

THE ACT

of 7 May 2010 on supporting the development of telecommunications
services and networks¹

¹ The present Act amends the following acts: Public Roads Law Act of 21 March 1985, the act of 17 May 1989 - Geodesic and Cartographic Law, the act of 8 March 1990 on local self government, the act of 7 July 1994 — Construction Law, the act of 20 December 1996 on municipal services, the act of 21 August 1997 on real property management, the act of 5 June 1998 on voivodeship self- government, the act of 5 June 1998 on county self government, the act of 27 March 2003 on spatial planning and development, the act of 16 July 2004 — Telecommunications Law, the act of 3 October 2008 on access to information on environment and its protection, public participation in environmental protection and on environment impact assessment, the act of 19 December 2008 on public-private partnership and the act of 9 January 2009 on licenses for construction works or services.

Chapter 1

General provisions

Article 1. 1. The present Act specifies:

- 1) forms and rules concerning the support of telecommunications investments, including investments related to broadband networks;
- 2) rules governing the activity within the framework of telecommunications of local self-government units and entities performing public utility tasks;
- 3) rules concerning the access to telecommunications infrastructure and other technical infrastructure, financed from public funds;
- 4) rights and obligations of investors, owners, perpetual lessees of real property, individuals who have co-operative ownership right to the premises, property managers and tenants, in particular with regard to the access to a given real property in order to ensure conditions for providing telecommunications services;
- 5) rules for locating regional broadband networks and other telecommunications infrastructure.

2. Provisions of the Act do not contravene the provisions related to competition and consumer protection.

Article 2. 1. Terms employed in the Act shall mean:

- 1) a broadband network - telecommunications network used to provide a broadband Internet access. Access is described as broadband if the connection capacity is not a factor limiting the possibility of starting applications available in the network;
- 2) a regional broadband network - a broadband network provided by local government units, by an alliance, a union or an association of local government units, by inter-communal alliance, foundation whose founder is a local government unit, by a company or a cooperative with a local self-government unit's share, by a licensee within the meaning of the act of 9 January 2009 on concession for construction works or services (Journal of Laws No. 19, item 101, No. 157 item 1241 and No. 223, item 1778) or by a private partner within the meaning of the act of 19 December 2008 on public-private partnership (Journal of Laws of 2009 No. 19, item 100) within the framework of operational programmes;
- 3) an entity performing public utility tasks – a power engineering company within the meaning of the act of 10 April 1997 — the Energy Law (Journal of Laws of 2006 No. 89, item 625, as amended²), conducting economic activity within the framework of transmission and distribution of fuels or energy and a water supply and sewage company within the meaning of the act of 7 June 2001 on collective water management and sewage disposal (Journal of Laws of 2006 No. 123, item 858, of 2007 No. 147, item 1033, of 2009 No 18, item 97 and of 2010 No. 47, item 278), being public finance units or being supervised by such units;
- 4) telecommunications infrastructure with insignificant influence – a cable ducting, underground cable line, radio communications installation with a supporting construction of up to 5 metres, telecommunications cabinets and masts and other similar equipment and objects, as well as related equipment and feeding equipment, if they are not classified as undertakings which may have significant influence on the environment and are not classified as undertakings which may have significant influence on Natura 2000 areas.

2. Whenever the Act employs terms specified in the act of 16 July 2004 — Telecommunications Law (Journal of Laws No. 171, item 1800 as amended³), these terms shall be understood within the meaning adopted therein.

Chapter 2.

Telecommunications activity of local self-government units and entities performing public utility tasks, as well as rules concerning access to telecommunications infrastructure and other technical infrastructure, financed from public funds.

Article 3. 1. In order to satisfy collective needs of a local community, a local self-government unit may:

- 1) develop or use telecommunications infrastructure and telecommunications networks and acquire rights to telecommunications infrastructure and telecommunications networks;

²Amendments to the unified text of the said act were published in the Journal of Laws of 2006 No. 104, item 708, No. 158 item 1123 and No. 170, item 1217, of 2007 No. 21, item 124, No. 52, item 343, No. 115, item 790 and No. 130, item 905, of 2008 No. 180, item 1112 and No. 227, item 1505, of 2009 No. 3, item 11, No. 69, item 586, No. 165, item 1316 and No. 215, item 1664, as well as of 2010 No. 21, item 104 and No. 81, item 530.

³Amendments to the said act were published in the Journal of Laws of 2004 No. 273, item 2703, of 2005 No. 163, item 1362 and No. 267, item 2258, of 2006 No. 12, item 66, No. 104, item 708 and 711, No. 170, item 1217, No. 220, item 1600, No. 235, item 1700 and No. 249, item 1834, of 2007 No. 23, item 137, No. 50, item 331 and No. 82, item 556, of 2008 No. 17, item 101 and No. 227, item 1505, of 2009 No. 11, item 59, No. 18, item 97 and No. 85, item 716 and of 2010 No. 81, item 530 and No. 86, item 554.

- 2) provide telecommunications networks or access to telecommunications infrastructure;
- 3) provide, with the use of existing telecommunications infrastructure and telecommunications networks, services for the benefit of:
 - a) telecommunications undertakings,
 - b) entities referred to in Article 4 indent 1, 2, 4, 5 and 8 of the act of 16 July 2004 – Telecommunications Law,
 - c) end users – within the framework and in accordance with terms and conditions specified in Article 6 and 7.

2. Activity referred to in paragraph 1 is performed:

- 1) providing compatibility and connectivity with other telecommunications networks developed by other public law entities or financed from public funds within the meaning of the provisions of the act of 27 August 2009 on public finances (Journal of Laws No. 157, item 1240 and of 2010 No. 28, item 146 and No. 96, item 620) and guaranteeing telecommunications undertakings, in accordance with equal treatment rules, the possibility of the joint use of telecommunications infrastructure and telecommunications networks, as well as access thereto;

2) in a transparent way, not disturbing the development of equal and effective competition on telecommunications markets.

3. State aid regulations shall apply to the performance of the activity referred to in paragraph 1.

4. The activity referred to in paragraph 1, belongs to public utility own functions of a local self-government unit.

5. A local self-government unit shall perform the activity referred to in paragraph 1, on the basis of the resolution adopted by a decision making body.

6. Information concerning the activity referred to in paragraph 1 shall be published in the Public Information Bulletin (Biuletyn Informacji Publicznej - BIP) on the website of a given local self-government unit and at the seat thereof and it shall be handed over to the President of the Office of Electronic Communications (UKE), hereinafter referred to as "the President of UKE". The President of UKE shall immediately publish this information in the Public Information Bulletin on the website of the Office of Electronic Communications.

7. Information referred to in paragraph 6 shall include the description of the undertaking and the justification of the compliance with requirements referred to in paragraph 2.

8. The Minister competent for communications may, by means of an ordinance, specify technical and exploitation requirements for telecommunications networks referred to in paragraph 1, in order to guarantee mutual compatibility and connectivity of networks.

Article 4. 1. Before undertaking the activity referred to in Article 3, paragraph 1, a local self-government unit may submit an application to the President of UKE, asking to provide an opinion concerning the performance of that activity.

2. The application referred to in paragraph 1, shall include a project of a plan specifying the form, type and scope of the planned activity, as well as the description of a situation within the area of this activity, including:

- 1) the number of residents;
- 2) the size of an area covered by telecommunications networks, with the specification of different network types;
- 3) the percentage of residents who benefit from telecommunications services;
- 4) the number of telecommunications undertakings operating on the area of a given local self-government unit and the description of the scope of their telecommunications activity;
- 5) other information important to assess the need to undertake the activity referred to in Article 3, paragraph 1.

3. The President of UKE shall present the opinion within 3 months following the day of receiving the application referred to in paragraph 1.

4. The application referred to in paragraph 1 shall be subject to a fee. The fee shall constitute the state's budget revenue.

5. After becoming acquainted with the opinion of the President of UKE, the Minister competent for communications shall specify, by means of an ordinance, the amount of the fee referred to in paragraph 4, not exceeding PLN 5 000, taking into consideration the scope of the undertaking and the type of the activity covered by the plan.

Article 5. The activity referred to in Article 3, paragraph 1, not being an economic activity, shall be performed in accordance with regulations specified in the act of 16 July 2004 — Telecommunications Law, however, conducting this activity by a local self-government unit, both in the form not separated within the framework of its legal personality and in the form of an alliance, a union or an association of local self-government units, a foundation whose founder is a local self-government unit, an inter-communal alliance, a company or a cooperative with the share of a local self-government unit, requires an entry in the register of local self-government units conducting telecommunications activity.

Article 6. 1. The activity referred to in Article 3 (1) (3) (c), in particular a free Internet access service referred to in Article 7, may be conducted if the demand of end users with regard to the access to telecommunications services is not satisfied. Such an activity shall be proportional and non-discriminatory.

2. Requirements referred to in paragraph 1 shall not be applied in the case of providing telecommunications activities for the needs of public administration bodies, state or self-government organizational units and other public entities, as well as in the case of telecommunications services provided exclusively in public places by publicly accessible centres providing access to the Internet.

3. Information referred to in Article 3 (6) with regard to undertakings covering the provision of services referred to in paragraph 1 to end users additionally includes the justification of the compliance with requirements referred to in paragraph 1.

Article 7. 1. An Internet access service may be provided without any fees or for a fee lower than the market price, after having satisfied the requirements referred to in Article 3 (2) and (5) and Article 6 (1) and after having obtained the consent of the President of UKE, provided by means of a decision.

2. The President of UKE grants the consent referred to in paragraph 1 if requirements specified in Article 3 (2) and (5) or Article 6 (1) have been satisfied.

3. In the decision referred to in paragraph 1, the President of UKE specifies the scope and terms and conditions of the provision of services referred to in paragraph 1 to end users, taking into consideration:

- 1) the interest of end users, in particular the necessity of preventing digital divide and of providing maximum benefits with regard to the diversity of telecommunications services, their price and their quality;
- 2) a situation on a local market of services which are supposed to be provided;
- 3) creating conditions for effective investments in telecommunications infrastructure made by telecommunications undertakings;
- 4) requirements referred to in Article 3 (2) and Article 6 (1).

4. The decision referred to in paragraph 1 specifies:

- 1) the area covered by the activity;
- 2) maximum connection capacity;
- 3) terms and conditions for providing Internet access services, including maximum time after which the connection is terminated.

5. The decision referred to in paragraph 1 constitutes a resolution in the case referred to in Article 15, indent 4 of the act of 16 July 2004 — Telecommunications Law.

6.

Article 8. Entrusting the activity, referred to in Article 3 (1), to a telecommunications undertaking, in the case when due to economic conditions it is not possible for a telecommunications undertaking to conduct on a given area a telecommunications activity which will be financially profitable, a local self-government unit may:

- 1) provide a telecommunications undertaking with telecommunications infrastructure or telecommunications networks for fees lower than the production cost;
- 2) co-finance costs incurred for providing telecommunications services to end users or to telecommunications undertakings so that the latter could provide the said services.

Article 9. The organizational unit of a local self-government unit conducting the activity referred to in Article 3 (1) shall be obliged to keep a record in a way which allows for a separate calculation of costs and revenues, as well as profits and losses with regard to the development of telecommunications infrastructure and telecommunications networks, as well as to the acquisition of rights to such infrastructure and networks and with regard to telecommunications activity.

Article 10. The entity which has used public funds, within the meaning of provisions of the act of 27 August 2009 on public finances, in order to build, rebuild or renovate telecommunications infrastructure used to provide publicly available telecommunications services or public telecommunications network or has acquired rights to such an infrastructure or to such a network, excluding entities referred to in Article 4 indent 1, 2, 4, 5 and 8 of the act of 16 July 2004 — Telecommunications Law, is obliged to keep a record in a way which allows for a separate calculation of costs and revenues, as well as profits and losses with regard to the development of telecommunications infrastructure and telecommunications networks, as well as to the acquisition of rights to such an infrastructure and networks and with regard to telecommunications activity.

Article 11. The body of a local self-government unit competent for granting permissions for installing and laying telecommunications infrastructure on the area of a given real property, supervising a telecommunications undertaking, shall ensure a structural distribution of functions related to the execution of tasks and incidents of ownership towards such a telecommunications undertaking.

Article 12. The operator of a public telecommunications network is obliged to take into consideration justified applications submitted by a local self-government unit and referring to the provision of telecommunications access, including the possibility of using network elements and additional facilities, in accordance with the provisions of division II, chapter 2 of the act of 16 July 2004 — Telecommunications Law.

Article 13. 1. A local self-government unit is obliged to take into consideration justified applications submitted by telecommunications undertakings, entities referred to in Article 4 indent 1, 2, 4, 5 and 8 of the act of 16 July 2004 —

Telecommunications Law and by other local self-government units for the provision of telecommunications access, including the possibility of using network elements and additional facilities.

2. Provisions of division II, chapter 2 of the act of 16 July 2004 — Telecommunications Law shall apply to the provisions of telecommunications access respectively, however:

- 1) a local self-government unit conducting activity referred to in Article 3 (1)
 - a) shall be treated as an operator having a significant market position,
 - b) shall be obliged to conclude a telecommunications access agreement within 30 days following the date of requesting for conclusion of such an agreement.
 - c) shall be obliged to equally treat telecommunications undertakings, in particular by offering identical terms and conditions in comparable circumstances;
- 2) provisions of division I, chapter 3 of the act of 16 July 2004 — Telecommunications Law shall apply to the decision on telecommunications access .

3. If a telecommunications undertaking has been provided with:

- 1) telecommunications access, in particular access to telecommunications equipment, buildings and telecommunications infrastructure, or
- 2) the possibility of the joint use of telecommunications buildings and infrastructure

— regulatory obligations imposed on such a telecommunications undertaking shall apply to the same extent and in accordance with the same terms and conditions to equipment, buildings, infrastructure, facilities, services and other elements covered with telecommunications access or with the possibility of the joint use.

