

**SUPPORT FOR HOUSEHOLDS
DUE TO THE CHANGE
IN THE DIGITAL TERRESTRIAL TELEVISION
BROADCASTING STANDARD –
AN ATTEMPT TO EVALUATE
THE ADOPTED NORMATIVE SOLUTIONS**

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ABSTRACT

The Act on supporting households in bearing the costs related to the change of the digital terrestrial television broadcasting standard was passed by the government on February 24, 2022, and a month later, on March 23, 2022, it was amended, because it became necessary to clarify the issue of the circle of people entitled to receive state support, which is absolutely fundamental from the point of view of this act. The content of the article will therefore be to determine the content of the normative set by interpreting the regulations of the aforementioned Act, so it takes into account all functional relationships of the standards under study and is based on all available sources of information. At the same time, when analysing statutory regulations, the author will reflect on their compliance with the principle of specificity of law, interpreted by the Constitutional Tribunal from the constitutional principle of a democratic state ruled by law.

Keywords: DVB-T2, digital receiver, digital television, principles of correct legislation, the principle of specificity of the law

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METHODOLOGICAL ASSUMPTIONS

In this paper we strive to provide answers to two fundamental questions. Firstly, was the adoption of the Act on the Support to Households in Bearing the Costs Associated with the Change in the Digital Terrestrial Television Broadcasting Standard (“Act on the Support to Households”) actually justified by the need to assist households in need of such support, or was it rather a classic example of demagoguery where normative solutions are used for pure political expediency. Our second question, on the other hand, is posed because the analysed Act had to be amended almost immediately after its adoption. Therefore, some serious doubts arise as to whether it was passed in compliance with all basic rules of proper law-making, in particular with the principle of legal determinacy. As we all know, the principle is directed at lawmakers and imposes on them an obligation to devise legislation which is correct, precise and clear. In search of the replies, it is necessary to conduct an in-depth analysis of the solutions adopted in the Act, with a particular emphasis on those measures which required an immediate adjustment. In particular, we will try to determine whether clarifying the category of individuals eligible for state support – absolutely fundamental from the point of view of this piece of legislation – should be seen as the necessary intervention of the lawmaker to protect those to whom the legal norm is addressed against the lawmaker being replaced in the task of shaping the substantive content of the law by enforcement bodies, or whether in practice such a rapid amendment meant that when adopting the initial Act lawmakers breached their obligation to construct legal provisions in a correct, precise and clear manner.

Considering the above, the outline adopted for this paper should help find replies to the question about the quality of laws enacted by Polish lawmakers. Because the adoption of the Act on the Support to Households in Bearing the Costs came as a consequence of a series of measures intended to change the way television signals are broadcast, it is necessary to present in a chronological order the elements of the normative context, i.e. legal solutions adopted both at the EU and the national level. Next, it is essential to explain the reasons for the adoption of the legislation to limit the effects of the change in the digital terrestrial television broadcasting standard, and to analyse the course of relevant legislative proceedings. Reflections on the quality of the adopted Act from the perspective of its compliance with the principle of legal determinacy would not be possible without discussing the essence of that principle and an endeavour to put it in the context of the legislative proceedings which took place in the case of the act in question. The last part of the paper complements discussed issues and seems necessary in the context of the selected research method. It is an attempt to outline the actual and potential effects of the Act.

Our approach to the topic dictates the choice of research methods. In this study, we will predominantly follow the normative set method, which helps to better see the rules and norms of the axio-normative order in their full complexity, both from the point of view of their formalised (legal norms) and informal ones (informal rules, norms and institutions) aspects. With this approach, we are able to organise and enhance our knowledge about the goals of actions of the human as a social being and the ways in which such goals are achieved by means of legal institutions

and extra-legal norms, and in particular about why and how individuals and groups of interest exert their pressure on the course of legislative proceedings. Under such a holistic approach it is essential to determine several categories of entities involved in devising solutions which make up for the pattern of action (normative set). These are: the source, the disponent, the beneficiary and the user (maleficiary). The categorisation is not disjunctive; a single entity may hold one or more roles (if not all of them). Only as a complement we will use the dogmatic method, i.e. the analysis of existing legal solutions. The latter is supported by the analysis of the case-law and the literature review, vital to define the relationship between the determinacy of laws and the frequency of their modifications.

INTRODUCTION

At present, Poland, like other EU Member States, has been implementing the change in the broadcasting mode for the digital terrestrial television, replacing the existing DVB-T/MPEG-4 standard with the more efficient DVB-T2/HEVC. The beginnings of the process can be traced back to 2012, i.e. the time of the World Radiocommunication Conference¹ (WRC-12), organised by the International Telecommunication Union (ITU). The conference took the decision to assign another batch of the UHF “television” band – the 700 MHz frequency band – to the ITU Region 1, for the broadcasting service² and for the mobile service (broadband services provided by mobile systems), commencing in 2015. The ITU Region 1 covers Europe, including the countries of the former USSR, Africa and the Middle East countries, and the reassignment of the 700 MHz band to the region followed in the steps of provisions which had already been adopted for the rest of the world. Therefore, the 700 MHz band was to be globally harmonised for mobile networks.³ In November 2015, one of the subsequent editions of the conference (WRC-15) concluded international negotiations on the use of the 700 MHz band for wireless broadband services. Thus, the reassignment of the 700 MHz band was finally harmonised across all ITU regions. Moreover, the WRC-15 decided to maintain the exclusive use of the 470–694 MHz frequency band for broadcasting purposes in Region 1. In parallel, works on the development of technical conditions for the deployment of mobile networks in the 700 MHz band in the European Union were under way, together with the process of relevant policy decision-making. On 11 March 2013,

¹ The purpose of the conferences is to review and, if necessary, revise the Radio Regulations, international agreements which govern the use of the radio frequency spectrum, and orbits of geostationary and non-geostationary satellites. Conferences are held every two to four years.

² According to Article 1.38 of the Radio Regulations annexed to the Constitution and Convention of the International Telecommunication Union (ITU) of 22 December 1992 (Journal of Laws 1998, No. 35, item 196) – the broadcasting service is a radio communication service whose transmissions are intended for direct reception by the public at large. The service may include audio, television or other types of transmission.

³ The mobile network is a public telecommunications network where the network termination does not have a fixed location, <https://stat.gov.pl/en/metainformation/glossary/terms-used-in-official-statistics/3649,term.html> (accessed on 9.06.2022).

pursuant to Article 4(2) of the Radio Spectrum Decision,⁴ the European Commission granted the mandate to the European Conference of Postal and Telecommunications Administrations (CEPT) to develop harmonised technical conditions for the 700 MHz band to be used for wireless broadband electronic communications services in the EU and for other applications in support of the priorities defined in the EU radio spectrum policy. Under this mandate, CEPT submitted the reports 53⁵ (in 2014) and 60⁶ (in 2016), which have paved the way for the technical harmonisation of the 700 MHz band for terrestrial wireless broadband services in Europe.

