDG.¹³ The enterprise services include registration, suspension, renewal, and closure of business, the option of making modifications to the CEIDG, the recognition of professional qualifications, regulation of transborder services supplied in Poland, and certifications of VAT payer status.

The Electronic Platform of Public Administration Services (ePUAP) is the most widespread form of electronic services. Its main objective is to concentrate the government administration services on a single platform, which guarantees the creation of a secure, standard, legally binding electronic channel that offers the public administration services to all citizens, enterprises, and public administration [Wiewiórowski and Wierczyński 2008, 351]. The scope and conditions of the platform, including the account creation and the administration of a service catalogue on the ePUAP, as well as the exchange of information between the ePUAP and other ITC systems are determined in the Administration and Digitalisation Minister's Regulation on the scope and conditions of the electronic platform of public administration services of 6 May 2014.¹⁴ Via the ePUAP, an authority can also serve e-correspondence on a party (or another participant in proceedings) both to their individual mailing account (inbox) with the ePUAP platform and to another email address supplied by such a party, e.g., an electronic mail address [Kardasz 2021, 458]. Key services for enterprise comprise: PIT

¹¹ See <https://www.biznes.gov.pl/pl/portal/03129> [accessed: 31.12.2022].

¹² Ibid.

¹³ E-services and information for enterprises, <https://www.gov.pl/web/rozwoj-technologie/e-uslugi-i-informacje-dla-przedsiębiorców> [accessed: 31.12.2022].

¹⁴ Act of 6 May 2014, the Administration and Digitalisation Minister's Regulation on the scope and conditions of the electronic platform of public administration services, Journal of Laws of 2019, item 1969 as amended.

and CIT settlements, settlement of means of transport taxes, VAT declarations, payment of stamp duties, applications to have employees reported for health insurance, applications to have due dates of insurance contributions delayed, applications for individual or general interpretations, certifications of non-arrears in current liabilities, registration and de-registration of vehicles. An account and a trusted profile are required to use the ePUAP. The profile enables communication with public administration authorities and serves as a tool of identification. The trusted profile can be used to sign any electronic document.

The Electronic Services Platform (PUE) offered by the National Insurance Company (ZUS) is another system. Every contribution payer has been bound by law to hold their profile there since 1 January 2023.¹⁵ The system enables viewing data stored by the National Insurance Company, the transfer of insurance documents, submission of applications and receipt of responses, querying the ZUS and getting answers, and arranging for visits to ZUS offices. Enterprises have access to business information on the PUE ZUS, including the information about the balances of current and monthly settlements of contributions paid to the ZUS, about payable contributions, payments, annual information for contribution payers, and settlement declarations submitted to the ZUS. Enterprises can also view the lists of individuals submitted to insurance and lists of workers on medical leave.¹⁶ The PUE ZUS features a free application *ePłatnik* (ePayer) for the handling of insurance documents. This tool is targeted at small and medium-sized enterprises (up to 100 insured). It's easy to operate thanks to creators that step by step guide users through the stages of filling insurance documents. The ePayer's key functions include the completion of insurance documents and their transfer on the Internet, filling documents with data directly from the ZUS system, online verification, and blocking of faulty documents submitted to the ZUS.¹⁷

E-Tax Office is the final digital office to be discussed. It's another virtual administrative office, designed primarily to develop the e-service catalogue of the National Revenue Administration (KAS), chiefly concerning the VAT, PIT and CIT and using the information resources of the finance ministry and communication channels. E-Tax Office is an information and transactional portal where authorised taxpayers who are private individuals, corporations or organisations without legal personality will have access to fiscal information concerning them, to the cases of other taxpayers to which

¹⁵ Act of June 2021, the obligation is imposed by the Act Amending the National Insurance System Act and Certain Other Acts, i.e., Journal of Laws of 2021, item 1621.

¹⁶ See more: Information on PUE ZUS, <https://www.zus.pl/baza-wiedzy/o-platformie-uslug-elektronicznych-pue-/o-platformie-uslug-elektronicznych-pue-/informacje-dotyczace-pue> [accessed: 04.01.2022].

¹⁷ Ibid.

they are appropriately authorised, and of other taxpayers who have submitted relevant authorisations.¹⁸ The creators of the e-office assume it will enable the online dealing with PIT, CIT, and VAT cases. KAS customers will also be provided (by means of a web or mobile application) access to five groups of services, namely, e-Taxpayer, e-Payers, e-Representative, e-Bailiff, and e-Notary channels. Those will contain, among other things, information about settlements, case status, and documents submitted in relation to all taxes. Furthermore, more tax cases will be dealt with electronically and comprehensively, the clarity and transparency of the KAS's operations, the quality and scope of communication between the KAS and its customers will improve, the time devoted to the fulfilment of fiscal duties will be shorter, irregularities in their discharge will be limited, a single access point to the finance ministry e-services will be available, the preparation and submission of information/ data and forms will become simpler, and data dispersed across a variety of systems will be integrated and thus available to other public entities.¹⁹

CONCLUSIONS

The application of electronic communication to administration has already become universal. Electronic public services are present in nearly all the spheres of the state's activity. The paradigm of and approach to public services are changing and a digital revolution is taking place. This is also true of enterprises, expected to fulfill their duties in contacts with authorities via electronic portals and virtual offices. This is evidenced, for instance, by the obligatory forms of contacts with offices by means of the Electronic Services Platform offered by the National Insurance Company (PUE ZUS) and the e-Tax Office. They offer a range of services for businesses and more are being implemented. The state binds enterprises to support and carry out certain duties in the electronic format only. The electronic delivery, the basic form of deliveries in administrative proceedings now, has also been implemented as part of the adjustment of regulations to the EU law. The progressing digital revolution is evident in administrative and fiscal proceedings, national insurance or public tenders. Security, access to broadband, and adequate education and awareness of the Internet use for official contacts will be crucial to the operation of e-services. As the experience of the COVID-19 pandemic has shown, electronic administration in a dangerous situation became a requirement for contacts with authorities and provided for their ongoing operation.

¹⁸ E-Tax Office, <https://www.gov.pl/web/finanse/e-urzed-skarbowy> [accessed: 04.01.2022].

¹⁹ Ibid.

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