4. Provisions specified in paragraph 3 shall apply exclusively to the extent to which a telecommunications undertaking, on whom regulatory obligations have been imposed, has been provided with telecommunications access or with the possibility of the joint use of buildings and telecommunication infrastructure by:

- 1) a local self-government unit;
- 2) an entity that concluded with a local self-government unit a licence agreement within the meaning of the act of 9 January 2009 on licenses for construction works or services or public-private partnership agreement within the meaning of the act of 19 December 2008 on public-private partnerships with regard to buildings and telecommunications infrastructure covered by telecommunications access or by the possibility of the joint use;
- 3) an entity from the same capital group within the meaning of the act of 16 February 2007 on competition and consumer protection (Journal of Laws No. 50, item 331 as amended⁴) as the undertaking on whom regulatory obligations have been imposed.

Article 14. Provisions of Article 13 shall not exclude the obligations of local self-government units or entities who have been entrusted with the activity referred to in Article 3 (1), arising from the provisions of the Telecommunications Law.

Article 15. 1. Local self-government units may conduct activities aimed at the stimulation or aggregation of users' demand for services connected with broadband Internet access, in particular educational and training services consisting in providing consumers with terminal telecommunications equipment or with computer equipment or in financing the cost of telecommunications services.

2. An authority establishing local self-government units shall specify, by means of a resolution, terms and conditions, as well as mode of financing the activity referred to in paragraph 1, specifying in particular terms and conditions for qualifying beneficiaries of provided aid.

3. The activity referred to in paragraph 1 shall be conducted in a non-discriminatory way, in accordance with transparent and proportional rules and shall aim at maintaining technological neutrality.

4. Each activity of a local self-government unit undertaken within the framework of the activity referred to in paragraph 1 requires prior publication, with the description of the undertaken activity, in the Public Information Bulletin on the website of a given local self-government unit and at the seat thereof.

Article 16. 1. Entities performing public utility tasks, subject to paragraph 2 may:

- 1) build or exploit telecommunications infrastructure and telecommunications networks and acquire rights to telecommunications infrastructure and to telecommunications networks;
- 2) provide telecommunications networks or access to telecommunications infrastructure;
- 3) provide services for the benefit of telecommunications undertakings, with the use of existing telecommunications infrastructure and telecommunications networks.

2. A transmission system operator, a distribution system operator and a combined system operator within the meaning of the act of 10 April 1997 — Energy Law, cannot acquire rights to telecommunications infrastructure, develop or exploit the infrastructure and telecommunications networks for purposes other than the completion of tasks specified for these operators in the act of 10 April 1997 — Energy Law.

3. Provisions of Article 3 (2) and (3) shall apply to the activity referred to in paragraph 1.

⁴ Amendments to the said act were published in the Journal of Laws of 2007 No. 99, item 660 and No. 171, item 1206, of 2008 No. 157, item 976, No. 223, item 1458 and No. 227, item 1505 and of 2009 No. 18, item 97 and No. 157, item 1241.

Article 17. If so permitted by technical conditions and safety requirements, an entity performing public utility tasks shall provide telecommunications undertakings with the possibility of the joint use of or access to technical infrastructure used to conduct its basic activity, intended for the needs of public telecommunications network, in accordance with the rules of equal treatment, as well as fair and free competition.

Article 18. Terms and conditions referring to the possibility of the joint use of or access to technical infrastructure, including technical, operating and financial terms and conditions of cooperation shall be specified by the parties in the agreement on the joint use of or access to technical infrastructure, concluded in writing under pain of nullity.

Article 19. 1. An entity performing public utility tasks is obliged to conduct negotiations on concluding an agreement on the joint use of or access to technical infrastructure, when requested by telecommunications undertakings, for the purpose of providing publicly available telecommunications services.

2. Information acquired throughout negotiations may be used solely in accordance with its purpose and shall be subject to the duty of safeguarding confidentiality.

Article 20. The President of UKE may ex officio, by means of a decision, amend the provisions of an agreement on the joint use of or access to technical infrastructure or oblige the parties to of the agreement to amend the latter if so justified by the need to protect the interests of beneficiaries of services provided by entities performing public utility tasks and interests of end users.

Article 21. 1. The President of UKE, upon written request of each of the parties negotiating an agreement on the joint use of or access to technical infrastructure or ex officio, is empowered to issue a resolution establishing the timescale of concluding negotiations of such an agreement, not exceeding 90 days, counting from the date of lodging the application for concluding such an agreement.

3. When an entity performing public utility tasks fails to enter into negotiations on concluding an agreement on the joint use of or access to technical infrastructure, when the joint use of or access to technical infrastructure is denied or when the agreement on the joint use of or on access to technical infrastructure is not concluded within the timescale specified by the President of UKE referred to in paragraph 1, each of the parties may apply to the President of UKE to issue a decision concerning the possibility of the joint use of or access to technical infrastructure.

4. The parties are obliged to present to the President of UKE, within 14 days request, their positions in respect to differences and documents indispensable to have their application considered.

Article 22. 1. The President of UKE issues a decision on the possibility of the joint use of or access to technical infrastructure within 90 days following the date of lodging the application on issuing the decision, having regard to the following criteria:

- 1) interests of beneficiaries of services provided by entities performing public utility tasks;
- 2) interests of telecommunications network users;
- 3) obligations imposed on an entity performing public utility tasks;
- 4) promotion of modern telecommunications services;
- 5) nature of the existing differences and practical feasibility to implement solutions regarding technical and economic aspects of the joint use of or access to technical infrastructure, both proposed by the parties participating in negotiations, as well as capable of becoming alternative solutions;
- 6) public interest, including environmental protection;
- 7) maintaining continuity of providing services.

2. The decision on the joint use of or access to technical infrastructure replaces the agreement to the extent indicated in such a decision, however, with regard to power engineering companies the decision is issued after consultations with the President of the Energy Regulatory Office.

3. Where interested parties conclude an agreement on the joint use of or access to technical infrastructure, the decision on the joint use of or access to the technical infrastructure shall expire by virtue of law in its part indicated in the agreement.

4. The decision on the joint use of or access to technical infrastructure may be amended by the President of UKE upon the request of each party concerned by such a decision, or ex officio, in circumstances justified by the need of protecting interests of end users and effective competition.

Article 23. 1. Provisions of Articles 19, 21, 22 and 24 shall apply to amendments of the agreement on the joint use of or access to technical infrastructure, accordingly.

2. To the application for the amendment of the agreement on the joint use of or access to technical infrastructure which has been amended at least once, a unified text of such an agreement, including all amendments, shall be enclosed.

Article 24. 1. The party to the agreement on the joint use of or access to technical infrastructure shall submit this agreement to the President of UKE, within 14 days following the day of signing thereof.

2. Agreements referred to in paragraph 1 shall be openly accessible, subject to paragraph 3. The President of UKE shall make them available at no charge to the interested entities, upon their request.

3. The President of UKE is empowered to agree to exclude certain provisions of the agreement on the joint use of or access to technical infrastructure from the duty of open accessibility upon request of any party thereto. Such exclusion of accessibility may not include financial settlements on account of the joint use of or access to technical infrastructure.

Article 25. An entity performing public utility tasks is obliged to keep a register in a way allowing for a separate calculation of costs and revenues, profits and losses with regard to its basic activity and activity referred to in Article 16 (1) and with regard to the joint use or access referred to in Article 17.

Article 26. 1. The activity referred to in Article 16 (1) and the joint use of or access to technical infrastructure referred to in Article 17 cannot:

- 1) reduce safety of provision or quality of drinking water, gas fuels or electric or heating energy;
- 2) result in unfavourable change of prices or rates for the provision of: water, gas fuels or electric or heating energy and the extent to which they are provided to recipients connected to the network;
- 3) prevent entities performing public utility tasks from fulfilling their duties within the framework of the protection of recipients' interests and environmental protection;
- 4) hinder rational use of technical infrastructure used in order to conduct their basic activity.

2. The provision of paragraph 1 shall apply to entities performing public utility tasks, conducting activity within the framework of collective sewage disposal.

Article 27. 1. An entity which used public funds, within the meaning of the provisions of the act of 27 August 2009 on public finances, to build, rebuild or renovate telecommunications infrastructure used in order to provide publicly available telecommunications services or public telecommunications network or has acquired rights to such an infrastructure or network and its subsidiaries are obliged to provide telecommunications undertakings with the joint use of and telecommunications access to such an infrastructure and network, if such an obligation arises from the provisions related to public aid, decisions, agreements or other acts, on the basis of which such building, rebuilding or renovation or acquisition of rights have been financed from public funds, on terms and conditions specified therein.

2. If the obligation to provide the joint use of and telecommunications access to the infrastructure referred to in paragraph 1 above arises from the provisions related to public aid, but the rules of fulfilling these obligations have not been specified therein, provisions specified in division I chapter 3 and division II chapter 2 of the act of 16 July 2004 — Telecommunications Law shall apply respectively.

Article 28. The minister competent for communications may determine, after consultations with the President of UKE and the President of the Office of Competition and Consumer Protection, by means of an ordinance, terms and conditions and mode of providing state aid which refers to conducting activity referred to in Article 3 paragraph 1 indent 1 - 2 and indent 3 (c) and Article 16, with regard to broadband networks, in particular within the framework concerning:

- 1) the possibility of providing a telecommunications undertaking with access to telecommunications infrastructure or networks for prices lower than the cost of production,
- 2) the possibility of co-financing costs incurred for providing end-users with telecommunications services, for purposes of providing these services.

— being guided by the Communication from the Commission on Community guidelines concerning the application of regulations concerning state aid with regard to rapid implementation of broadband networks (OJ of the EU C 235 of 30.09.2009, p. 7).

Article 29. 1. The President of UKE shall prepare an electronic inventory presenting existing telecommunications infrastructure and public telecommunications networks covering the territory of the Republic of Poland which provide or allow for the provision of broadband Internet access, separately marking optical fibres and wireless networks, as well as buildings allowing for a collocation. Such an inventory is being verified and updated on a current basis, at least once a year.

2. The President of UKE may request from:

- 1) national and self-governmental organisational units, excluding entities referred to in Article 4 indent 1, 2, 4, 5 and 8 of the act of 16 July 2004 — Telecommunications Law,
- 2) entities performing public utility tasks,
- 3) telecommunications undertakings - if data acquired from entities referred to in indent 1 and 2 above and data collected from other sources prove to be insufficient

— current, consistent with the actual condition, complete and adequate for the needs of fulfilling the obligation referred to in paragraph 1, information owned by these entities and undertakings concerning existing telecommunications infrastructure, public telecommunications networks and buildings allowing for collocation.

3. Information shall be provided within 30 days following the date of receiving the request. The provision of Article 9 of the act of 16 July 2004 — Telecommunications Law shall apply to such information.

4. The Central State Geodesist, on application of the President of UKE, shall provide access to information from central geodetic and cartographic resources, necessary for fulfilling the obligation referred to in paragraph 1. Information shall be made accessible within 30 days following the day of receiving an application.

5. Provided that it does not contravene legally protected secrets and does not constitute a threat to national defence or safety, the President of UKE may provide the Central State Geodesist with the inventory referred to in paragraph 1 in order to put it on a geoportals of spatial information infrastructure and in the national database of the geodetic register of utilities networks.

6. The inventory referred to in paragraph 1 is publicly available and everyone has the right to access the inventory and receive extracts and map extracts from the said inventory, provided that it does not contravene legally protected secrets and does not constitute a threat to national defence or safety.

7. The minister competent for public administration, in cooperation with the minister competent for communications, shall determine, by means of an ordinance:

- 1) the type of infrastructure subject to inventory and a map scale on which the inventory referred to in paragraph 1 is made,
- 2) electronic format of provided data,

- 3) detailed scope and method of presenting information in the inventory,
 - 4) templates of forms used for transmitting information referred to in paragraph 2 to the President of UKE, with explanations as to how these forms should be filled in
- being guided by the need to provide reliable and credible information concerning the existing telecommunications infrastructure and public telecommunications networks which ensure or allow for ensuring broadband Internet access as well as the need to improve and standardize the process of data transmission.

Chapter 3

Telecommunications connections in buildings and the right-of-way

Article 30. 1. The owner, perpetual lessee or administrator of a real property is obliged to provide a telecommunications undertaking that has supplied a public network to that property with an access to:

- 1) a building,
 - 2) a place in a building where all cables supplied to a given apartment in the building converge,
— in order to ensure communications.
2. The owner of the existing cable duct system situated on a property or in a building is obliged to provide access to this duct system to a telecommunications undertaking that does not have the possibility of using any other existing duct system, in order to ensure telecommunications.
3. If there is no possibility of supplying another telecommunications cable to a building or of placing this cable in the existing cable duct, the owner of a telecommunications cable supplied to the building or distributed in the building is obliged to provide a telecommunications undertaking with the entire cable or a part thereof, including in particular an optical fibre.
4. Terms and conditions of the access referred to in paragraphs 1—3, are specified in the agreement concluded by and between a telecommunications undertaking and an owner, a perpetual lessee or an administrator of a real property, an owner of the existing cable duct or an owner of a cable supplied to a building or distributed in a building, respectively.
5. Provisions of Articles 19 — 24 shall apply to access referred to in paragraphs 1 —3, respectively, but an access agreement shall be concluded within 30 days following the day when a telecommunications undertaking submitted an application for concluding such an agreement.
6. In order to provide the users with telephone services, data transmission services ensuring a broadband access to the Internet and services which consist in distributing high-definition digital radio and television programmes by different service providers, a building shall be equipped in accordance with regulations concerning technical and construction conditions, issued on the basis of the act of 7 July 1994 — Construction Law (Journal of Laws of 2006 No. 156, item 1118 as amended.⁵) with a telecommunications installation allowing for the connection to public telecommunications networks used to provide such services, in compliance with the technological neutrality principle.

Article 31. 1. If a property or a part thereof occupied by an end user is not connected to a telecommunications network that would satisfy the needs of an end user, the owner of a real property, the perpetual lessee of a real property, an individual who has a cooperative ownership right or the administrator of a real property cannot refuse to install, maintain or replace an external telecommunications installation, excluding cases arising from the provisions of law.

2. Installation works, maintenance and replacement of an external telecommunications installation shall be done at the expense of a telecommunications undertaking, unless specified otherwise by a telecommunications undertaking and by the owner of a real property, the perpetual lessee of a real property, an individual who has a cooperative ownership right or by the administrator of a real property, respectively.

Article 32. If an end user has a legal title to a real property or to the part thereof other than property right, right of perpetual usufruct or a cooperative ownership right, the provision of Article 684 of the act of 23 April 1964 — Civil Code (Journal of Laws No. 16, item 93 as amended⁶) shall apply to the process of connecting a single network termination point.