In its communication “A Digital Single Market Strategy for Europe”,⁷ the European Commission set out the vision of universal access to high quality connectivity for businesses and citizens. The strategy heralded specific legislative proposals of the Commission, including the coordinated release of the 694–790 MHz band.

Building on the CEPT reports, and considering the legislative works on the decision to change the use of the 700 MHz band in the EU, on 28 April 2016, the European Commission issued the Implementing Decision on the 694–790 MHz frequency band.⁸ It provided harmonised technical conditions to allow the use of the 700 MHz band for terrestrial wireless broadband electronic communications services and for other applications, in line with the priorities of the EU-wide spectrum policy. In contrast, the shift in digital terrestrial television broadcasting required further steps to be taken both by the European Union and by individual Member States.

Considering the above, the change in digital terrestrial television broadcasting in Poland is a consequence of Decision (EU) 2017/899 of 17 May 2017 on the use of the 470–790 MHz frequency band in the Union, adopted by the European Parliament and the Council.⁹ Under this decision, EU Member States were required to make the 700 MHz band (694–790 MHz band) available for broadband services by 30 June 2020 or, where justified, by 30 June 2022 at the latest.¹⁰ Therefore, at present

⁴ Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community, OJ L 108, 24.4.2002, p. 1.

⁵ Report A from CEPT to the European Commission in response to the Mandate. To develop harmonised technical conditions for the 694–790 MHz (‘700 MHz’) frequency band in the EU for the provision of wireless broadband and other uses in support of EU spectrum policy objectives. Report approved on 28 November 2014 by the ECC.

⁶ Report B from CEPT to the European Commission in response to the Mandate. To develop harmonised technical conditions for the 694–790 MHz (‘700 MHz’) frequency band in the EU for the provision of wireless broadband and other uses in support of EU spectrum policy objectives. Report approved on 01 March 2016 by the ECC.

⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Digital Single Market Strategy for Europe of 6 May 2015. (COM(2015) 192 final).

⁸ Commission Implementing Decision (EU) 2016/687 of 28 April 2016 on the harmonisation of the 694–790 MHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services and for flexible national use in the Union (notified under document C(2016) 2268). For details of the decision see: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016D0687> (accessed on 9.06.2022).

⁹ OJ L 138, 25.5.2021, p. 131.

¹⁰ Under second paragraph second sentence of Article 1 of the Decision 2017/899 of the European Parliament and the Council “In the case of such a delay, the Member State concerned

any broadcast programmes need to fit into a narrower frequency range (470–694 MHz instead of 470–790 MHz). In addition, the transition to the DVB-T2/HEVC standard¹¹ has been justified by the need to improve service quality, e.g. by the introduction of universal HD-quality broadcasting of all television programmes or the launch of ultra-high definition 4k UHD television. It needs to be stressed here that in accordance with Article 288 of the TFEU, the decision is binding in its entirety on its addressees as a legislative act adopted by the European Parliament and the EU Council under the ordinary legislative procedure. It is addressed to all Member States, including Poland.

Under Article 5(1) of the said decision, until 30 June 2018, Member States should adopt and make public their national plans and schedules (“national roadmaps”), including detailed steps for fulfilling their obligations. In line with Article 5(2) of this decision, Member States should include in their national roadmaps information on measures, including any support measures, to limit the impact of the forthcoming transition process on the public and on wireless audio PMSE use, and to facilitate the timely availability of interoperable television broadcasting network equipment and receivers in the internal market. Based on the decision, in 2018, the Polish Ministry of Digitalisation, in cooperation with the Office of Electronic Communications (UKE), the National Broadcasting Council (KRRiTV) and the Institute of Communications – National Research Institute, developed the National Action Plan (NAP) for the reassignment of the 700 MHz band in Poland (updated in 2019).¹² The Plan stated that under Article 1(1) of Decision (EU) 2017/899 of the European Parliament and of the Council, on 28 December 2018, Poland notified the European Commission of the need to delay the date of making the 700 MHz band available for terrestrial systems capable of providing wireless broadband electronic communications services until 30 June 2022. Furthermore, it informed the Commission that the delay would not have a negative impact on other Member States. Poland’s claim for deferring the availability of frequencies in the 700 MHz band for terrestrial systems capable of providing wireless

shall inform the other Member States and the Commission accordingly and shall include those duly justified reasons in the national roadmap adopted pursuant to Article 5 of this Decision”.

¹¹ The DVB-T is a standard for digital transmission of audio-visual data compressed with MPEG-2 or a more recent MPEG-4 (H.264) standard. This standard has superseded analogue transmission, in operation in Poland for several decades, in fact since the beginnings of the television. The last analogue transmissions took place in July 2013. From then on, all terrestrial TV users relied on digital transmissions in the DVB-T standard. The DVB-T2 is characterised by better bandwidth utilisation and a much more efficient HEVC (H.265) data compression standard. The more recent DVB-T2 standard features a larger multiplex capacity, i.e. the package of various TV and radio contents and all kinds of other services transmitted digitally under a single frequency. The DVB-T standard allows approximately 24.88 Mbps to be transmitted in a single bandwidth of 8 MHz. On the other hand, the DVB-T2, allows up to 40 Mbps in the same bandwidth. For more information on the differences between the DVB-T and DVB-T2 standards see <https://www.komputerswiat.pl/poradniki/telewizory/sygnal-dvb-t2-w-polsce-od-marca-2022-r-co-to-oznacza-dla-posiadaczy-telewizorow/p5g463k> (accessed on 16.06.2022).

¹² The key element of the NAP is the schedule of planned actions, including legislative measures, international agreements, changes in the frequency assignment plan, changes in radio reservations and licenses, as well as the technical transition, i.e. the change of frequencies used by TV transmitters. See <https://www.gov.pl/web/cyfryzacja/aktualizacja-krajowego-planu-dzialan-zmiany-przeznaczenia-pasma-700-mhz-w-polsce> (accessed on 9.06.2022).

broadband electronic communications services beyond 30 June 2020 was motivated by unresolved cross-border coordination issues resulting in harmful interference. The failure by the Russian Federation, the Republic of Belarus and Ukraine to provide information on the shutdown of terrestrial televisions operating in their respective territories in the 700 MHz band by 30 June 2020 effectively prevented the uninterrupted deployment of the 700 MHz band for terrestrial systems capable of providing wireless broadband electronic communications services in Poland by the required date, i.e. by 30 June 2020. It should be noted here that in line with the above-mentioned Article 5(2) of Decision 2017/899 of 17 May 2017, the National Action Plan stated that the transition to the DVB-T2/HEVC broadcasting standard may require from the recipients to replace television sets which did not meet technical requirements. What is more, it noted that viewers would be informed of the planned frequency changes by broadcasters (e.g. in the form of information in news tickers). However, no details were provided on measures to support the replacement of TV sets.

Moreover, the NAP envisaged other measures to achieve the change of the broadcasting standard; the relevant amendment of the Telecommunications Law Act and implementing regulations to be issued by the Minister of Digitalisation were of particular relevance. Among them, the most noteworthy is the Regulation of the Minister of Digitalisation on technical and operational requirements for digital receivers issued in 2019,¹³ based on Article 132(3) of the Telecommunications Law Act.¹⁴ These measures were to prepare the Polish telecommunications market for the transition to the DVB-T2 standard and HEVC /H.265/ MPEG-H image compression. For the sake of completeness of our argument, it should be noted that the change of the broadcasting and reception system for television programmes was also included in the 2017–2022 Regulatory Strategy of the National Broadcasting Council¹⁵ and in the Strategic Guidelines of the UKE President for 2017–2021.¹⁶

THE NEED TO PASS THE LEGISLATION TO LIMIT THE EFFECTS OF THE TRANSITION TO A NEW DIGITAL TERRESTRIAL TELEVISION BROADCASTING STANDARD

The measures discussed above were intended to achieve a specific deliverable, namely the change in the television broadcasting standard. This shift will bring some major benefits, including the tidying up of the broadcasters' market and some tangible financial gains for the state budget; in fact, the President of the Office of Electronic Communications will carry the procedure to select from the band occupied by

¹³ Regulation of the Minister of Digitisation of 7 October 2019 on technical and operational requirements for digital receivers (consolidated text, Journal of Laws of 2021, item 515).

¹⁴ Telecommunications Law Act of 16 July 2004 (consolidated text, Journal of Laws of 2021, item 576).

¹⁵ The document is available at: <https://www.gov.pl/web/krrit/strategie-krrit> (accessed on 16.06.2022).

¹⁶ This document in the form of a multimedia presentation is available on the UKE website <https://uke.gov.pl/akt/strategia-prezesa-uke-w-latach-2017-2021,10.html> (accessed on 16.06.2022).

TV broadcasters the frequencies to be made available to telecommunications which provide broadband services. This could correspond to additional budget revenues of approximately PLN 1.5 billion.¹⁷ On the other hand, following the transition to the DVB-T2 broadcasting standard some households will either need to replace their television set with a newer model, compatible with the changed standard, or to retrofit their TV set with a DTT STB. It should be stressed here that under Article 5(2) of Decision 2017/899, the Council of the EU, together with the European Parliament, has imposed on EU Member States the obligation to take appropriate support measures to “limit the impact of the forthcoming transition process on the public”. Considering the above, the promoters of the Act believed that it was necessary to enact the legislation to support households in order to ensure that they continue to receive free digital terrestrial television after the change of the broadcasting standard. The Explanatory Memorandum to the Act states that as many as 30% of households receive television exclusively by terrestrial means and do not use paid-TV services available on digital platforms.¹⁸ At the same time, it specifies that the support would consist in subsidised purchases of TV set-top boxes to enable at least the reception of terrestrial digital television in the DVB-T2/HEVC standard. The maximum subsidy amount was set at PLN 100, to be used as a one-off allowance. Lawmakers excluded the option of using only some part of the allowance, and to spend the outstanding amount in another transaction, e.g. by purchasing two STBs, each subsidised with PLN 50. If the STB purchase price exceeded the amount of the allowance, the eligible individual would have to cover the excess. On the other hand, if the STB was purchased for less than PLN 100,00 the eligible individual would be entitled to apply for the reimbursement of the difference. The Act stipulated that the allowance for the purchase of the TV STB could be used until the end of 2022.

Bearing in mind the above, the category of sources, i.e. the actual initiators of solutions introduced into general use, should include, first of all, the EU lawmakers, comprising the three institutions of the European Union – the European Commission,¹⁹ which, by exercising its right of legislative initiative, drafted the Decision 2017/899 of 17 May 2017 on the use of the frequency band 470–790 MHz in the Union, as well as the European Parliament and the Council of the European Union, which adopted the text under the ordinary legislative procedure. Indeed, the provisions

¹⁷ These are, of course, estimates, but they are corroborated by the experience of other countries which have already successfully reassigned required frequencies. The Federal Republic of Germany has received therefrom around €6.5 billion, and Slovakia around €100 million.

¹⁸ There are 3 digital TV platforms in Poland: Polsat Box, Canal+, Orange TV. In addition, it is possible to receive TV channels on a top-up or prepaid basis via satellite – with Canal+ Pre-Paid TV, HD and Smart HD+ Pre-Paid TV.

¹⁹ It should be noted that, in accordance with the law-making model adopted in the EU, the road to the adoption of binding acts of secondary law, including decisions, usually starts with an earlier adoption of non-binding acts, including the so-called *sui generis* acts – strategic documents which define the directions to be taken in order to regulate a specific area of social life. With regard to the use of the 470–490 MHz frequency this seems to be the Communication of the European Commission of 6 May 2015 entitled “Strategy for the European Digital Single Market”, in which the Commission highlighted the importance of the 694–790 MHz (“700 MHz”) frequency band for “ensuring the provision of broadband services in rural areas” in order to ensure access and connectivity, and stressed the need for a “coordinated release of the 700 MHz band (...) while accommodating the specific needs of audiovisual media distribution”.