⁵ Amendments to the unified text of the said act were published in the Journal of Laws of 2006 No. 170, item 1217, of 2007 No. 88, item 587, No. 99, item 665, No. 127, item 880, No. 191, item 1373 and No. 247, item 1844, of 2008 No. 145, item 914, No. 199, item 1227, No. 206, item 1287, No. 210, item 1321 and No. 227, item 1505, of 2009 No. 18, item 97, No. 31, item 206, No. 160, item 1276 and No. 161, item 1279 and of 2010 No. 75, item 474.

⁶ Amendments to the said act were published in the Journal of Laws of 1971 No. 27, item 252, of 1976 No. 19, item 122, of 1982 No. 11, item 81, No. 19, item 147 and No. 30, item 210, of 1984 No. 45, item 242, of 1985 No. 22, item 99, of 1989 No. 3, item 11, of 1990 No. 34, item 198, No. 55, item 321 and No. 79, item 464, of 1991 No. 107, item 464 and No. 115, item 496, of 1993 No. 17, item 78, of 1994 No. 27, item 96, No. 85, item 388 and No. 105, item 509, of 1995 No. 83, item 417, of 1996 No. 114, item 542, No. 139, item 646 and No. 149, item 703, of 1997 No. 43, item 272, No. 115, item 741, No. 117, item 751 and No. 157, item 1040, of 1998 No. 106, item 668 and No. 117, item 758, of 1999 No. 52, item 532, of 2000 No. 22, item 271, No. 74, item 855 and 857, No. 88, item 983 and No. 114, item 1191, of 2001 No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638, of 2002 No. 113, item 984 and No. 141, item 1176, of 2003 No. 49, item 408, No. 60, item 535, No. 64, item 592 and No. 124, item 1151, of 2004 No. 91, item 870, No. 96, item 959, No. 162, item 1692, No. 172, item 1804 and No. 281, item 2783, of 2005 No. 48, item 462, No. 157, item 1316 and No. 172, item 1438, of 2006 No. 133, item 935 and No. 164, item 1166, of 2007 No. 80, item 538, No. 82, item 557 and No. 181, item 1287, of 2008 No. 116, item 731, No. 163, item 1012, No. 220, item 1425 and 1431 and No. 228, item 1506, of 2009 No. 42, item 341, No. 79, item 662 and No. 131, item 1075 and of 2010 No. 40, item 222.

Article 33. 1. An owner, the perpetual lessee of a real property or the administrator of a real property are obliged to provide operators, entities referred to in Article 4 indent 1, 2, 4, 5 and 8 of the act of 16 July 2004 — Telecommunications Law, as well as local self-government units conducting activity referred to in Article 3 (1) with the possibility of placing on the territory of the said real property telecommunications infrastructure buildings and equipment, in particular the possibility of installing telecommunications equipment, laying cable lines under this property, on or above its territory, placing signboards about the equipment, as well as the possibility of using and maintaining this equipment, provided that it does not hinder rational use of the said property and in particular does not lead to significant decrease in the value of the property.

2. The use of real properties referred to in paragraph 1 is subject to a fee, except the cases when a telecommunications line or telecommunications equipment are used to provide telecommunications for:

- 1) the owner of the real property;
- 2) the perpetual lessee of the real property;
- 3) an individual who has cooperative ownership right to a place;
- 4) an individual who has other legal right to the real property.

3. Terms and conditions regulating the use of a real property shall be specified in an agreement which is concluded in writing within 30 days following the day on which an operator submitted an application for concluding such an agreement.

4. Terms and conditions regulating the use of a right-of-way shall be determined on the basis of the provisions of the act of 21 March 1985 on public roads (Journal of Laws of 2007 No. 19, item 115 as amended ⁷).

5. The minister competent for the construction industry, spatial development and housing management may, by means of an ordinance, specify the amount of fee due for the use of properties which are owned by the State Treasury or by the unit of public finances sector, which are occupied or managed by the unit of public finances sector, taking into consideration the type of a property, the arrangement of a building, the size of an occupied property and the promotion of investments with regard to broadband networks.

6. In the case referred to in paragraph 5, financial conditions referring to the use of a real property which these fees concern cannot be the subject of negotiations or an agreement referred to in paragraph 3.

7. If within the period referred to in paragraph 3 no agreement is concluded, provisions of Article 124 and 124a of the act of 21 August 1997 on real property management (Journal of Laws of 2010 No. 102, item 651) shall apply.

Article 34. If a real property constitutes the subject of limited property rights or obligations, as well as administration or permanent administration, the provision of Article 33 shall apply accordingly.

Article 35. Provisions of Articles 33 and 34 shall apply to the use of technical infrastructure equipment and buildings, respectively, in particular to lighting poles and traction poles which are owned by local self-government units or by the State Treasury and which do not constitute elements of the said property.

Article 36. Provisions of Articles 33 and 34 shall apply to the joint use of telecommunications infrastructure with regard to which the right to install, use and maintain the infrastructure on the third party's real property has been acquired on the basis of a permit granted by public administration authorities or by legal force or located on properties occupied or administered by units of public finances sector which owns this infrastructure.

Chapter 4

Separate ownership of telecommunications infrastructure elements

Article 37. Optical fibre placed in an optical cable and being the part of a telecommunications network may constitute a separate ownership title and a separate subject of other property rights, within the meaning of provisions of the act of 23 April 1964 — Civil Code.

Article 38. 1. If a separate ownership of an optical fibre is established, the owner of a fibre shall have a share in a common part of an optical cable, as the right referring to the ownership of an optical fibre. As long as a separate ownership of optical fibres is binding, it is not possible to request the abolition of the joint ownership of the common part of a cable.

2. A common part of an optical cable is composed of all its elements, except for optical fibres.

3. The share of the owner of an optical fibre in the common part of an optical cable corresponds to the proportion of the number of fibres owned by the said owner to the general number of optical fibres in a cable.

⁷ Amendments to the unified text of the act under consideration have been published in the Journal of Laws (Dz. U.) of 2007 No. 23, item 136 and No. 192, item 1381, of 2008 No. 54, item 326, No. 218, item 1391 and No. 227, item 1505 and of 2009 No. 19, item 100 and 101, No. 86, item 720 and No. 168, item 1323.

Article 39. 1. To-date owner of an optical cable has, with regard to an optical fibre whose separate ownership has not been established and with regard to the common part of an optical cable, the same rights and obligations as the rights and obligations of the owners of fibres whose separate ownership has been established.

2. If a separate ownership of optical fibres is established gradually, owners of fibres whose separate ownership has already been established shall not be the parties to agreements which concern the establishment of a separate ownership of remaining fibres.

Article 40. 1. A separate ownership of an optical fibre may be established by means of an agreement concluded by and between the owner of an optical cable which constitutes the part of a telecommunications network and the acquirer of the ownership title to a fibre, as well as by means of unilateral act in law of the owner of such a cable or a court ruling which abolishes the joint ownership of a cable.

2. A separate ownership title to an optical fibre may also be established as a result of executing a contract obliging an undertaking to develop a telecommunications network and to establish, after the development of such a network, a separate ownership of an optical fibre and to transfer this title to the other party to the agreement or to other individual specified therein.

3. An act in law covering a declaration of will to establish a separate ownership title to an optical fibre requires to be made in writing, with an administrative confirmation of the date, in order for that right to be effective.

Article 41. 1. An agreement establishing a separate ownership of an optical fibre specifies in particular:

- 1) the type and the route of a telecommunications network covering an optical cable with regard to whose fibre a separate ownership title is established;
- 2) the type of an optical cable, the location of its termination points and the number of optical fibres in such a cable;
- 3) an optical fibre, whose separate ownership title is established;
- 4) the size of shares assigned to the owners of optical fibres in the common part of an optical cable;
- 5) the way of making a decision by co-owners of a common part of an optical cable with regard to activities concerning this cable in its entirety, subject to Article 42;
- 6) the manner of participation of co-owners of the common part of an optical cable in the costs of maintenance, servicing, repair or replacement of a cable, subject to Article 43.

2. Regulations concerning the establishment of a separate ownership title to an optical fibre by means of an agreement shall be applied to the establishment of a separate ownership title to a fibre by means of a unilateral act of law of a cable owner and a court ruling abolishing the common ownership of a cable, respectively.

Article 42. 1. If a separate ownership of optical fibres is established gradually or in the case of a disposal of a previously established ownership of optical fibres, the way of making decisions, adopted by to-date co-owners of the common part of an optical cable, with regard to activities concerning the entire cable shall apply to every future acquirer of the fibre.

2. If there is no separate agreement with regard to the way of making decisions by co-owners of the common part of an optical cable, with regard to activities concerning the entire cable, the provisions of the Civil Code referring to the joint ownership of fractional parts concerning the management of a common object, taking into consideration provisions of paragraphs 3 and 4, shall apply.

3. Co-owners of the common part of an optical cable are obliged to closely cooperate within the framework of activities concerning the entire cable, in particular relating to its maintenance, use, servicing, repair or replacement.

4. If no such cooperation referred to in paragraph 3 is observed, each co-owner of the common part of an optical cable may apply for a court authorization to perform the activities specified in paragraph 3, except for cases when a given activity is aimed at the replacement of a cable destroyed by the sole fault of an individual who requests that activity is performed and the remaining co-owners express their objections.

Article 43. Co-owners of the common part of an optical cable shall participate in the costs of maintenance, use, servicing, repairs and replacement of the entire cable, proportionally to their share in the common part of the cable, unless specified otherwise in a separate agreement.

Article 44. Each co-owner of the common part of an optical cable shall be held responsible for liabilities related to activities referred to in Article 43, proportionally to his share in the common part of the cable.

Article 45. Provisions of Articles 37 – 44 shall apply to the establishment of a separate ownership of wires in telecommunications cables other than optical fibres and the set of sewage tubes placed one by one and connected with one another, making a duct where telecommunications cables which constitute one of the elements of a multi-opening cable duct system are placed, as well as to the process of making decisions within the framework of activities concerning these cables and the said cable duct system in its entirety, to the participation in the costs of their maintenance, use, servicing, repair or replacement and to responsibility for liabilities related to such activities, respectively.

Chapter 5

Specific rules for locating telecommunications investments

Article 46. 1. A local spatial development plan, hereinafter referred to as "the local plan", may not establish any prohibitions and solutions adopted therein cannot hinder the location of public purpose investments within the framework of public

communications, within the meaning of provisions of the act of 21 August 1997 on real estate management if such an investment complies with separate regulations.

2. If a public purpose investment within the framework of public communications is not included in a local plan, its location is permitted, provided that it is not contrary to the land's purpose specified in the said plan and does not infringe prohibitions or limitations specified therein. The use of the land for the purposes of a multi-family dwelling, as well as agricultural, forestry, commercial or production purposes is not contrary to the location of public purpose investments within the framework of public communications and the use of the land for the purposes of a single-detached dwelling is not contrary to the location of telecommunications infrastructure of insignificant influence.

3. If no local plan has been developed, the location of a public purpose investment within the framework of public communications other than telecommunications infrastructure of insignificant influence, shall be determined by means of a decision concerning the location of a public purpose investment, in accordance with terms and conditions specified in the act of 27 March 2003 on spatial planning and development (Journal of Laws No. 80, item 717 as amended⁸).

Article 47. The development of telecommunications infrastructure of insignificant influence and the execution of other construction works referring to the said infrastructure does not require to issue a decision which refers to determining the location of public purpose investments.

Article 48. A telecommunications undertaking and the President of UKE may appeal, within the framework of telecommunications, a resolution concerning the adoption of a local plan.

Chapter 6

Specific rules concerning the location of regional broadband networks

Article 49. 1. A regional broadband network is located by means of a decision concerning the establishment of a regional broadband network location.

2. Provisions of the act of 27 March 2003 on the spatial planning and development shall not apply to issues concerning a regional broadband network location.

3. A regional broadband network is a public purpose investment within the meaning of the act of 21 August 1997 on real estate management.

Article 50. 1. A decision on the establishment of a regional broadband network location is issued by a voivode upon the request of an investor.

2. Upon the request of an investor, a governor issues a decision on the establishment of a regional broadband network location, with regard to the part of an investment project on the territory of a given voivodeship.

3. The voivode shall immediately hand without delay forward the copies of decisions concerning the establishment of a regional broadband network location to the minister competent for the construction industry, spatial development and housing management, as well as to a head of a rural commune (mayor, president of a city) of the commune on the territory of which a regional broadband network is located.

4. The minister competent for the construction industry, spatial development and housing management shall keep the register of issued decisions concerning the establishment of a regional broadband network location.

5. Provisions of the act of 14 June 1960 — Administrative Procedure Code (Journal of Laws No. 98, item 1071 as amended⁹) shall apply to proceedings concerning the establishment of regional broadband network locations, subject to provisions of the act. The provision of Article 31 § 4 of the Administrative Procedure Code shall not be applied. Proceedings shall not be suspended in the cases specified in Article 97 § 1 indents 1—3 of the Administrative Procedure Code.

6. A decision concerning the establishment of a regional broadband network location is not required in the case of construction works:

- 1) which consist in extending or rebuilding a network if they do not change the spatial development of a given area or the way in which a given building is used and the change of an architectural form and are not classified among undertakings which require the proceedings concerning the assessment of environmental influence, or
- 2) which do not require a building permission.

Article 51. 1. An application referred to in Article 50, includes:

- 1) the designation of borders of the territory covered by the said application and an area on which such an investment will have an impact, presented on a copy of a master map or if the latter is not available - on a copy of a cadastral map, entered into a

⁸ Amendments to the said act were published in the Journal of Laws of 2004 No. 6, item 41 and No. 141, item 1492, of 2005 No. 113, item 954 and No. 130, item 1087, of 2006 No. 45, item 319 and No. 225, item 1635, of 2007 No. 127, item 880, of 2008 No. 199, item 1227, No. 201, item 1237 and No. 220, item 1413 and of 2010 No. 24, item 124 and No. 75, item 474.