of the decision, binding on EU Member States, including Poland, caused the Polish lawmaker to react by adopting the legislation to limit the effects of the change in the digital terrestrial television broadcasting standard. It should be remembered that the EU legal framework provides for the principle of direct applicability under which both regulations and decisions become automatically binding across the Union on the date of their entry into force. Moreover, the category of initiators should encompass the Minister of Digitalisation, who in response to the adoption of the said decision of the EP and the Council, produced the so-called *National Action Plan for the Reassignment of the 700 MHz Band in Poland*. While specifying the next steps to be taken to achieve the pre-defined goal, the Plan assumed that some users would need to replace TV sets which were not compliant with requirements, but did not provide for any measures to support such replacements. These steps were taken by the Minister only when the Act to limit the effects of the change in the digital terrestrial television broadcasting standard was being drafted. In consequence, the Minister of Digitisation could be perceived as a constitutive source, i.e. the one which moved the legislative initiative into the right direction, but only when they started to draft the Act on the Support to Households. Earlier on, when the *National Action Plan for the Change in the Reassignment of the 700 MHz band in Poland* (2017–2018) was developed, the Ministry played the role of an “anti-source” as back then it did not plan to introduce any protective measures to mitigate the negative effects of the broadcasting change for TV viewers. A similar role can be attributed to the Polish Chamber of Electronic Communications (PIKE) and the National Chamber of Ethernet Communications (KIKE), which, when consulted on the Act, stressed that it may lead to a major breach of the basic principles in force in the European Union (prohibition of new state aid and the obligation to maintain technological neutrality) and that it could generate costs disproportionate to its possible effects.²⁰ One should point here to the crucial importance of the so-called resolute sources. These are entities which stayed passive throughout the legislative procedure, did not define any direction of works nor did they put forward any specific proposals, but made statements which turned out to be decisive for the completion of the law-making process. The category includes stakeholders involved in the public consultations on the Act on the Support to Households, namely the Polish Chamber of Commerce for Electronics and Telecommunications (KIGeIT) and the Polish Information Processing Society (PIT), which from the onset suggested that the TV set should be added to the list of products eligible for support,²¹ or the Polish Chamber of Digital Broadcasting (PIRC) and ‘Sygnal’ Association, which highlighted that the Act should either precisely define the final amount of the allowance or establish the modalities of its calculation.²²

²⁰ For a detailed argument please see the writs available at: <https://legislacja.rcl.gov.pl/docs//2/12354770/12842189/12842192/dokument545631.pdf> and <https://legislacja.rcl.gov.pl/docs//2/12354770/12842189/12842192/dokument545627.pdf> (accessed on 17.06.2022).

²¹ For more information see <https://legislacja.rcl.gov.pl/docs//2/12354770/12842189/12842192/dokument545625.pdf> and <https://legislacja.rcl.gov.pl/docs//2/12354770/12842189/12842192/dokument545629.pdf> (accessed on 17.06.2022).

²² For more information see <https://legislacja.rcl.gov.pl/docs//2/12354770/12842189/12842192/dokument545633.pdf> and <https://legislacja.rcl.gov.pl/docs//2/12354770/12842189/12842192/dokument545634.pdf> (accessed on 17.06.2022).

THE COURSE OF THE LEGISLATIVE PROCEEDINGS
CONCERNING THE ACT ON THE SUPPORT TO HOUSEHOLDS
IN BEARING THE COSTS ASSOCIATED WITH THE CHANGE
IN THE DIGITAL TERRESTRIAL TELEVISION
BROADCASTING STANDARD

At the government level the legislative proceedings on the draft act were completed in January 2022, after approx. one month of effective works (as they were initiated on 31 December 2021 they had already been underway in 2022) and on 1 February 2022, the draft act was adopted by the Council of Ministers, which at the same time decided to classify it as urgent; in accordance with Article 123 of the Constitution of the Republic of Poland this meant that the Act had to be processed expediently by the Polish Sejm.²³ The quality of the public consultation process deserves a separate remark. The letter to the consulting entities was sent on 23 December 2022, i.e. one day before Christmas. At the same time, the letter stated that the deadline for those stakeholders to submit their comments was 7 January 2022. As you can see, in theory, it was a two-week period, but excluding the holiday time, consultants had only 4 days (3–5 and 7 January, as 6 January was the Epiphany) to voice their opinion. Given such a short time, it would be unreasonable to expect any in-depth review of solutions proposed in the Act. Eventually, 8 stakeholders presented their positions, all of them included above in the category of resolute sources and the so-called anti-sources (one of them – the Zielona Góra Agreement – did not submit any comments), which can still be considered a success, given such a speedy consultation process.

The Act was submitted to the Speaker of the Sejm on 4 February 2022 and was numbered 1989.²⁴ Already on 8 February 2022, the first reading took place and the decision was made to refer the Act to the Digitisation, Innovation and Modern Technologies Committee. At the same time, the Sejm decided that the Committee was to present a report and its recommendation at the latest on the following day. They processed the task in an extremely expedient manner; within a few hours the meeting was organised remotely, the Act was examined and the unequivocal recommendation was given for the Sejm to adopt the Act. On the same day, the second reading was held, amendments were tabled and it was decided to refer the Act back to the Committee. At a fast pace of work the third reading was held on the same day, allowing the Act to be passed by an overwhelming majority of 424 votes in favour, 16 against and 17 abstentions. MPs representing virtually all parliamentary groups and clubs voted in favour, with the exception of the Confederation Party. The following day, i.e. on 9 February, pursuant to Article 121(1) of the Polish Constitution, the Speaker of the Sejm sent the Act to the Senate and the President. After some short works of less than one week, the Senate introduced 9 amendments to the adopted

²³ For information on the legislative process at the government level see <https://legislacja.rcl.gov.pl/projekt/12354770> (accessed on 16.06.2022).

²⁴ For information on the legislative process in Parliament see <https://www.sejm.gov.pl/Sejm9.nsf/PrzebiegProc.xsp?nr=1989> (accessed on 16.06.2022).

Act which was next sent to the Digitalisation, Innovation and New Technologies Committee of the Sejm. The latter recommended that the Sejm should approve some selected amendments and reject the remaining ones. The final wording of the Act was determined on 24 February 2022 as the Sejm followed the recommendation issued by the Committee. Pursuant to Article 12(1) of the Constitution of the Republic of Poland, the following day (25 February 2022), the Speaker of the Sejm forwarded the adopted Act to the President of the Republic of Poland for signature and the latter did so on the same day. The Act entered into force on 3 March 2022, the day following its publication in the Journal of Laws.²⁵ In the case of the Act, the entire legislative process took just three weeks in total. Is it at all possible to make some in-depth reflection on regulated issues at such a short notice? Can a legislation devised under such hasty procedure be free of basic defects caused by the violation of the so-called principles of proper legislation, including the principle of legal determinacy? Some further developments regarding the Act may provide answers to these questions. For it turns out that almost immediately after its entry into force, some amendments were needed. This beared the question: would they be necessary if sufficient time had been spent on more thorough public consultation and review at further law-making stages. Indeed, there is hardly any doubt that they would not.

In the Explanatory Memorandum to the draft Act amending the Act on the Support to Households, the Council of Ministers, as its promoter, stated that changes were required so soon because of the need to determine the group of individuals entitled to receive state support, i.e. the allowance for the purchase of the digital receiver. The authors of the amendment believed that it was necessary to specify the eligibility criteria for the allowance to purchase the digital receiver, based on two conditions: the poor financial standing of the household and the inability to buy the equipment without jeopardising its basic subsistence needs. According to the promoters, the assessment of the household's eligibility for the allowance should take into account the value of the basic digital receiver with or without a picture display (the TV set or the STB, respectively). With this in mind, a variable amount of the allowance was proposed: PLN 100.00 for the STB, and PLN 250.00 for the TV set, because of a major price discrepancy between the former and the latter, on the one hand, and because of the freedom of the eligible individual to choose the equipment they would wish to buy. The promoter of the amendment believed that this would prevent the providers of set-top boxes and economically linked services from setting the STB price/service value ratio in such a way that the allowance, even if formally used to purchase the device, would rather be, economically speaking, a subsidy to their service.

The Act on the Support to Households in Bearing the Costs entered into force on 3 March 2022. Meanwhile, because of the arguments discussed above and with a complete disregard to the steps required in the government legislative process, including opinions or public consultations, already on 15 March, the Council of Ministers adopted the document amending the Act on the Support to Households.

²⁵ The Act of 24 February 2022 on the Support to Households in Bearing the Costs Associated with the Change in the Digital Terrestrial Television Broadcasting Standard (Journal of Laws 2022, item 501).

Yet again, the Council classified it as an urgent act within the meaning of Article 123(1) of the Constitution of the Republic of Poland, and decided to send it to the Sejm.²⁶ The following day, it was registered under No. 2089.²⁷ While for the initial Act on the Support to Households in Bearing the Costs the legislative process, starting from the moment when the right of legislative initiative was exercised, took just three weeks, in the case of the amending Act the procedure was even more expedient. After the number was assigned to the Act, it took nine days for it to be signed by the President of the Republic of Poland. First, the Sejm needed a week to pass the amending Act. This time, 437 MPs voted in favour, with only the Confederation Party consistently voting against. The Senate did not table any amendments, so the day after its receipt, its Speaker sent the amending Act to the President of the Republic of Poland for signature, who signed it the following day (25 March 2022). The amending Act entered into force the day after its publication, i.e. on 29 March 2022.²⁸ Undoubtedly, such a fast pace of work was caused, on the one hand, by the relatively narrow scope of the new Act (only 9 amendments) and, on the other hand, by the need to quickly amend the initial Act to enable a wider group of beneficiaries to use the solutions enacted thereunder. Still, it is difficult to resist the temptation to say that if sufficient attention had been paid at the stage of the government legislative process and later on, during parliamentary works, such immediate amendment regarding the key issue in the substantive scope of the Act would not have been necessary.

The category of “disponents”, i.e. representatives of public authorities who formalise, modify or complement rules, ensure their dissemination or establish derogations therefrom should first of all include the Council of Ministers, which, under the urgent legislative procedure, submitted to the Sejm both the Act on the Support to Households in Bearing the Costs and, a few weeks later, under the very same procedure, an Act amending the Act on the Support to Households in Bearing the Costs. The choice of the urgent procedure for this type of legislation is quite surprising. As the practice so far shows, the Council of Ministers only rarely has exercised the right provided for in Article 123(1) of the Constitution of the Republic of Poland to qualify its Act as urgent.²⁹ Nonetheless, disponents encompass also other actors involved in the legislative proceedings. As far as the parliamentary stage is concerned, these proceedings were extremely fast and, in the case of the amended Act, lasted 20 days (including seven days at the Senate) and in the case of the amending Act only nine days (the proceedings in the Senate took only one day – the Senate passed the resolution to

²⁶ For information on the legislative process at the government level see <https://legislacja.rcl.gov.pl/projekt/12357652/katalog/12861886#12861886> (accessed on 16.06.2022).

²⁷ For information on the legislative process in parliament see <https://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?nr=2089> (accessed on 16.06.2022).

²⁸ The Act of 23 March 2022 amending the Act on the Support to Households in Bearing the Costs Associated with the Change in the Digital Terrestrial Television Broadcasting Standard (Journal of Laws 2022, item 689).

²⁹ For more on the application of urgent legislation in parliamentary practice see Borski, M., Przywora, B., ‘Postępowanie z projektem pilnym jako przykład szczególnego trybu ustawodawczego w polskim porządku prawnym – próba oceny z perspektywy praktyki parlamentarnej’, *Przeгляд Сеймовой*, 2016, No. 4, item 135, pp. 11–26.

adopt the Act in full). The role of the President of the Republic of Poland is mentioned only for the purpose of a chronicle's account. Both in the case of the amended Act and the amending Act, he did not use available time to ponder his decisions and simply signed them on the day of their receipt.

PRINCIPLE OF LEGAL DETERMINACY OF LAW AS A RULE OF PROPER LEGISLATION

The principle of legal determinacy is considered as one of the rules of proper (sound) legislation,³⁰ which stems from the principle of a democratic state of law defined in Article 2 of the Constitution. These principles are qualified as the so-called formal aspects of the rule of law and are seen as a specific counterbalance to the widely accepted principle of the lawmaker's freedom to shape the substance of the law. It may be assumed that these principles set the law-making standard which, if followed, will be conducive to the acceptance of the substance of laws construed by the lawmaker. Therefore, as one of those rules, the principle of legal determinacy is binding on the authority endowed with law-making powers. Moreover, it should be noted that the said principle refers to vertical relations, understood as relations between the state and the citizen, who, as the one addressed by specific regulations, has the right to expect that they will be transparent and legible. In the view of the Constitutional Court:

"By its nature, the requirement to preserve the determinacy of the legal provision is a system-wide directive which imposes on the lawmaker the obligation of its optimization in the law-making process. The lawmaker should strive for the maximum possible implementation of the requirements underlying that principle. Therefore, they have the statutory obligation to create legal provisions which are as specific as possible in a case at hand, both in terms of their substance and their form."³¹

As G. Koksanowicz rightly pointed out, "The essence of the legal determinacy principle boils down to requiring the authority endowed with law-making powers to construct provisions in a correct, precise and clear manner".³²

These three criteria, to be taken into account by the lawmaker at the law-making stage, make up the so-called legal determinacy test. Once implemented, the test helps to assess whether a specific legal provision is consistent with the requirements determined in the rules of proper legislation. It needs to be borne in mind that, as rightly stated by the Constitutional Court, the weight of each criterion in the review

³⁰ For a detailed analysis of this concept see, inter alia, Wronkowska, S., 'Zasady przyzwolonej legislacji w orzecznictwie Trybunału Konstytucyjnego', in: Zubik, M. (ed.), *Księga XX-lecia orzecznictwa Trybunału Konstytucyjnego*, Warszawa, 2006, pp. 671–689, and Zalasinski, T., *Zasada prawidłowej legislacji w poglądach Trybunału Konstytucyjnego*, Warszawa, 2008, p. 50 et seq.