⁹ Amendments to the unified text of the said act were published in the Journal of Laws of 2001 No. 49, item 509, of 2002 No. 113, item 984, No. 153, item 1271 and No. 169, item 1387, of 2003 No. 130, item 1188 and No. 170, item 1660, of 2004 No. 162, item 1692, of 2005 No. 64, item 565, No. 78, item 682 and No. 181, item 1524, of 2008 No. 229, item 1539, of 2009 No. 195, item 1501 and No. 216, item 1676 and of 2010 No. 40, item 230.

national geodetic and cartographic register, scale 1:500, 1:1000 or 1:2000, presenting existing utilities and the proposed route of a regional broadband network, specifying an area necessary for construction objects of the said network;

- 2) the specification of changes in the to-date land management and utilities;
 - 3) the analysis of a connection between a given investment and existing utilities;
 - 4) characteristics of an investment, including the specification of:
 - a. demand for water, energy and sewage disposal or treatment, as well as other needs within the framework of a technical infrastructure, and the manner of waste utilization,
 - b. the planned land management and characteristics of a built-up area and of a land management, including the purpose and dimensions of designed construction objects, presented in a descriptive and in a graphical form,
 - c. crucial technical parameters of an investment and its impact on the environment.
2. Utilities shall mean constructed facilities referred to in Article 143 (2) of the act of 21 August 1997 on land management.
 3. To an application referred to in Article 50, the following documents shall be attached:
 - 1) a decision on environmental conditionings, issued pursuant to the provisions of the act of 3 October 2008 on access to information on the environment and its protection, on public participation in environmental protection and on environmental impact assessments (Journal of Laws No. 199, item 1227 as amended¹⁰), if required;
 - 2) arrangements with a relevant road administrator concerning a regional broadband network location – with regard to the right-of-way area or areas within the lines demarcating a road investment area specified in a decision which concerns the specification of the road location, decision on the specification of a national road location or a decision concerning the permit to execute a road investment and areas adjacent to the right-of-way;
 - 3) opinions of:
 - a) the minister competent for health – with regard to investments located in spa resorts,
 - b) a director of a competent maritime office – with regard to maritime areas, service strip areas, protection lane areas, seaports and marinas,
 - c) a competent mining supervisory body – with regard to mining areas,
 - d) a competent geological administration body – with regard to landslide-sensitive areas,
 - e) authorities competent with regard to the protection of agricultural and forest lands, as well as hydrological improvement – with regard to areas used for agricultural and forest purposes,
 - f) a director of a national park – with regard to areas located within the borders of the park and its buffer zone,
 - g) a competent regional environmental protection director – with regard to areas other than areas specified in (f), protected pursuant to regulations on environmental protection,
 - h) a competent director of a regional water management authority – with regard to investments covering the construction of water facilities and with regard to building construction objects or works on immediate flood risk areas,
 - i) a director of a competent regional directorate of the State Forests National Forest Holding – with regard to forest lands owned by the State Treasury, being in the management board of the State Forests National Forest Holding,
 - j) a competent Voivodeship Conservation Officer for Historic Monuments – with regard to monuments protected on the basis of the act of 23 July 2003 on the protection and preservation of historic monuments (Journal of Laws No. 162, item 1568 as amended¹¹),
 - k) a competent administrator of railroad areas – with regard to railroad areas, pursuant to provisions of the act of 28 March 2003 on railway transport (Journal of Laws of 2007 No. 16, item 94 as amended¹²),
 - l) a competent voivode, voivodeship marshal and starost with regard to government or self-government tasks allowing for the execution of public purpose investments referred to in Article 39 (3) (3) and Article 48 of the act of 27 March 2003 on spatial planning and development – with regard to areas not covered by spatial development plans,
 - m) a locally competent voivodeship government, county government and a rural commune head, mayor and the president of the city.
 4. A competent authority shall make an arrangement or issue an opinion referred to in paragraph 3 indent 2 and 3, on the application of an investor, within the period not exceeding 21 days following the day of receiving an application.
 5. An authority shall make arrangements in the form of a decision against which an investor may lodge a complaint.
 6. Failure to make an arrangement or to issue an opinion within the time limit referred to in paragraph 4, shall be treated as the absence of reservations to an application.
 7. An arrangement and opinions referred to in paragraph 3 indent 2 and 3 shall replace arrangements, licenses, permits, opinions or positions of competent authorities, required by separate regulations for investment location.

Article 52. 1. Within 14 days following the day of lodging an application referred to in Article 50, a voivode shall notify about the institution of proceedings concerning the establishment of a regional broadband network location:

¹⁰ Amendments to the act under consideration have been published in the Journal of Laws of 2008 No. 227, item 1505, of 2009 No. 42, item 340, No. 84, item 700 and No. 157, item 1241 and of 2010 No. 28, item 145.

¹¹ Amendments to the said act were published in the Journal of Laws of 2004 No. 96, item 959 and No. 238, item 2390, of 2006 No. 50, item 362 and No. 126, item 875, of 2007 No. 192, item 1394, of 2009 No. 31, item 206 and No. 97, item 804 and of 2010 No. 75, item 474.

¹² Amendments to the unified text of the act under consideration have been published in the Journal of Laws of 2007 No. 176, item 1238 and No. 191, item 1374, of 2008 No. 59, item 359, No. 144, item 902, No. 206, item 1289 and No. 227, item 1505 and of 2009 No. 1, item 3, No. 18, item 97, No. 19, item 100, No. 98, item 817, No. 115, item 966, No. 157, item 1241 and No. 214, item 1658.

- 1) an applicant – at the address specified in the application to issue such a decision;
- 2) owners or perpetual lessees of real properties covered by the application to issue such a decision – at the address specified in the land and property register or in a property cadastre and deemed delivered;
- 3) other parties – by means of an announcement in a voivodeship office and in the Public Information Bulletin on the voivodeship office website, as well as in commune offices competent with regard to a planned location of a regional broadband network and in the local press;
- 4) local bodies competent with regard to issues referred to in paragraph 5 indent 2, and immediately after receiving the notification, a rural commune head, a mayor or a president of a city shall announce the institution of proceedings in the Public Information Bulletin on a commune office website and in a customary manner.

2. A notification referred to in paragraph 1 shall include, in particular:

- 1) designation of real properties or parts thereof covered by an application to issue a decision concerning the establishment of a regional broadband network location, in accordance with a land and property register or with a property cadastre;
- 2) information about the time and the place at which parties may acquaint themselves with case records.

3. In the case of real properties not having clear legal status within the meaning of provisions of the act of 21 August 1997 on real estate management, notification is provided in the form of an announcement referred to in paragraph 1 indent 3.

4. Provisions of paragraphs 1—3 shall apply respectively to other summons, notifications and documents which an authority is obliged to deliver to the parties throughout the proceedings.

5. As of the day of notification referred to in paragraph 1:

- 1) real properties owned by the State Treasury or by a local self-government unit, covered by an application to issue a decision concerning the establishment of a regional broadband network location cannot be an object of trade within the meaning of provisions of the act of 21 August 1997 on real estate management;
- 2) with regard to real properties covered by an application to issue a decision concerning the establishment of a regional broadband network location, until such a decision is issued, a decision on construction permit shall not be issued for an investment other than a public purpose investment and a land development conditions decision, and pending proceedings regarding these cases shall be suspended by virtue of law until a final decision concerning the specification of a regional broadband network location is issued;
- 3) trading in real properties other than properties specified in indent 1, covered by an application to issue a decision concerning the establishment of a regional broadband network location and establishing limited property rights with regard to these properties shall not have an impact on pending proceedings.

6. If property rights or perpetual usufruct rights concerning a real property covered by an application to issue a decision concerning the establishment of a regional broadband network location are disposed of after the delivery of a notification referred to in paragraph 1, an assignor and an assignee are obliged to notify a relevant voivode of the data of a new owner or perpetual lessee. The fact of failing to provide the said notification and continuing the proceedings without the participation of a new owner shall not constitute the basis for the resumption of proceedings.

7. An act in law which violates of a prohibition referred to in paragraph 5, indent 1 shall be null and void.

Article 53. A voivode shall immediately submit an application to a competent court to enter in the land and mortgage register information on the institution of proceedings in the case which concerns the establishment of a regional broadband network location and if no land and mortgage register is established with regard to the said property – a voivode shall lodge an application to include in the existing repertory of documents a notification informing that proceedings have been instituted. If a final decision refusing the establishment of a regional broadband network location is issued, a voivode shall immediately lodge an application in a competent court to remove from the land and mortgage register an entry informing about the institution of proceedings or shall enclose an appropriate notification in the repertory of documents.

Article 54. 1. A voivode shall issue a decision on the establishment of a regional broadband network location within 90 days following the day of lodging an application referred to in Article 50.

2. A decision concerning the specification of a regional broadband network location shall include in particular:

- 1) the specification concerning the type of the investment;
- 2) technical conditions of investment completion;
- 3) conditions, arising from separate regulations, within the framework of:
 - a) environmental protection and human health, nature conservation and preservation of monuments,
 - b) maintenance of a technical infrastructure and communications,
 - c) requirements concerning the protection of justified interests of third parties,
 - d) the protection of construction objects on mining areas;
- 4) the designation of lines demarcating the area of an investment, specified on a map, scale 1:500, 1:1000 or 1:2000;
- 5) specification of limitations with regard to the use of a real property necessary to execute a regional broadband network, if required.

3. Provisions of Article 124 (4), Article 124a and Article 128 (4) of the act of 21 August 1997 on land management shall apply respectively.

4. A decision concerning the establishment of a regional broadband network location, for the period and to the extent necessary to develop and use a regional broadband network:

- 1) obliges an entity administering or managing areas owned by the State Treasury or by local self-government units, excluding areas used for the construction of public roads and railway lines and areas covered with flowing waters, to make them accessible on the day on which an investor receives a construction permit decision, at the latest;
- 2) entitles an investor to actually take possession of areas owned by the State Treasury or by a local self-government unit;
- 3) constitutes a legal title to use the real property for construction purposes.

5. The issue of a decision concerning the specification of a regional broadband network location cannot depend on the compliance with considerations or terms and conditions which are not specified in applicable regulations.

6. The project of a decision concerning the specification of a regional broadband network location shall be prepared by a person entered onto a list kept by the chamber of a trade organisation of urban planners or architects.

7. A notice on the issue of a decision concerning the specification of a regional broadband network location shall be entered into a land and mortgage register and in the property cadastre. Entries shall be made upon the request of an investor.

8. If the location of a regional broadband network requires crossing the areas of public roads, railway lines or areas covered by flowing waters, an investor is entitled to occupy the said areas free of charge, for the period necessary to complete the investment.

9. Not later than 30 days before the planned occupation of the area, an investor shall negotiate with a road administrator, railway infrastructure administrator or with relevant authorities referred to in Article 11 (1) of the act of 18 July 2001 — Water Law (Journal of Laws of 2005 No. 239, item 2019 as amended¹³), by means of a written agreement, the scope of the occupied area, terms and conditions of occupying the area and the date on which the area will be occupied.

10. A decision concerning the specification of a regional broadband network location shall be immediately enforceable.

Article 55. Areas covered with water, owned by the State Treasury, necessary for completing an investment within the framework of regional broadband networks, shall be transferred to an investor for perpetual usufruct as long as the investment is being executed and used, against an annual fee, in accordance with terms and conditions specified in Article 20 of the act of 18 July 2001 — Water Law. A usufruct agreement shall be concluded within 14 days following the day of signing the agreement referred to in Article 54 (9).

Article 56. Provisions of the act of 3 February 1995 on the protection of agricultural and forest lands (Journal of Laws of 2004 No. 121, item 1266 as amended¹⁴) shall not apply to agricultural and forest lands covered by decisions concerning the specification of regional broadband network location within the borders of lines demarcating an investment area.

Article 57. 1. A voivode shall deliver a decision concerning the specification of a regional broadband network location to an applicant and shall notify other parties that such a decision has been issued, by means of an announcement in a voivodeship office and in the Public Information Bulletin on the website of the said voivodeship office, in commune offices competent with regard to the location of an investment, as well as in the local press.

2. A voivode shall deliver a notification informing about issuing the decision concerning the specification of a regional broadband network location to a to-date owner or perpetual lessee at the address specified in the land and property register or in the property cadastre. The delivery of a notification at the address specified in the land and property register or in the property cadastre shall be deemed effective.

3. Provisions of paragraph 2 shall not apply to real properties which do not have a clear legal status within the meaning of provisions of the act of 21 August 1997 on real estate management and in the case when an owner or a perpetual lessee are deceased and their heirs have not proved their right to inheritance.

4. A notification informing about the issue of a decision concerning the specification of a regional broadband network location shall include:

- 1) the designation of real properties or parts thereof covered by the decision, according to the land and property register or to the property cadastre;
- 2) information about the time and the place at which the parties may become acquainted with the decision.

5. Provisions of paragraphs 1—4 shall apply to the delivery and to notification of the parties of the decision issued by an authority of second resort, respectively.

Article 58. 1. The party may appeal against a decision concerning the specification of a regional broadband network location to the minister competent for the construction industry, spatial development and housing management.

¹³ Amendments to the unified text of the said act were published in the Journal of Laws of 2005 No. 267, item 2255, of 2006 No. 170, item 1217 and No. 227, item 1658, of 2007 No. 21, item 125, No. 64, item 427, No. 75, item 493, No. 88, item 587, No. 147, item 1033, No. 176, item 1238, No. 181, item 1286 and No. 231, item 1704, of 2008 No. 199, item 1227 and No. 227, item 1505, of 2009 No. 168, item 1323 and No. 215, item 1664 and of 2010 No. 44, item 253 and No. 96, item 620.

¹⁴ Amendments to the unified text of the said act were published in the Journal of Laws of 2005 No. 175, item 1462, of 2006 No. 12, item 63, of 2007 No. 75, item 493, No. 80, item 541 and No. 191, item 1374, of 2008 No. 237, item 1657 and of 2009 No. 1, item 3, No. 115, item 967 and No. 157, item 1241.

2. An appeal against the decision concerning the specification of a regional broadband network location shall include objections referring to the decision, specify the essence and scope of the request being the subject of the appeal and shall indicate proofs justifying the request.