³¹ Cf. the ruling of the Constitutional Court of 18 March 2010, reference K 8/08, OTK ZU 2010, No. 3, item 23.

³² Koksanowicz, G., 'Zasada określoności przepisów w procesie stanowienia prawa', *Studia Iuridica Lublinensia*, 2014, No. 22, p. 474.

of the constitutionality of a specific provision will also depend on such factors as the type of regulated matter, the category of its addressees, and above all, the degree to which the envisaged regulation can interfere with constitutional freedoms and rights.³³ As a result, it is essential for the lawmaker to formulate the provision of law in a correct manner. The Constitutional Court has explained that the correctness shall be understood as the correct wording of the provision in terms of its language and its logic. Once this requirement is met, the provision can be assessed for its clarity and precision. The clarity requirement implies the obligation to devise provisions which are clear and understandable to their addressees. According to the Constitutional Court, the vagueness of provisions should be seen as a signifying the lawmaker's insufficient care to see the provision addresses as subjects of law.³⁴ Furthermore, "The clarity of a provision shall ensure that it will communicate with its addressees, i.e. that such provision remains understandable based on the common language. In practice, the vagueness of the provision entails uncertainty in the legal situation of the norm addressees and leaves the task of shaping the norm to implementing bodies".³⁵ In the context of the aforementioned rulings of the Constitutional Court we need to share the view of G. Koksanowicz, who noted that:

"Thus, the directive to formulate the provision in a clear manner obliges the lawmaker to devise provisions which are understandable to their addressees who have the right to expect that a reasonable lawmaker will draft norms which will not raise doubts as to the obligations imposed or rights granted thereunder".³⁶

The precision comes as the final element of the legal determinacy test. Undeniably, only the provisions which are precise and clear may be deemed to meet the requirement of legal determinacy. According to the established view of the Constitutional Court, the precision of the legal provision manifests itself in the specificity it shows in governing the rights and obligations so that their substance is obvious and enables their enforcement. In its ruling, the Constitutional Court stated that:

"The precision of the legal provision should be understood as the possibility of decoding, based thereon, unambiguous legal norms (and consequences) by means of interpretation rules adopted within the specific legal culture. In other words, the presumption of legal determinacy should be understood as a requirement to formulate rules in such a manner so as to ensure a sufficient degree of precision in determining their meaning and their legal consequences".³⁷

³³ Cf. the ruling of the Constitutional Court of 4 November 2010, reference K 19/06 OTK ZU 2010, No. 9, item 96.

³⁴ Cf. the ruling of the Constitutional Court of 26 May 2008, reference SK 25/07 OTK ZU 2008, No. 4, item 62.

³⁵ Cf. the ruling of the Constitutional Court of 18 March 2010, reference K 8/08 OTK ZU 2010, No. 3, item 23.

³⁶ Koksanowicz, G., 'Zasada określoności przepisów...', op. cit., p. 474.

³⁷ Cf. the ruling of the Constitutional Court of 18 March 2010, reference K 8/08, OTK ZU 2010, No. 3, item 23.

In the context of the reflections presented so far, it would be interesting to assess the provisions of the Act on the Support to Households in Bearing the Costs against their compliance with the principle of legal determinacy. In order to make such review, it is necessary to determine why it was necessary to adopt the amending Act less than 2 weeks after the original Act entered into force. It follows from the Explanatory Memorandum to the amending Act that it was adopted, among other reasons, to introduce a more precise definition of the group of individuals eligible for state support provided under the Act.³⁸ This became particularly urgent after the Sejm adopted the Senate's amendment to Article 2(1) of the said Act, which replaced the term "television set-top box" with the term "digital receiver". As the initial Act of 2 March 2022 provided for an imprecise definition of "the digital receiver", it became necessary to add the phrasing "with an image display or without such display" in Article 2(1). This specific amendment, as noted by its promoters, was in fact a clarification which was added to ensure that the norm was clear.³⁹ There is no doubt that Article 2(1) of the original Act was not formulated correctly, as even the lawmakers themselves acknowledged that it required clarification, claiming that otherwise the norm would not be clear. Considering this statement there is no need to examine the same provision in terms of its clarity and precision, as it would anyway fail the legal determinacy test. Because the subjective scope of the initial Act needed further specification, the wording of its Article 3 was modified as well. When justifying the change, the lawmaker stressed that the amended provision "specifies the conditions" for individuals to be able to apply for the allowance to purchase the receiver. The lawmakers' goal, which, as it may be believed, they had pursued already by adopting the original Act, had been achieved only after this "specification". Therefore, it may be assumed that the previous wording of Article 3 was imprecise and did not allow the addressees' rights and obligations to be regulated in such a way that "their substance was obvious and enabled their enforcement". Only after the amendment did it become clear that the allowance to purchase the digital receiver could be sought solely when two conditions have been met cumulatively. First, the household had to be of a poor financial standing, and second, the purchase would have to jeopardise basic life needs of individuals in the household. Hence, lawmakers made it clearer that what they did not mean was a scenario where the household had no available funds to buy the relevant device, but rather the case when without the assistance provided for in the Act and because of the need to give up another basic life need, the household could be forced to do without its access to terrestrial television.⁴⁰ It is also interesting to note that due to the breach of the legal determinacy principle, caused by an imprecise

³⁸ See the Explanatory Memorandum to the draft Act of 23 March 2022 amending the Act on the Support to Households in Bearing the Costs Associated with the Change in the Digital Terrestrial Television Broadcasting Standard, Paper 2089, <https://www.sejm.gov.pl/Sejm9.nsf/druk.xsp?nr=2089> (accessed on 17.06.2022).

³⁹ *Ibidem*.

⁴⁰ *Ibidem*.

wording of Article 3 of the initial Act, one more provision had to be amended, i.e. Article 15(1)(3).⁴¹

In order to sum up this part of the discussion, it would be interesting to refer to the case-law of the Constitutional Court. In its ruling of 27 November 2007, the Court clearly stated that when legal provisions are imprecise and vague, as a result, they often lack determinacy as no precise legal norms can be construed based thereon. In practice, the provision vagueness means that the norm addressees' legal situation is uncertain. Thus, it is up to the implementing body to specify the norm.⁴² It seems that in the case of the reviewed Act, lawmakers came to similar conclusions. Therefore, they rushed to amend the imprecise provisions and, undoubtedly, prevented many difficulties which would otherwise arise if such provisions were applied. As a result, while the amendment should be assessed as a positive step, a strong criticism should be voiced that such effort was needed at all, especially in such a short time after the adoption of the initial Act. In our view, it is undeniable that if legislative works, both at the government level and in Parliament, had been more diligent, e.g. carried out with proper public consultations and evaluation procedure, and if the promoter of the Act had defined the purpose of this legislation clearly from the onset, no amendment would have been necessary at all, and the originally construed Act would have met the basic requirements underlying the rules of proper legislation.