3. In the case of lodging an appeal to the administrative court against the decision issued concerning the specification of a regional broadband network location, upon the request of a plaintiff, the court may make the stay of execution of that decision dependent on the fact of providing a deposit by a plaintiff for securing the claims of an investor resulting from the stay of execution of the decision. If the entire appeal or part thereof is deemed justified, the deposit shall be returned. Within the framework not regulated in the present act, provisions of the Code of Civil Procedure referring to the securing of claims shall apply respectively with regard to the deposit.

4. The deposit referred to in paragraph 3 with regard to a natural person who does not conduct any economic activity amounts from PLN 500 to PLN 5 000, while for other entities it amounts from PLN 5 000 to PLN 50 000. When specifying the amount of a deposit, the court shall take into consideration a personal and financial situation of a plaintiff, the value of a real property covered by the decision concerning the specification of a regional broadband network location, the value and scope of the investment, as well as the social interest.

5. In proceedings before an appellate authority and before an administrative court it is not possible to reverse a decision concerning the specification of a regional broadband network location as a whole and to declare its invalidity when the defect may be stated only with regard to a part of a decision concerning a section of a regional broadband network.

6. The final decision concerning the specification of a regional broadband network location shall not be declared invalid if an application for declaring the invalidity of that decision has been submitted after 14 days following the day on which the decision became final and an investor has started the construction of a regional broadband network. The provisions of Article 158 § 2 of the Code of Civil Proceedings shall apply accordingly.

7. If an appeal against a decision concerning the specification of a regional broadband network location is allowed, after 14 days following the day on which the construction of a regional broadband network has started, an administrative court may only state that the decision violates the law due to reasons specified in Article 145 or 156 of the Code of Administrative Procedure.

Article 59. 1. A decision concerning the specification of a regional broadband network location shall bind competent authorities when a study of the commune's conditions and directions of spatial development, as well as spatial development plans are developed. A voivode shall immediately hand an issued decision concerning the specification of a regional broadband network location over to locally competent voivodes, mayors or presidents of cities.

2. Whenever separate provisions, including the provisions of the act of 7 July 1994 — the Construction Law, refer to a decision concerning housing and spatial development conditions or to a decision on the specification of a public purpose investment location, it also refers to a decision concerning the specification of a regional broadband network location.

3. A decision concerning a regional broadband network location shall bind competent authorities with regard to issuing:

- 1) a decision concerning housing conditions;
- 2) a decision concerning the specification of a public purpose investment location;
- 3) a decision referred to in Article 21 of the act of 27 October 1994 on toll motorways and on National Road Fund (Journal of Laws of 2004 No. 256, item 2571 as amended¹⁵);
- 4) a decision referred to in Article 11 a of the act of 10 April 2003 on specific principles of preparation and implementation of public road projects (Journal of Laws of 2008 No. 193, item 1194 and No. 199, item 1227 and of 2009 No. 72, item 620);
- 5) a decision referred to in Article 9q of the act of 28 March 2003 on railway transport;
- 6) a decision referred to in Article 23 of the act of 7 September 2007 on preparations of the final tournament of the European Football Championship UEFA EURO 2012 (Journal of Laws of 2010 No. 26, item 133);
- 7) a decision referred to in Article 5 of the act of 24 April 2009 on investments in the regasified liquefied natural gas terminal in Świnoujście (Journal of Laws No. 84, item 700 and of 2010 No. 57, item 358);
- 8) a decision referred to in Article 3 of the act of 12 February 2009 on specific rules for the preparation and implementation of investments within the scope of airports for public use (Journal of Laws No. 42, item 340 and No. 161, item 1281).

4. A decision concerning the regional broadband network location shall be binding for an authority issuing construction permits, an authority issuing decisions referred to in Article 124 (1) and in Article 124a of the act of 21 August 1997 on real estate management, as well as a road administrator who issues a permit referred to in Article 40 (1) of the act of 21 March 1985 on public roads. A permit of a road administrator shall be issued not later than 14 days following the day on which an application for issue of a permit was submitted. Provisions of Article 124 (4) and (8), Article 124a and Article 128 (4) of the act of 21 August 1997 on real estate management shall apply respectively.

5. A decision concerning the specification of a regional broadband network location shall be binding for legal successors of owners and perpetual lessees of real properties covered by the said decision, as well as other entities managing such properties.

¹⁵ Amendments to the unified text of the act under consideration have been published in the Journal of Laws of 2004 No. 273, item 2703, of 2005 No. 155, item 1297 and No. 172, item 1440, of 2006 No. 12, item 61, of 2007 No. 23, item 136 and No. 99, item 666, of 2008 No. 218, item 1391 and of 2009 No. 3, item 11, No. 19, item 101, No. 86, item 720, No. 105, item 877, No. 115, item 966, No. 143, item 1164, No. 157, item 1241 and No. 223, item 1776.

Article 60. 1. A permit for the construction of a regional broadband network, required pursuant to the provisions of the act of 7 July 1994 — Construction Law shall be issued by a locally competent voivode, on the basis of and pursuant to the provisions of that act, subject to the provisions of the present act.

2. A voivode shall issue a permit for the construction of a regional broadband network, depending on the scope specified in an investor's application, for the whole investment or for the part thereof, in particular for separate sections of the network or of the line located on the territory of a voivodeship.

3. If necessary, a construction permit shall include:

- 1) a demolition duty with the prior written consent of the owner of existing construction objects and the date of such a demolition;
 - 2) the obligation to rebuild existing utilities;
 - 3) specification of restrictions concerning the use of a real property in order to fulfil duties referred to in indent 1 and 2 or other duties necessary to construct a regional broadband network.
4. Provisions of Article 124 (4) and (8), Article 124a and Article 128 (4) of the act of 21 August 1997 on real estate management shall apply respectively.
5. Provisions of Article 52 (3) and (4), Article 56 and Article 57 (2) shall apply to the permit for the construction of a regional broadband network.

Article 61. 1. In the building permit of a regional broadband network, a voivode may allow, to the extent necessary for the completion of a given investment, to remove trees and bushes growing on real properties covered by the decision concerning the specification of a regional broadband network location, excluding trees and bushes which are the forms of nature conservation or which are part thereof, within the meaning of the act of 16 April 2004 on nature conservation (Journal of Laws of 2009 No. 151, item 1220, No. 157, item 1241 and No. 215, item 1664 and of 2010 No. 76, item 489). Provisions of chapter 4 of the act of 16 April 2004 on nature conservation, excluding Articles 84—89 thereof, shall not apply to investments concerning a regional broadband network location.

2. In the case referred to in paragraph 1, an application for a construction permit shall additionally include:

- 1) an inventory of trees and bushes which grow on the territory covered by the application, with specified species, a tree trunk circumference measured at the height of 130 cm and the purpose and to-date way of using a territory where trees and bushes grow, and
- 2) a greenery management plan, as the part of a plot or territory management plan specifying the reason and the date of a planned removal of individual trees or bushes, the size of an area from which bushes will be removed and planned substitute planting.
3. In a permit for the construction of a regional broadband network, a voivode may impose an obligation to transplant trees or bushes to a specified place or to replace them with other trees and bushes, in the number not smaller than the number of removed trees or bushes.
4. Fees for the removal of trees or bushes shall be borne by an investor.
5. The State Forests National Forest Holding managing, on the basis of the act of 28 September 1991 on forests (Journal of Laws of 2005 No. 45, item 435 as amended¹⁶), real properties with regard to which a decision on the permission to execute an investment within the framework of regional broadband networks has been issued, are obliged to perform, free of charge, subject to paragraph 6, logging of trees and bushes and removing them within a period specified in a separate agreement concluded by and between the State Forests National Forest Holding and an investor.
6. Costs of cutting down trees and bushes of up to 20 years of age and costs of their removal shall be borne by an investor.
7. Wood obtained as a result of the cutting down of trees and bushes referred to in paragraph 5, shall be managed by the State Forests National Forest Holding.

Chapter 7 Amendments to applicable provisions

Article 62. The Public Roads Law Act of 21 March 1985 (Journal of Laws of 2007 No. 19, item 115, as amended¹⁷) is hereby amended as follows:

1) in Article 4 after indent 15, indent 15a in the following wording:

"15a) technological channel - line of encasing cover elements, cable wells as well as other objects or equipment for installing or operation of:

- a) technical infrastructure equipment related to the needs of road management or to the needs of traffic.
- b) telecommunications lines along with power supply as well as power lines, not related to the needs of road management or to the needs of traffic.";

2) in Article 16 indents 3 and 4 shall be added in the following wording:

"3. In the event when the technological channel is a non-road investment, the contract, included in indent 2, may provide for transferring the technological channel to the road manager, pursuant to the conditions specified in the contract, with the possibility of establishing, to the benefit of the investor, the right to use a part of the channel. In such event the provisions of Article 39 indent 7 - 7f shall not be applicable to the establishment of the right to the benefit of the transferring investor.

4. The technological channel which is transferred, as referred to in indent 3, should comply with the technical conditions specified in separate regulations as well as with the conditions specified in the decision referred to in Article 39 indent 3.";

3) in Article 20, in indent 18 dot shall be replaced by a semicolon and indent 19 shall be added, in the following wording:

¹⁶ Amendments to the unified text of the act under consideration have been published in the Journal of Laws of 2005 No. 157, item 1315, No. 167, item 1399, No. 175, item 1460 and 1462, of 2006 No. 227, item 1658 and No. 245, item 1775, of 2007 No. 59, item 405, No. 64, item 427 and No. 181, item 1286, of 2008 No. 163, item 1011 and No. 199, item 1227, of 2009 No. 18, item 97, No. 42, item 340, No. 69, item 595, No. 92, item 753 and No. 157, item 1241 and of 2010 No. 96, item 620.

¹⁷ Amendments to the consolidated text of the act were published in the Journal of Laws of 2007 No. 23, item 136 and No. 192, item 1381, of 2008 No. 54, item 126, No. 218, item 1391 and No. 227, item 1505 and of 2009 No. 19, item 100 and 101, No. 86, item 720 and No. 168, item 1323.

"19) management and maintenance of the technological channels and collecting payments, referred to in Article 39 indent 7.";

4) in Article 39:

a) after paragraph 1, paragraph 1a shall be added in the following wording:

"1a. The provision included in paragraph 1 indent 1 shall not be applicable to installing, servicing, reconstruction and repair of the telecommunications infrastructure within the meaning of the act of 16 July 2004 — Telecommunications Law (Journal of Laws No. 171, item 1800, as amended¹⁸) as well as to the equipment used for provision or drainage of liquids, steam, gas, electrical

energy and to equipment related to its operation as well as to other activities related to the operation of the infrastructure and equipment, if technical conditions and safety requirements allow.

b) paragraph 3 shall be replaced by the following wording:

"3. In specially justified cases, installing construction objects within the right of way, which are not related to the needs of road management or to the needs of traffic, may be performed only on consent of a competent road manager, subject to paragraph 7, issued by way of an administrative decision. However, a competent road manager may refuse to issue a consent to install within the right of way the equipment and infrastructure, referred to in paragraph 1a, only if installing of the equipment and infrastructure would cause threat to road traffic safety, infringement of the requirements resulting from separate regulations or could lead to the loss of right on account of guarantee or warranty in respect of construction, reconstruction or repair of the road."

c) after paragraph 3a paragraphs 3b—3d shall be added in the following wording:

"3b. In the event that a competent body does not issue the decision, referred to in paragraph 3, within the period of 65 days from the date of submitting of the application, a higher-level body, and if there is no such body, a supervisory body, by way of a decision, which may be subject to an appeal, shall impose on the competent body a fine amounting to PLN 500 for each day of the delay. Inflows from fines constitute the National Budget revenue.

3c. Fine shall be paid within the period of 14 days from the date of delivery of the decision, referred to in paragraph 3b. In the event of non-payment of the fine, referred to in paragraph 3b, it shall be reclaimed pursuant to the provisions on the administrative enforcement proceedings.

3d. Periods specified in the provisions of law of performing specific activities, periods of suspension of the proceedings and periods of delay caused by fault of the party or for reasons beyond control of the body shall not be included in the deadline, specified in paragraph 3b."

d) paragraphs 5 and 6 shall be replaced by the following wording:

5. If the construction, reconstruction or repair of a road requires moving of the equipment or the object, specified in paragraph 3, the cost of moving shall be incurred by its owner.

6. During the construction or reconstruction of the road, the manager of the road is obliged to locate the technological channel within the right of way of:

1) national roads;

2) other public roads, unless within the period of 60 days from the date of filing the information specified in paragraph 6a the interest in making available the technological channel has not been filed."

e) after paragraph 6, paragraphs 6a — 6e shall be added in the following wording:

"6a. At the latest up to 6 months before the date of submitting of the application for issuing of a decision concerning environmental conditionings, or concerning a consent to execute the road investment or concerning issuing of a road construction consent, specified in paragraph 6 indent 2, the manager of the road shall publish on his website the information on the plans concerning initiation of a road construction or a road reconstruction and the information on the possibility of filing interest in making available the technological channel, at the same time, submitting this information to the President of the Electronic Communications Office (UKE), hereinafter referred to as "President of UKE".

6b. The entity that shall file the interest of making available by the manager of the road of the technological channel, and subsequently, after its construction, shall not submit the offer, is obliged to reimburse to the road manager the costs of the technological channel construction, unless it has been made available to other entities.

6c. Minister competent for communications, on application of a road manager, by way of decision, exempts the manager from the obligation of constructing the technological channel, if in the vicinity of the right of way there already exists a technological channel or another optical fibre cable line, which possess free resources sufficient to provide for the needs of the society in respect of broadband access or in the situation in which locating of the technological channel, in the case of road construction would be economically irrational or technically impossible. In relation to roads, specified in paragraph 6 indent 2, the exemption takes place before publishing, specified in paragraph 6a.

6d. Immediately after the construction of the technological channel, but before making it available to other entities, a road manager submits to the President of UKE the information on the route of the located technological channel.

6e. Road manager, on application of the President of UKE or of the telecommunications undertakings, provides information on the technological channels located within the right of way in the area of his jurisdiction",

f) paragraph 7 shall be replaced by the following wording:

"7. The road manager shall make available the technological channels against payment, by way of leasing contract or rental contract, pursuant to the provisions specified in paragraphs 7a— 7f."

¹⁸Amendments to this contract were filed in the Journal of Laws of 2004 No. 273, item 2703, of 2005 No. 163, item 1362 and No. 267, item 2258, of 2006 No. 12, item 66, No. 104, item 708 and 711, No. 170, item 1217, No. 220, item 1600, No. 235, item 1700 and No. 249, item 1834, of 2007 No. 23, item 137, No. 50, item 331 and No. 82, item 556, of 2008 No. 17, item 101 and No. 227, item 15.05, of 2009 No. 11, item 59, No. 18, item 97 and No. 85, item 716 and of 2010 No. 81, item 530 and No. 86, item 554.

- g) after paragraph 7, paragraphs 7a — 7f shall be added in the following wording:
- "7a. The road manager shall publish in the Public Information Bulletin, on a proper entity page, the information on the plans of making available the technological channel, providing the location of the channel, the scope of free resources in the channel, its basic technical parameters, the date and place of submission of offers, formal requirements relating to offers as well as the selection criteria in the case of offers exceeding the scope of free resources, without prejudice to paragraph 7e.
- 7b. The road manager shall publish the information referred to in paragraph 7a also in the event when before announcing the plans of making available the technological channel, he receives an application for making available the technological channel. In the event when the road manager receives first application for making available the technological channel, the announcement shall be published not later than within the period of 14 days from the date of submission of that application.
- 7c. Upon publishing of the information, referred to in paragraphs 7a and 7b, the road manager shall inform the President of UKE about this fact. The President of UKE shall immediately publish in the Public Information Bulletin, on his entity page, the information on the announcement, along with the reference to the Public Information Bulletin page, on which the information has been published. The period of offers submission shall not be shorter than 14 days from the date of publication of the information by the road manager.
- 7d. The road manager shall be obliged to make a lease or rental contract of the technological channel at the latest in the period of 21 days from the date in which the deadline for offer submission expired.
- 7e. In the event that, due to the lack of free resources in the technological channel it is not possible to include all offers referring to making available the channel, the road manager shall select an entity to which he makes available the technological channel, applying the selection criteria included in the information, referred to in paragraph 7a, with observance of the rules
of transparency, equal treatment of the interested subjects, but also of the priority for installing in the technological channel optic fibre cable lines intended for the needs of telecommunication broadband access.
- 7f. Making the technological channel available shall be subject to payments in the amount specified in a contract, whereby the payments are settled on the level of the channel construction and maintenance costs. The provision in Article 40 paragraph 3 shall not be applicable to the telecommunications and power lines as well as to other equipment placed in the technological channel."
- h) Paragraph 8 shall be replaced by the following wording:
"8. Conducting the activities in reference with management and maintenance of technological channels, referred to in paragraph 6, the road manager may entrust, by way of a contract, to an entity selected in a tender, without prejudice to the provisions on public procurements, or in the manner provided by the Act of 9 January 2009 on licence for construction works or services."
- 5) in Article 40, paragraph 7 shall be replaced as follows:
"7. Minister competent for transportation, by way of regulation, shall settle without prejudice to the provisions of public aid, for the roads the manager of which is the Director General of National Roads and Highways, the rates of payment for the occupation of 1 m² of the right of way. Payment rates referred to in paragraphs 4 and 6 cannot exceed PLN 10 for one day of occupation of the right of way, and payment rate referred to in paragraph 5 cannot exceed PLN 200, whereby in relation to the objects and equipment of the telecommunications infrastructure, payment rates referred to in paragraphs 4 and 6 cannot exceed PLN 0.20 for one day of the occupation of the right of way and the payment rate, as referred to in paragraph 5 cannot exceed PLN 20."
- Article 63** of the Act of 17 May 1989 — Geodesic and Cartographic Law (Journal of Laws of 2005 No. 240, item 2027, as amended)¹⁹⁾ is hereby amended as follows:
- 1) in Article 2 after indent 14, indents 14a and 14b shall be added, in the following wording:
"14a) national database of the geodetic register of utilities networks — shall mean a database of rigorously appropriate to a database of topographic objects;
14b) district database of the geodetic register of utilities networks — shall mean a database of rigorously of a master map in the scale from 1:500 to 1:5000;"
- 2) in Article 7a in indent 16 dot shall be replaced by a semicolon and indent 16a shall be added in the following wording:
"16a) establishes and keeps national database of the geodetic register of utilities networks on the basis of district database of the geodetic register of utilities networks;"
- 3) In Article 40, after paragraph 2, paragraph 2a shall be added in the following wording:
"2a. Database copies from national and district resources shall be mutually transferred between the resources in order to be updated and made available pursuant to the provisions of the Act."

Article 64. of the Act of 8 March 1990 on Community Self-government (Journal of Laws of 2001 No. 142, item 1591, as amended)²⁰⁾ In Article 7, in paragraph 1, after indent 3, indent 3a shall be added, in the following wording:

¹⁹⁾ Amendments to the consolidated text of the act were published in Journal of Laws of 2006 No. 170, item 1217, of 2007 No. 21, item 125, of 2008 No. 201, item 1237 and No. 227, item 1505, of 2009 No. 31, item 206, No. 42, item 334, No. 98, item 817 and No. 157, item 1241 and of 2010 No. 76, item 489.

²⁰⁾ Amendments to the consolidated text of the act were published in Journal of Laws of 2002 No. 23, item 220, No. 62, item 558, No. 113, item 984, No. 153, item 127, No. 214, item 1806, of 2003 No. 80, item 717, No. 162, item 1568, of 2004 No. 102, item 1055, No. 116, item 1203 and No. 16, item 1759, of 2005 No. 172, item 1441 and No. 175, item 1457, of 2006 No. 17, item 128, No. 181, item 1337, of 2007 No. 48, item 327, No.

"3a) activity in the scope of telecommunications,".

Article 65. In the Act of 7 July 1994 — Construction Law (Journal of Laws of 2006 No. 156, item 1118, as amended²¹) is hereby amended as follows:

1) in Article 3:

a) indent 3 shall be replaced by the following wording:

3) architectural structure —shall include each construction object which is neither a building nor an object of street furniture, such as: linear objects, airports, bridges, viaducts, flyovers, tunnels, culverts, technical networks, free-standing antenna masts, free-standing attached to the ground advertising constructions, earth structures, defence structures (fortifications), protective structures, hydraulic structures, reservoirs, free-standing industrial installations or technical devices, sewage treatment plants, dumping grounds, water treatment plants, retaining constructions, on-ground and underground pedestrian crossings, utilities networks, sports buildings, cemeteries, statues, construction elements of technical devices (boilers, industrial furnaces, wind power plants and other devices) as well as foundations for machines and devices as technically separate elements of objects constituting the functional entirety,";

b) after indent 3, indent 3a shall be added, in the following wording:

"3a) linear object —shall mean architectural object, characteristic parameter of which is length, especially road with exit ramps, railway line, water pipeline, sewerage, gas pipeline, heating pipeline, pipeline, power line and overhead power line, ground cable line and placed immediately in the ground, underground cable line, dike as well as cable canalization, whereby the cables installed within it do not constitute construction objects or their part or a part of any device;"

2) In Article 5, in paragraph 1, after indent 2, indent 2a shall be added in the following wording:

"2a) possibility of obtaining access to telecommunication services, especially in respect of broadband internet access;"

3) In Article 29:

a) in paragraph 1, after indent 20, indents 20a and 20b shall be added, in the following wording:

"20a) telecommunication cable lines; 20b) cable canalization;"

b) in paragraph 2:

— indent 15 shall be replaced by the following wording:

"15) installing devices, including antenna support constructions and radiocommunication installations, on construction objects;"

— in indent 16 dot shall be replaced by semicolon and indent 17 shall be added in the following wording:

17) installing telecommunication cables in cable canalization.";

4) In Article 30, in paragraph 1 indent 1 shall be replaced by the following wording:

"1) construction site, referred to in Article 29 paragraph 1 indents 1—3, 5—19 i 20a — 21;"

Article 66. in the Act of 20 December 1996 on municipal services (Journal of Laws of 1997 No. 9, item 43, as amended²²) In Article 3 paragraph 1 shall be replaced by the following wording:

"1. Local self-government units by way of a contract may entrust execution of tasks in the scope of municipal economy to natural persons, to legal persons or to organizational units without legal personality without prejudice to the provisions of the Act of 27 August 2009 on public finance (Journal of Laws No. 157, item 1240 and of 2010 No. 28, item 146 No. 96, item 620), pursuant to provisions of the Act of 19 December 2008 on public-private partnership (Journal of Laws of 2009 No. 19, item 100), provisions of the Act of 9 January 2003 on licence for construction works or services (Journal of Laws No. 19, item 101, No. 157, item 1241, No. 223, item 1778), provisions of the Act of 29 January 2004 — Public Procurement Law (Journal of Laws of 2007 No. 223, item 1655, as amended²³) and provisions of the Act of 24 April 2003 on public benefit and volunteer work (Journal of Laws of 2003 No. 96, item 873, as amended²⁴) or pursuant to general rules."

Article 67. of the Act of 21 August 1997 on property management (Journal of Laws of 2010 No. 102, item 651, as amended²⁹) is hereby amended as follows:

1) In Article 37, in paragraph 2 indent 11 shall be replaced by the following wording:

"11) shall be sold to a private partner or to the partnership, referred to in Article 14 paragraph 1 of the Act of 19 December 2008 on public-private partnership if the act of sale constitutes own contribution of a public entity and selection of the private partner was conducted in the manner specified in Article 4 paragraph 1 or 2 of the Act;"

138, item 974, No. 173, item 1218, of 2008 No. 180, item 1111, No. 223, item 1458, of 2009 No. 52, item 420, No. 157, item 1241 and of 2010 No. 28, item 142 and 146 and No. 40, item 230.

²¹ Amendments to the consolidated text of the act were published in Journal of Laws of 2006 No. 170, item 1217, of 2007 No. 88, item 587, No. 99, item 665, No. 127, item 880, No. 191, item 1373, No. 247, item 1844, of 2008 No. 145, item 914, No. 199, item 1227, No. 206, item 1287, No. 210, item 1321, No. 227, item 1505, of 2009 No. 18, item 97, No. 31, item 206, No. 160, item 1276, No. 161, item 1279 and of 2010 No. 75, item 474.

²³ Amendments to the consolidated text of the Act were published in Journal of Laws of 2008 No. 171, item 1058, No. 220, item 1420, No. 227, item 1505 and of 2009 No. 19, item 101, No. 65, item 545, No. 91, item 742, No. 157, item 1241, No. 206, item 1591, No. 219, item 1706, No. 223, item 1778.

²⁴ Amendments to the consolidated text of the Act were published in Journal of Laws of 2004 No. 64, item 593, No. 116, item 1203 and No. 210, item 2135, of 2005 No. 155, item 1298, No. 169, item 1420, No. 175, item 1462, No. 249, item 2104, of 2006 No. 94, item 651, of 2008 No. 209, item 1316, of 2009 No. 19, item 100, No. 22, item 120, No. 157, item 1241 and of 2010 No. 28, item 164.

2) In Article 124, after paragraph 1a, paragraph 1b shall be added in the following wording:

"1b. In the scope of public communication devices a consent decision shall be issued in concert with the President of UKE."

Article 68 of the Act of 5 June 1998 on voivodship self-government (Journal of Laws of 2001 No. 142, item 1590, as amended²⁵) is hereby amended as follows:

1) Article 13 shall be replaced by the following wording:

Article 13. "1. In the scope of public benefit the voivodship may form limited liability companies, joint-stock companies or cooperatives and may enter into such companies or cooperatives.

2. Beyond the scope of public benefit the voivodship may form limited liability companies and joint-stock companies and enter into such companies if the activity of those companies encompasses performance of promotion, education, publishing actions and performance of activity in respect of telecommunications which serve the purpose of voivodship development.";

2) In Article 14, in paragraph 1, indent 15a shall be added in the following wording:

"15a) activity in respect of telecommunications.";

3) In Article 18 in indent 19 letter e shall be replaced by the following wording:

"e) forming commercial law companies or cooperatives and entering to such companies and cooperatives as well as specifying the rules of contributing as well as of taking up, purchasing and selling shares and stocks,".

Article 69. In the Act of 5 June 1998 on district self-government (Journal of Laws of 2001 No. 142, item 1592, as amended²⁶) in Article 4 in indent 22 the dot shall be replaced by a comma and indent 23 shall be added in the following wording:

"23) activity in the scope of telecommunications,".

Article 70. of the Act of 27 March 2003 on spatial planning and development (Journal of Laws No. 80, item 717, as amended²⁷) is hereby amended as follows:

1) In Article 1, in paragraph 2 in indent 9 the dot shall be replaced by a semicolon and indent 10 shall be added in the following wording:

"10) needs in the scope of technical infrastructure development, especially of broadband networks.";

2) In Article 2:

a) indent 5 shall be replaced by the following wording:

:5) "public goal investments" — shall mean local actions (commune) and non-local actions (district, voivodship and national) as well as national actions (encompassing also international and interregional investments), regardless of the status of the entity taking these actions and of the source of their financing, which constitute the executions of the goals, referred to in Article 6 of the Act of 21 August 1997 on property management (Journal of Laws of 2010 No. 102, item 651, No. 106, item 675, as amended²);",

²⁶) Amendments to the consolidated text of the Act were published in Journal of Laws of 2002 No. 23, item 220, No. 62, item 558, No. 113, item 984, No. 153, item 1271, No. 200, item 1688 and No. 214, item 1806, of 2003 No. 162, item 1568, of 2004 No. 102, item 1055 and No. 167, item 1759, of 2007 No. 173, item 1218, of 2008 No. 180, item 1111 and No. 223, item 1458, of 2009 No. 92, item 753 and No. 157, item 1241 and of 2010 No. 28, item 142 and 146 and No. 40, item 230.