ACTUAL AND POTENTIAL EFFECTS OF THE LAW

So far, in our discussion we focused mainly on the legal status in force prior to the adoption of the Act on the Support to Households in Bearing the Costs, and the assessment of the normative regulation from the point of view of the lawmaker's compliance with the basic rules defined as the principles of proper legislation, with particular emphasis on the principle of legal determinacy. We have also reflected on the origins of the Act, by showing which entities and why sought to pass the legislation, and how state authorities processed the Act. However, in order to propose a more comprehensive evaluation of the said Act and rationality behind its solutions, we should now discuss its effects, in particular benefits for its beneficiaries and costs incurred by maleficiaries following the enactment of specific normative solutions.

⁴¹ The provision stipulated that "The application for the allowance to purchase the digital receiver contains (...) the declaration of the eligible individual that due to the financial standing of their household they are unable to cover, on their own, the purchase costs of the digital receiver". After the amendment, its wording has been changed as follows: The application for the allowance to purchase the digital receiver contains (...) "the declaration of the eligible individual that due to the poor financial standing of their household they are unable to cover, on their own, the purchase costs of the digital receiver in order to secure its reception of digital terrestrial television in the DVB-T2/HEVC standard, without jeopardising basic living needs of their household".

⁴² Cf. the ruling of 27 November 2007, reference SK 39/06 OTK ZU 2007, No. 10, item 127.

At first glance, the beneficiaries of the adopted normative solutions seem to be simply individuals who reside in the Republic of Poland. However, after further reflection, we may notice that their category encompasses only part of the better-off households. Less affluent households tend to fall into the category of maleficiaries. In order to confirm this conclusion, first we need some introductory remarks. Pursuant to Article 3 of the Act, the allowance to purchase the digital receiver is available to all adults registered for permanent or temporary stay in the territory of the Republic of Poland for more than 30 days. Therefore, such individuals may also include foreigners, as well as the citizens of Ukraine who meet the above criteria. It should be remembered, though, that an application may be filed solely by one adult from each household comprised of adults and minors. The relevant application may be lodged in two ways: either in electronic form or through a designated postal operator, i.e. Poczta Polska S.A. (National Polish Postal Office). In order to file the electronic application, the requesting individual needs to hold the so-called trusted profile. In the application, the eligible individual provides only basic data: first and last name, PESEL identification number, date of birth, household address, mobile phone number and e-mail address. Moreover, the individual makes the declaration that they still have not received any allowance to purchase the digital receiver for their household, and the statement that due to their household poor financial they are unable to cover the purchase costs of the digital receiver in order to ensure the household's access to digital terrestrial television in the DVB-T2/HEVC standard, without jeopardising its basic subsistence needs. Eligible individuals who submit their application via Poczta Polska S.A. will receive the printed confirmation that the allowance has been granted and, optionally, an e-mail message if they decide to provide their e-mail address. In order to file the application, the eligible individual should present to the employee of Poczta Polska S.A. their ID document with at least their first and last name, the PESEL number and the photo. Once they have placed their handwritten signature on the application, the employee will feed the data provided therein into the ICT system. The option to submit the application by the employee of Poczta Polska S.A. as an intermediary should be assessed as a very positive step as a significant number of Polish residents still suffer from digital exclusion. The question remains whether the household which, after filing the relevant application, has received the allowance under the Act can still be classified as beneficiary. In this context, the lawmaker's claim may seem as a bad joke:

"The draft act will affect the economic and social standing of households. The allowance is a tool intended to provide financial support to households to cover the costs incurred due to the change in the digital terrestrial television broadcasting standard. Thanks to the subsidy, eligible individuals will keep their uninterrupted access to free terrestrial digital television without the need to replace the TV set and to pay related costs".

Please note that the allowance is granted in the amount of PLN 250.00 for the TV set, and PLN 100.00 for the STB, without any income-related criteria. To put it simply, better-off households which are eligible for the allowance will take it as an extra bonus because they have planned to buy a new TV set anyway. Meanwhile,

very low-income households will still not be able to afford to replace their TV set as the allowance will cover at most 10–15% of the price of a new TV. This assumption is to some degree confirmed by statistics: by 20 June 2022, as much as 86% of all applications were submitted to get the support for the purchase of the set-top box. Please note also that the program will be valid until the end of this year and the proportions may change once the allowance becomes widely known and more affluent individuals realise that this is an option for them to replace their TV set. Therefore, it seems that the allowance which is supposedly granted to prevent exclusion from access to free digital terrestrial television is yet another example of free distribution, which was not well thought-out and which instead of supporting the least well-off group serves political expediency as the ruling party has been struggling to keep its voters.

The fact that the lawmaker has not chosen to tie the radio and TV subscription fee to the subsidised purchase of the digital receiver seems curious as well. The temptation must have been great as this could help to solve, at least in part, the problem of citizens who fail to pay these dues. In other words, if they wished to get a subsidy to buy the receiver (TV set or STB), the eligible individual would have to declare that they had a TV set and that they would regularly pay the radio and television subscription fee. Perhaps such solution could be disastrous for the image of the ruling party, and moreover, a number of households would buy a TV set anyway, but after realizing that this would mean some serious expenditure they would decline to apply for the allowance. This is probably why, in the Explanatory Memorandum, the promoter excluded the idea, by claiming that “the solution of that kind would narrow the group of allowance beneficiaries and would exclude households which have not yet owned a TV set but wish to receive free digital terrestrial television in the new standard”.