²⁷) Amendments to the consolidated text of the Act were published in Journal of Laws of 2004 No. 6, item 41, No. 141, item 1492, of 2005 No. 113, item 954, No. 130, item 1087, of 2006 No. 45, item 319 and No. 225, item 1635, of 2007 No. 127, item 880, of 2008 No. 199, item 1227, No. 201, item 1237, No. 220, item 1413 and of 2010 No. 24, item 124 and No. 75, item 474.

b) indent 13 shall be replaced by the following wording:

"13) "utilities" — shall mean roads, construction objects, devices and wires referred to in Article 143 paragraph 2 of the Act of 21 August 1997 on public trading in securities;"

3) in Article 11 in indent 8 in letter j the semicolon shall be replaced by a comma and letter k shall be added in the following wording:

"k) of the President of Electronic Communications Office in respect of telecommunications;"

4) in Article 17 in indent 6 in letter c semicolon shall be replaced by comma and letter d shall be added in the following wording:

"d) of the President of Electronic Communications Office in the scope of telecommunications;"

5) in Article 51:

a) paragraph 2 shall be replaced by the following wording:

²²) Amendments to the consolidated text of the Act were published in Journal of Laws of 1997 No. 106, item 679 and No. 121, item 770, of 1998 No. 106, item 668, of 2002 No. 113, item 984, of 2003 No. 96, item 874 and No. 199, item 1937, of 2008 No. 223, item 1458 and of 2009 No. 19, item 100 and 101 and No. 157, item 1241.

²⁵) Amendments to the consolidated text of the Act were published in Journal of Laws of 2002 No. 23, item 220, No. 62, item 558, No. 153, item 1271, No. 214, item 1806, of 2003 No. 162, item 1568, of 2004 No. 102, item 1055, No. 116, item 1206 and No. 167, item 1759, of 2006 No. 126, item 875, No. 227, item 1658, of 2007 No. 173, item 1218, of 2008 No. 180, item 1111, No. 216, item 1370, No. 223, item 1458, of 2009 No. 157, item 1241 and of 2010 No. 28, item 142 and 146 and No. 40, item 230.

"2. In the event of non-issuing, by an appropriate body, of the decision about settling the location for the public goal investment within the period of 65 days from the date of submission of the application for issuing of such a decision, a higher level body, by way of a decision which may be subject to an appeal, shall impose on this body a fine amounting to PLN 500 for each day of the delay. Inflows from fines shall constitute the National Budget revenue."

b) After paragraph 2, paragraphs 2a-2c shall be added in the following wording:

"2a. In cases specified in paragraph 2, the voivode shall be deemed the higher-level body.

2b. Fine shall be paid within the period of 14 days from the date of delivery of the decision, referred to in paragraph 2. In the event of non-payment of the fine, it shall be reclaimed pursuant to the provisions on the administrative enforcement proceedings.

2c. periods provided in the provisions of law for performing specified activities, periods of suspension of the proceedings and periods of delay caused by fault of the party or for reasons beyond control of the body shall not be included in the deadline referred to in paragraph 2.";

6) in Article 53:

a) after paragraph 2, paragraph 2a shall be added in the following wording:

"2a. The President of the Electronic Communications Office may appear as a party in the proceedings of settling the location of the public benefit investment in respect of public communications within the meaning of the Act of 21 August 1997 on public trading in securities. Provisions of the Code of Administrative Procedure referring to prosecutor are applicable to the President of the Electronic Communications Office."

b) paragraph 5 shall be replaced by the following wording:

"5. Contracts referred to in paragraph 4 shall be made pursuant to Article 106 of the Code of Administrative Procedure, whereby the only the investor shall possess the right to file an appeal. In the event of not taking a stand by the agreement-making body within the period of 2 weeks from the date of delivery of the application for the agreement — the agreement shall be deemed made.";

7) Article 56 shall be replaced by the following wording:

"Article 56. Agreement upon the location of the public benefit cannot be denied if the investment goal complies with the separate regulations. Provision of Article 1(2) cannot constitute the basis for denial of the agreement upon the location of the public goal investment.";

8) in Article 57(4) shall be replaced by the following wording:

"4. Rural commune head, mayor or president of a city submits to the marshal of the voivodeship a copy of decisions referred to in paragraphs 1 and 2, within the period of 7 days from the issue date."

Article 71. The Act of 16 July 2004 —Telecommunications Law (Journal of Laws No. 171, item 1800, as amended)²⁸ is hereby amended as follows:

1) after Article 6, Articles 6a and 6b shall be added in the following wording:

Article 6a. Operator of the public telecommunications network shall be obliged to submit, on the demand of the President of UKE, information on the location and type of telecommunication infrastructure in possession or of public telecommunications network, which are located within the area covered by the demand, for the needs related to seeking telecommunications access by local self-government units or specifying legitimacy of public intervention in telecommunications sector.

Article 6b. Operator of public telecommunications network shall be obliged to submit, on demand of the President of UKE a list of:

1) areas which in the previous year were covered with the range provided by the public telecommunications network operator.

2) new areas which during the present year will be included within the range of the public telecommunications network with specification of the conditions on which this will be done.

2) in Article 10:

a) after paragraph 1 paragraph 1a shall be added in the following wording:

"1a. Activity, referred to in Article 3 paragraph 1 of the Act of 7 May 2010 on the support for development of telecommunications services and networks (Journal of Laws No. 106, item 675), which does not constitute a business activity, performed by a unit of local self-government, and in the form specified within its legal personality, as well as in the form of agreement, union or association of local self-government units, of foundation the founder of which is a local self-government unit, community agreement, share-holding

²⁸Amendments to the Act were published in Journal of Laws of 2004 No. 273, item 2703, of 2005 No. 163, item 1362 and No. 267, item 2256, of 2006 No. 12, item 66, No. 104, item 708 and 711, No. 170, item 1217, No. 220, item 1600, No. 235, item 1700 and No. 249, item 1834, of 2007 No. 23, item 137, No. 50, item 331 and No. 82, item 556, of 2008 No. 17, item 101 and No. 227, item 1505, of 2009 No. 11, item 59, No. 18, item 97 and No. 85, item 716 and of 2010 No. 81, item 530 and No. 86, item 554.

company or a cooperative with a share of a local self-government unit, requires entry into register of local self-government units which perform business activity in respect of communications.",

b) paragraph 2 shall be replaced by the following wording:

"2. President of UKE shall be deemed the body which holds the register and the register of local self-government units which perform business activity in respect of telecommunications."

c) in paragraph 10 the words "of Code of Administration Procedure" shall be replaced by the words "of the Act of 14 June 1960 —Code of Administration Procedure (Journal of Laws of 2000 No. 98, item 1071, as amended)²⁹";

3) after Article 13, Article 13a shall be added in the following wording:

"Article 13a. Provisions of Article 10 paragraphs 4—6, 8—10 and 12 — 14 and Article 11 — 13 shall apply to the entry into register of the activity referred to in Article 2 paragraph 1 of the Act of 7 May 2010 on the support for development of telecommunications services and networks, to the register of local self-government units performing activity in respect of telecommunication. Declaration, referred to in Article 10 paragraph 5, in the case of a person filing an application for entry into the register of local self-government entities performing business activity in respect of communication, it should also declare that the person complies with and knows the conditions of performing the activity to which the application refers, pursuant to the Act of 7 May 2010 on the support for development of telecommunications services and networks.";

4) Article 58 shall be revoked;

5) used in different cases in Article 116 paragraph 6, Article 179 paragraph 6, Article 206 paragraph 4 the words "Code of Administrative Procedure" shall be replaced by the words "of the Act of 14 June 1960 —Code of Administrative Procedure", used in appropriate cases;

6) after Article 122 Article 122a shall be added in the following wording:

"Article 122a. 1. If in the case referred to in Article 123 paragraph 1 indent 7, the President of UKE declares that covering the territory of the Republic of Poland with the range of telecommunications network is insufficient, he may by way of a decision oblige the entity that has at its disposal the reservation of the frequency to use the frequency in the manner that complies with the obligations, specifying:

1) the schedule of execution of covering with telecommunications network range

2) of these areas which are to be covered with the range of the telecommunications networks or the percentage of inhabitants which is to be covered with this range

—taking into account the needs of the end users, market demands and telecommunications technology development.

2. In cases of decisions, referred to in paragraph 1, provisions of Articles 16 and 17 shall be accordingly applicable

7) in Article 139 paragraph 1 shall be replaced by the following wording:

"1. Operator of a public telecommunications network shall be obliged to provide to other operators of public telecommunications network, to entities, referred to in Article 4, and to local self-government units performing activity referred to in Article 3 paragraph 1 of the Act of 7 May 2010 on the support for development of telecommunications services and networks, access to telecommunications infrastructure buildings, especially installing, operation, supervision and servicing of telecommunications devices, if performance of these activities without the access to the telecommunications infrastructure buildings is impossible or pointless from the point of view of spatial planning, human health, environment protection or public safety and order.";

8) Articles 140 and 141 shall be revoked

9) in Article 192:

a) in paragraph 1 indent 2 shall be replaced by the following wording: "2) performance of tasks:

a) in respect of regulation of postal activity, specified in the Act of 12 June 2003 —Postal Law (Journal of Laws of 2008 No. 189, item 1159, of 2009 No. 18, item 97 and No. 168, item 1323 and of 2010 No. 47, item 278),

b) specified in the Act of

— 7 May 2010 on the support for development of telecommunications services and networks,

— of 21 March 1985 on public roads (Journal of Laws of 2007 No. 19, item 115, as amended³⁰),

²⁹Amendments to the consolidated text of the Act were published in Journal of Laws of 2001 o. 49, item 509, of 2002 No. 113, item 984, No. 153, item 1271 and No. 169, item 1387, of 2003 No. 130, item 1188 and No. 170, item 1660, of 2004 No. 162, item 1692, of 2005 No. 64, item. 565, No. 78, item 682 and No. 181, item 1524, of 2008 No. 229, item 1539, of 2009 No. 195, item 1501 and No. 216, item 1676 and of 2010 No. 40, item 230.

— of 27 March 2003 on the spatial planning and spatial development (Journal of Laws No. 80, item 717, as amended³¹),

— of 21 August 1997 on public trading of securities;"

b) paragraph 3 shall be replaced by the following wording:

"3. On the basis of information obtained from telecommunications undertakings and other entities having at their disposal the telecommunications infrastructure or executing investments in this respect, the President of UKE, within the period until 30 June, shall publish a report on the state of telecommunications market for the previous year, including covering of the territory of the Republic of Poland with the range of stationary and mobile telecommunications networks and shall present investment forecasts relating to the development of these networks. Report shall be published in the Public Information Bulletin of the Electronic Communications Office.";

10) in Article 206:

a) paragraphs 1—2a shall be replaced by the following wording:

"1. Proceedings before the President of UKE shall be pending pursuant to the Act of 14 June 1960 —Code of Administrative Procedure having regard to the amendments resulting from the Act and from the Act of 7 May 2010 on the support for development of telecommunications services and networks.

2. From the decision:

- 1) on setting a significant market position,
- 2) in case of imposing, relief or change of regulatory obligations,
- 3) on imposing penalties,
- 4) referred to in Article 201 paragraph 3,
- 5) issued in litigious cases, excluding decision in the case of frequency reservation after holding a tender or a contest as well as form the decision on declaring a tender or a contest as unresolved,
- 6) referred to in Article 7 paragraph 1, Article 13 paragraph 2, Article 20, Article 21 paragraph 2 and Article 22 of the Act of 7 May 2010 on the support for development of telecommunications services and networks.

— may be subject to an appeal to the District Court in Warsaw— the Court of Competition and Consumer Protection.

2a. The decisions in litigious cases, referred to in Article 30 of the Act of 7 May 2010 on the support for development of telecommunications services and networks — may be subject to an appeal to the common court.

b) after paragraph 2a, paragraph 2aa shall be added in the following wording:

"2aa. Decisions, referred to in paragraph 2, excluding decision on penalty imposition are subject to immediate execution.";

11) in Article 209 in paragraph 1 indent 1 is replaced by the following wording:

"1) provides insufficient or false information or provides documents containing information provided in the Act or in the Act of 7 May 2010 on the support for development of telecommunications services and networks

Article 72. The Act of 3 October 2008 on providing information on the environment and the environmental protection, public participation in environmental protection and on environmental impact assessment (Journal of Laws No. 199, item 1227, as amended³²) is hereby amended as follows:

1) in Article 64:

a) in paragraph 1 indent 2 shall be replaced by the following wording:

"2) body, referred to in Article 78, in the case of undertakings which require decision, referred to in Article 72 paragraph 1 indents 1-3, 10, 11, 13, 15 and 16.";

³⁰ Amendments to the consolidated text of the Act were published in Journal of Laws of 2007 No. 23, item 136 and No. 192, item 1381, of 2008 No. 54, item 326, No. 218, item 1391 and No. 227, item 1505, of 2009 No. 19, item 100 and 101, No. 86, item 720 and No. 168, item 1323 and of 2010 No. 106, item 675.

³¹ Amendments to the Act were published in Journal of Laws of 2004 No. 6, item 41 and No. 141, item 1492, of 2005 No. 113, item 954 and No. 130, item 1087, of 2006 No. 45, item 319 and No. 225, item 1635, of 2007 No. 127, item 880, of 2008 No. 199, item 1227, No. 201, item 1237 and No. 220, item 1413 and of 2010 No. 24, item 124, No. 75, item 474 and No. 106, item 675.

b) in paragraph 2 indent 3 shall be replaced by the following wording:

"3) excerpt and map extract form the local land utilization plan, if the plan has been adopted, or information on the lack of the plan; it does not refer to opinion on the obligation of conducting assessment of the environmental impact of the undertaking for the public road, on the railway line of a national significance, on the Euro 2012 undertakings, on undertakings requiring licence for recognition of mineral deposits and on the investment executed pursuant to the Act of 24 April 2009 on investments in the regasified liquefied natural gas terminal in Świnoujście (Journal of Laws No. 84, item 700 and of 2010 No. 57, item 358) in respect of investment tasks referred to in Article 2 paragraph 2 and Article 38 of this Act, hereinafter referred to as "investment within the terminal", and for investment related to regional broadband networks.";

³²⁾Amendments to the Act were published in Journal of Laws of 2008 No. 227, item 1505, of 2009 No. 42, item 340, No. 84, item 700 and No. 157, item 1241 and of 2010 No. 28, item 145.

2) in Article 67 indents 1 and 2 are replaced by the following wording:

"1) contain information referred to in Article 66, specified with rigorousness and accuracy accordingly to data in possession which result from construction project and other information obtained after issuing of the decision on environmental conditionings and decision, referred to in Article 72 paragraph 1 indents 2— 9 and 11 — 16, if such decisions were issued for this undertaking;

2) specify the level and the manner of including requirements referring to environment protection, included in the decision on environmental conditionings and decisions referred to in Article 72 paragraph 1 indents pkt 2 — 9 and 11 — 16, if such decisions were issued for this undertaking;

3) in Article 70 in paragraph 1 indent 2 shall be replaced by the following wording:

"2) body referred to in Article 78, in the case of undertakings requiring decisions, referred to in Article 72 paragraph 1 indents 1 —3, 10—13, 15 and 16.";

4) in Article 72 in paragraph 1 in indent 15 dot shall be replaced by semicolon and indent 16 shall be added in the following wording:

"16) decision on settling location of the regional broadband network — issued pursuant to the Act of 7 May 2010 on the support for development of telecommunications services and networks (Journal of Laws No. 106, item 675), if it is requires.";

5) in Article 74 in paragraph 1 indent 5 shall be replaced by the following wording:

"5) in case of undertakings for which the body pursuing proceedings is constituted by the regional environment protection directorate — an excerpt and a map extract form the local land utilization plan, if the plan has been adopted, or information on the lack of the plan; it does not refer to application for issuing decision on the environmental conditionings for the public road, for the railway line of a national significance, for the Euro 2012 undertakings, for undertakings requiring licence for searching and recognition of mineral deposits, for the investments executed within the terminal and for investments related to regional broadband networks;"

6) in Article 75 in paragraph 1 in indent 1 in letter f. semicolon shall be replaced by comma and letter g shall be added, in the wording:

"g) investments related to regional broadband networks;"

7) in Article 77:

a) in paragraph 1 indent 2 shall be replaced by the following wording:

"2) seeks opinion of the body referred to in Article 78 in the case of undertakings requiring decision referred to in Article 72 paragraph 1 indents 1—3 and 10—16.",

b) in paragraph 2 indent 3 shall be replaced by the following wording:

"3) excerpt and map extract form the local land utilization plan, if the plan has been adopted, or information on the lack of the plan, it does not refer to agreements and opinion issued for the public road, for the railway line of a national significance, for the Euro 2012 undertakings, for undertakings requiring licence for searching and recognition of mineral deposits, for the investment within the terminal and for investments related to regional broadband networks;"

8) in Article 80 paragraph 2 shall be replaced by the following wording:

"2. Competent body shall issue decision on environmental conditionings after stating compliance of the location of the undertaking with arrangements of the local land utilization plan, if such plan has been adopted. It does not refer to decision on environmental conditionings issued for public road, for railway line of national significance, for Euro 2012 undertakings, for undertakings requiring licence for searching and recognition of mineral deposits and for the investment within the terminal as well as for investments related to regional broadband networks;"

9) in Article 96 in paragraph 2 indent 5 shall be replaced by the following wording:

"5) excerpt and map extract form the local land utilization plan, if the plan has been adopted, or information on lack of the plan, it does not refer to the public road, the railway line of a national significance, to the Euro 2012 undertakings, to undertakings requiring licence for searching and recognition of mineral deposits and for no-tank storage of substances in rock mass, to the investments within the terminal and to investments related to regional broadband networks;"

Article 73. The Act of 19 December 2008 on public- private partnership (Journal of Laws of 2009 No. 19, item 100) is hereby amended as follows:

1) Article 4 shall be replaced by the following wording:

"Article 4. 1. If the remuneration of a private partner is constituted by the right to derive benefits from the matter of public-private partnership, or if it is mostly the right along with cash payment, to the selection of a private partner and to the contract on public-private partnership, the provisions of the act of 9 January 2009 on licence for works or services (Journal of Laws No. 19, item 101, No. 157, item 1241 and No. 223, item 1778), in the respect that is not regulated in the Act herein, shall be applicable.

2. In cases other than specified in paragraph 1, to the selection of a private partner and to the contract on public-private partnership, the provisions of the Act of 29 January 2004 —Public Procurement Law (Journal of Laws 2007 No. 223, item 1655, as amended³³), in the respect that not regulated in the Act herein, shall be applicable.

3. In cases to which neither the provisions of the Act of 9 January 2009 on licence for works or services nor the provisions of the Act of 29 January 2004 —Public Procurement Law are applicable, the selection of a private partner is conducted in the manner which warrants maintenance of honest and free competition and obedience to the rules of equal treatment, transparency and proportionality, with appropriate inclusion of the provisions of this Act, and in the case of the lack, on the part of the public partner, of own contribution which constitutes security, also of the Act of 21 August 1997 on trading in securities (Journal of Laws of 2010 No. 102, item 651 and No. 106, item 675).";

2) in Article 11:

a) in paragraph 1 a there shall be added second sentence in the following wording: "Provision of Article 9 paragraph 3 shall be applicable accordingly.",

b) paragraph 2 shall be replaced by the following wording:

"2. Contract on public-private partnership may declare that the transfer of an asset may be conducted to the benefit of a national or self-governmental legal person or to the benefit of a commercial partnership with majority stake of a local self-government unit or of the State Treasury.";

3) in Article 13 paragraph 1 shall be replaced by the following wording:

"1. It shall be forbidden to introduce significant amendments to the provision of the contract made in respect of the offer content, on the basis of which a private partner was selected, unless the public entity provided the possibility of making such an amendment in the partnership announcement or in the proceedings documentation in the case of selection of a private partner and unless conditions of such an amendment were specified.".

Article 74. The Act of 9 January 2009 on licence for construction works or services (Journal of Laws No. 19, item 101, No. 157, item 1241 and No. 223, item 1778) is hereby amended as follows:

1) in Article 1 paragraph 2 shall be replaced by the following wording:

"2. Licensee, on the basis of licence contract made with licensor shall be obliged to execute the matter of the licence for a remuneration, which constitutes:

1) in the case of licence for construction works —exclusive right to run construction objects, including deriving benefits, or such a right with payment to the benefit of licensor;

2) in the case of licence for services —exclusive right to execute services, including deriving benefits or such a right with payment to the benefit of licensor.";

2) in Article 4 in paragraph 1 indent 2 shall be replaced by the following wording:

"2) mainly to perform at least one of the following types of activity:

a) making available the public telecommunications network,

b) operations of public telecommunications network,

c) providing publicly available services using public telecommunications network;"

³³Amendments to the consolidated text of the Act were published in Journal of Laws of 2008 No. 171, item 1058, No. 220, item 1420 and No. 227, item 1505 and of 2009 No. 19, item 101, No. 65, item 545, No. 91, item 742, No. 157, item 1241, No. 206, item 1591, No. 219, item 1706 and No. 223, item 1778.

Chapter 8 Interim and Final Provisions

Article 75 1. Provisions of Article 46 shall be applicable to local plans which are mandatory on the date of entering into force of the Act.

2. Within the period of 12 months from the date of entering into force of the Act, communes obtain the content of local plans which are mandatory on the area of their competence to requirements specified in Article 46 paragraph 1.

3. Rural commune head, mayor or president of a city within 7 days from the date of expiry of the deadline specified in paragraph 2, shall submit to a competent voivode mandatory local plans and documentation of planning works in order to conduct evaluation of their compliance with the requirements specified in Article 46 paragraph 1.

4. If the content of submitted local plans has not been adjusted to requirements specified in article 46 paragraph 1, the voivode shall change the local plan for the area in reference to which appropriate changes have not been made and shall issue in this matter a substitute order. Plan which has been changed in this manner shall bring legal effects which are identical to that of land utilization plan.

5. Costs of the change of land utilization plan shall be entirely incurred by the commune to the area of which the substitute order refers.

6. Substitute order shall not be issued after 18 months from the date of submission of the local plan to the voivode.

7. In case of filing by commune council of a complaint against the substitute order, referred to in paragraph 4, the administrative court shall assign a day of trial within the period of 30 days from the day of reception of the complaint by the court.

8. Provisions of the Act of 8 March 1990 on community self-government shall be applicable respectively.

Article 76 Local self-government unit which on the date of entering into force of the Act possesses telecommunications infrastructure or telecommunications networks shall be obliged to submit application for entering into register of local self-government units which perform activity in respect of telecommunications within the period of 6 months from the date of entering into force of the Act.

Article 77. 1. In case of contracts for a specified period, made before the date of entering into force of the Act, relating to activity, referred to in Article 3 paragraph 1 and Article 16 paragraph 1, in order to introduce amendment for prolonging or converting the contract into a contract for non-specified period, provisions of this Act shall be applicable.

2. Local self-government units and entities performing tasks in respect of public utility shall be obliged to adjust to provisions of this Act, the contracts for unspecified period, made before entering into force of this Act, referring to activity referred to in Article 3 paragraph 1 and Article 16 paragraph 1, within the period of 1 year from the date of entering into force of this Act.

3. In the event when the President of UKE declares that activity referred to in Article 3 paragraph 1 and Article 16 paragraph 1 violates requirements specified in Article 3 paragraph 2, the President of UKE may by way of decision:

- 1) order that the declared irregularities are removed
- 2) indicate measures which should be applied in order to remove the irregularities,
- 3) specify allowed scope and conditions of provision of telecommunications services to end users or
- 4) specify the deadline of removing of the irregularities or of adjusting of the activity to the scope and conditions, referred to in indent 3

— taking into account the end users interest, justified interest of the self-government community and the requirements specified in Article 3 paragraph 2, as well as measures which should be applied in order to remove the irregularities, and the allowed scope and conditions of provision of telecommunications services to end users cannot render the performance of the to-date activity impossible.

4. Provisions of Articles 9 and 10 shall be applicable also to the activity initiated before the date of entering into force of this Act.

Article 78 1. Parties to the contracts on utilization, referred to in Article 33 paragraph 1, of securities constituting property of the National Treasury or of a public finance sector unit, which are occupied or governed by a finance sector unit, referring to financial conditions of utilization of these securities, made before the date of entering into force of provisions issued pursuant to Article 33 paragraph 5:

- 1) for unspecified period,

2) for specified period, the expiration of deadline of which is dated before entering into force of the provisions issued pursuant to Article 33 paragraph 5

— shall be obliged to adjust provisions of these contracts to provisions issued pursuant to Article 33 paragraph 5 within the period of 2 years from the date of their entering into force.

2. In case of non-adjustment of provisions of the contracts on time and on conditions referred to in Article 1, fines shall be applied in the amount specified in provisions issued pursuant to Article 33 paragraph 5

Article 79. 1. To a road investment for which, before the date of entering into force of this Act an application for issuing a decision was filed:

- 1) on environmental conditionings of consent for execution of the undertaking pursuant to the Act of 27 April 2001 — Environmental Protection Law (Journal of Laws of 2008 No. 25, item 150, as amended³⁴) or
- 2) on environmental conditionings pursuant to the Act of 3 October 2008 on providing information on the environment and environmental protection, public participation in environmental protection and on environmental impact assessment or
- 3) on settling the location of a road or decision on settling the location of a national road or decision on execution of road investment

— current provisions shall be applicable.

2. To road investment referring to toll motorways, executed pursuant to rules specified in the Act of 27 October 1994 on toll motorways and on National Road Fund, in cases of which, before the date of entering into force of the Act, a contract was made on construction and operations of a motorway or a call for tender was issued for construction and operations or only operations of the motorway, current provisions shall be applicable.

Article 80. To the cases of land development conditions decision, initiated and completed up to the date of entering into force of the Act, by way of final decision current provisions shall be applicable on the application of the investor which may be filed at the latest within the period of 2 months from the date of entering into force of the Act.

Article 81. 1. Performance provisions issued pursuant to Article 40 paragraph 7 of the act referred to in Article 62 remain in force till the date of entering into force of new performance provisions, issued pursuant to Article 40 paragraph 7 of the act referred to in Article 62, in the wording imposed by this Act, however not longer than for the period of 12 months from the date of entering into force of the Act.

2. Performance provisions issued pursuant to Article 7 of the Act of 7 July 1994 — Construction Law remain in force till the date of entering into force of new performance provisions and may be amended pursuant to these provisions.

3. Minister competent for construction, spatial and housing development in the regulation referred to in Article 7 paragraph 2 indent 1 of the Act of 7 July 1994 — Construction Law shall specify detailed technical conditions of performance of the obligation referred to in Article 30 paragraph 6, within the period of 18 months from the date of entering into force of the Act.

Article 82 As regional broadband networks within the meaning of Article 2 paragraph 1 indent 2 shall be recognized also telecommunications networks operated as broadband networks within operational programmes before the date of entering into force of the Act.

Article 83. 1. Within the period of two years from the date of entering into force of the Act, Minister competent for communication, in cooperation with the President of UKE, shall draw up report referring to the condition of broadband networks on the territory of the Republic of Poland and to actions taken by telecommunications undertakings, national bodies and local self-government units, in respect of development of such an infrastructure.

2. The report, referred to in paragraph 1, shall be submitted by a Minister competent for communications to the Prime Minister.

3. The report referred to in paragraph 1 contains conclusions and proposals of actions in support of development of broadband networks, especially in rural areas, including support of equal and efficient competition in respect of provision of telecommunication services and ensuring to the users maximum benefits in respect of variety of telecommunications services, their price and quality.

Article 84 Provision of Article 54 paragraph 9 shall be applicable to Agricultural Property Agencies executing powers, referred to in Article 217 paragraph 5 of the Act of 18 July 2001 — Water Law, until 1 January 2012.

³⁴Amendments to the consolidated text of the abovementioned Act were published in Journal of Laws of 2008 No. 111, item 708, No. 138, item 865, No. 154, item 958, No. 171, item 1056, No. 199, item 1227, No. 223, item 1464 and No. 227, item 1505, of 2009 No. 19, item 100, No. 20, item 106, No. 79, item 666, No. 130, item 1070 and No. 25, item 1664 and of 2010 No. 21, item 104, No. 28, item 145, No. 40, item 227 and No. 76, item 489.

Article 85 To contracts made before the date of entering into force of the Act, referred to in acts amended in Articles 73 and 74, current provisions shall be applicable.

Article 86. President of UKE announces report referred to in Article 192 paragraph 3 of the Act specified in Article 71, for the year 2010 within the period from 30 June 2011

Article 87. The Act herein shall enter into force after 30 days from the date of publishing, excluding Article 29 which shall enter into force after 6 months from the date of publishing.

Speaker of the Sejm performing the duties of the President of the Republic of Poland: *B. Komorowski*