Because a significant part of households have filed their allowance applications via the designated operator – Poczta Polska S.A.,⁴³ it should be determined whether the operator, as the sole entity authorised to receive applications, would get some kind of remuneration. After all, its employee needs to spend time to receive the application and to feed it into the IT system. The Act includes some explicit provisions in this respect, specifying in Article 24(1) that during the program deployment the designated operator will receive a special-purpose subsidy from the state budget to cover the total costs of relevant tasks. Pursuant to paragraph 2 of the same provision, such subsidy will be calculated based on the task performance cost, to be defined by the minister competent for digitalisation, and understood as the product of the actual unit cost of each task and the number of completed tasks. As you can see, the lawmaker tended to the interest of the national postal operator by providing them with some additional funding. However, some serious doubts emerge whether this move will nserve as a guise for an informal “recapitalisation”. In our view,

⁴³ As of 20 June 2022, 3,2382,020 individuals filed their request via the postal operator, i.e. 82% of all applicants for the subsidy. Cf. https://dane.gov.pl/pl/dataset/2766,wnioski-o-dofinansowanie-do-zakupu-odbiornika-cyfr/resource/39247/table?page=1&per_page=20&q=&sort= (accessed on 24.06.2022).

the special-purpose subsidy from the state budget could easily be inflated, and therefore strengthen the advantage of the “national” postal operator over private businesses on the competitive postal market. Hence, our impression is that Poczta Polska S.A. could become one of the biggest beneficiaries of the adopted regulations.

Furthermore, the group of beneficiaries should definitely include businesses dealing with the sale of digital receivers. Under Article 7(1) of the Act, if such company wishes to gain the right to receive payments based on the allowance grant certificate, they first need to be entered into the register of companies selling digital receivers, kept by the minister competent for digitalisation. The register is updated on an ongoing basis and is made available by competent minister in the Public Information Bulletin (BIP) on the relevant website. This category comprises solely of businesses with the registered office in the territory of the Republic of Poland, in another Member State of the European Union or in a Member State of the European Free Trade Association (EFTA), registered as active VAT payers or as payers exempt from VAT. In order to be entered into the register, the company needs to provide data specified in the Act. This data should be updated on an ongoing basis, on pain of deletion. Any false declaration made upon the provision of data required for registration is subject to criminal liability. The registration is of course subject to review by the minister competent for digitalisation who checks whether the data provided by the company are true and correct. In practice, the registration in the subsidy program is possible only for businesses from the White List of VAT Payers, i.e. for VAT payers, including businesses whose registration as VAT payers has been reinstated and entities for which no VAT registration or deletion decision has been made by the head of the competent tax authority. According to the statistics, as of 20 June 2022, 1,134 companies have joined the subsidy program and made available a total of 3,726 points of sale where customers could buy their subsidised digital receivers.⁴⁴

To sum up our discussion on the actual and potential effects of the Act on the Support to Households in Bearing the Costs, a remark should be made on the situation of telecommunications companies which are undeniably affected by the change in digital broadcasting methods. There is no doubt that because of this transition they had to suffer some significant costs. While it is true that the provisions of the Act do not explicitly impose such expenditure, telecoms may still be perceived as its maleficiaries. On the other hand, at least some of them can be classified as beneficiaries. Finally, it seems that some households which have used free digital terrestrial television so far but do not wish to invest in new TV sets or set-top boxes, have chosen to purchase the cheapest service packages on digital platforms such as Cyfrowy Polsat or Canal Plus. Yet, to corroborate this assumption, further adequate statistical research is required.

⁴⁴ See https://dane.gov.pl/pl/dataset/2766,wnioski-o-dofinansowanie-do-zakupu-odbiornika-cyfr/resource/39245/table?page=1&per_page=20&q=&sort= (accessed on 24.06.2022).

CONCLUSION

Our institutional analysis of the provisions of the Act on the Support to Households in Bearing the Costs would not have been possible without the discussion on normative regulations which created the need for such support to Polish households and entailed the change in digital terrestrial television broadcasting methods. That is why it was necessary to analyse the EU legislation to which the Polish lawmaker had to react. A specific remark should be made in this respect regarding the specific law-making modalities, as they differ from the classic Kelsen's Grundnorm. Today, law-making process has become more complex and elaborate than in Kelsen's model. More often than not the rules for the support to specific categories of individuals are dictated by international legal acts (including the soft law), EU legislation or domestic regulations. With this in mind, and considering the support provided to households because of the need to shift to a new broadcasting system, as discussed in this paper, we believe that an alternative law-making model can be suggested here, different from Kelsen's approach and based on the assumption that the law-making is not only a "top-down" process, where constitutional provisions are made more specific, but also a "side-centre/bottom-up" venture, where the EU legislation is implemented and its provisions further developed, and statutory acts in force are drafted based on domestic regulations.⁴⁵

Whatever the law-making model, by formalising social rules, the lawmaker should strive to act in line with certain standards applicable in the democratic state of law. Among those "standards", we can cite the principle of legal determinacy which, as one of the rules of proper (sound) law-making, requires that the lawmaker construes correct, precise and clear legal provisions. It is not the first time that the Polish lawmaker has breached that rule, and the provisions of the Act on the Support to Households in Bearing the Costs are a case in point, as they had to be amended almost immediately after their entry into force.

Setting aside a multitude of errors made by the lawmaker at the law-making stage, we believe that the adopted normative regulations need to be assessed against the lawmaker's initial purpose, i.e. the support to less wealthy households which had to bear costs in order to keep their uninterrupted access to TV programmes offered as part of the free DTT. As the Act has been binding for less than four months it is perhaps too early to make some final judgment on its effects. Still, we can already draw certain conclusions, based on available data. First of all, the vast majority of applications have been filed so far to get the allowance for the purchase of a set-top box (as much as 85% of all applications). Hence, it seems that although no income-criteria have been set, the allowance has been used (at least until today) by those households which strive to keep the continued TV signal reception as such rather than those which wish to improve the quality of their digital TV signal. So far, the statistics discussed above do not suggest that Poles have used the rather imprecise provisions to improve the reception quality of their digital TV and that

⁴⁵ I have discussed this idea further in: Borski, M., *Publiczne formy wspierania opiekunów osób z niepełnosprawnościami*, Oficyna Wydawnicza Humanitas, Sosnowiec, 2018, pp. 44–45.

they have bought very expensive TV models. Some would claim that the purchase of a costly, state-of-the-art TV set could be considered as abuse of the law, even more so as the beneficiary had to make the statement that they were unable to make the purchase without jeopardising the basic subsistence needs of their household.⁴⁶ It seems, though, that such claim is not corroborated by adopted normative solutions.

Finally, let us underline that $\frac{3}{4}$ of all households have filed the application with traditional means, i.e. via the designated operator. Only 25% chose to use electronic forms, via gov.pl portal. It does not say much for good e-administration, and means that the least well-off are still most exposed to digital exclusion.

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⁴⁶ See <https://businessinsider.com.pl/wiadomosci/pani-janina-kupila-telewizor-rzad-mial-zwrocic-jej-250-zl-jednego-nie-przewidziala/nrmjncv> (accessed on 25.06.2022).

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