

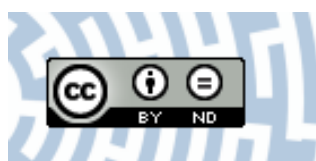


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Title: Polish education policy for secure use of digital media

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Citation style: Huk Tomasz. (2018). Polish education policy for secure use of digital media. "Athenaeum" (Vol. 60 (2018), s. 114-123), doi 10.15804/athena.2018.60.07



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POLISH EDUCATION POLICY FOR SECURE USE OF DIGITAL MEDIA

POLSKA POLITYKA OŚWIATOWA W ZAKRESIE BEZPIECZNEGO KORZYSTANIA Z MEDIÓW CYFROWYCH

Tomasz Huk*

ABSTRACT

Modern digital media not only provide the ways of gaining numerous benefits, but also pose some risks. This applies to adults as well as to children and adolescents who are the victims but also perpetrators of the disjunctive use of the media. The aim of this article is to indicate antinomies in the Polish education policy regarding the secure use of digital media, mainly such as computer, smartphone, and the Internet. The research analyses the most popular portals offering the e-mail service and uses the document analysis method for indicating the inconsistency between legal acts and ordinances of the minister in charge of education and upbringing.

Keywords: education policy, education, cyberbullying, happy slapping, hikikomori, sharenting, catfishing, addiction to digital media

ABSTRAKT

Współczesne media cyfrowe nie tylko umożliwiają człowiekowi osiągnięcie wielu korzyści, lecz są również przyczyną pojawiających się zagrożeń. Zjawisko to dotyczy zarówno osób dorosłych, jak i dzieci i młodzieży, będących ofiarami, ale i sprawcami dysjunktywnego korzystania z mediów. Celem artykułu jest wskazanie antynomii w polityce oświatowej państwa polskiego dotyczących bezpiecznego korzystania z mediów cyfrowych, głównie takich jak: komputer, smartfon, Internet. W badaniach przeanalizowano najpopularniejsze portale oferujące usługę poczty elektronicznej oraz zastosowano metodę analizy dokumentów, która umożliwiła wskazanie braku spójności aktów prawnych i rozporządzeń właściwego ministra do spraw edukacji i wychowania.

Słowa kluczowe: polityka oświatowa, edukacja, cyberprzemoc, happy slapping, hikikomori, sharenting, catfishing, uzależnienie od mediów cyfrowych

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INTRODUCTION – CHARACTERISTICS OF THE RISKS RELATED TO THE USE OF DIGITAL MEDIA

Security in the use of information and communication technologies is primarily connected with such media as the Internet and mobile phone (Pyżalski, 2011). The misuse of these media by people, regardless of their age, results in, among other things, the phenomenon of cyberbullying. In both the Polish and foreign literature on the subject, there are many definitions of the phenomenon of cyberbullying (Finkelhor, 2008). It is called electronic violence, which means that children and adolescents may be subject to persecution and harassment at any time of day or night (Sanchez, 2009). However, it should be emphasised that cyberbullying may be of a peer-like nature. Therefore, children and adolescents may undertake aggressive activities directed towards other people online in an open and intentional manner (Ybarra, 2004), with the use of digital media (Hinduja & Patchin, 2009).

Destructing the reputation (Willard, 2007), harassing on the Web (Hayes, 2008), intimidating, bullying, threatening, humiliating and persecuting, often with devastating consequences for the victim are the most common forms of violence where such media are used (Friedman, 2010).

Another specific type of electronic aggression is happy slapping. There are films on the Internet where teenagers provoke, humiliate or mock drunk men, which makes them happy. Such publications are just an example of happy slapping. This is a new phenomenon, as it was first mentioned in the media in 2005. Cases of cruel beating, humiliation of victims and also death of victims following injuries after being beaten or suicides after such event have been observed (Kowalski, Limber, & Agatston, 2008).

Other negative phenomena occurring in cyberspace include: hikikomori, sharenting, addiction to electronic media and catfishing. Hikikomori is a phenomenon identified in Japan, which is connected with avoiding social contacts (Teo & Gaw, 2010; Suwa & Suzuki, 2013). A person – hikikomori – makes contacts via the Internet only, because the only world in which such person functions is a virtual reality. Another phenomenon, i.e., sharenting, consists in a regular use of social media by parents in order to provide a lot of detailed information about their children (photos, videos; Brosch, 2016). Internet addiction is a compulsive and impulsive spectrum of disorders, which may be linked to preoccupation with sex through the media, excessive use of computer games, social media and instant messaging clients (Block, 2008; Caplan, Williams, &

Yee, 2009). Yet another phenomenon is catfishing, i.e., a practice of pretending to be someone else in social media in order to cheat or attract another person (*Cambridge Dictionary*; Lovelock, 2017).

EDUCATION POLICY VERSUS RISKS RELATED TO THE USE OF DIGITAL MEDIA IN THE US AND THE EU

The data on negative consequences of using contemporary media, presented in many scientific studies, make parents and teachers terrified. Adults wanting to protect their children against this form of violence choose the simplest option, i.e., limiting their children's access to computers, the Internet and mobile phones. Is this approach appropriate? According to many pedagogues and psychologists, absolute limiting or prohibiting the use of new media by children and adolescents is not a good solution. That is why issues related to these phenomena have been included in the education policy in many countries. The commonness of the pathological phenomenon of using technology is diverse and seems to be related to cultural factors. Since research reports from Asia (Seo, Kang, & Yom, 2009) show higher rates of disorders than in Europe or the United States, the theoretical references will pertain to cultural areas.

An example is the United States of America, where attention is paid to the limitations of the education system in this regard and so recommendations for creating preventive programmes related to the problematic use of the media have been formulated (Worthen, 2007). In individual US states, a strategy for addressing cyberbullying in the education policy has been developed. The policy assumptions: a) are consistent with the US Constitution, in particular the prohibition on restricting freedom of religion, press, speech, petition and assembly; b) have clear definitions of concepts connected with cyberbullying as well as inform students and their parents about actions taken if such phenomenon occurs on the school premises; c) give teachers the right to search their students' personal electronic devices in the event of cybercrime. The last of the actions cited above should be consistent with the US Constitution, in particular with the right to personal inviolability (Goodno, 2011).

The policy in the scope presented above is also pursued in the European Union member states, where the foundation is the human right to dignity (Forejtová, 2016). Pursuant to this policy, the responsibility for improving the security in cyberspace rests on all entities forming the global information soci-

ety, ranging from citizens to the government administrations, including schools (Cybersecurity Strategy of the European Union, 2013). Hence, the education policy should take into account the responsibility and authority of teachers in counteracting the negative phenomena of using electronic media (Willard, 2007), which will be consistent with the Constitution and other legal acts in a given state.

ANTINOMIES IN THE POLISH EDUCATION POLICY REGARDING THE SECURE USE OF DIGITAL MEDIA

In order to demonstrate the antinomies (contradictions) in the Polish education policy regarding the secure use of digital media by children, I analysed the following legal acts:

- Act of 14 December 2016, Journal of Laws 2017, item 59 – Education Law,
- Ordinance of the Minister of National Education of 14 February 2017, item 356 on the core curriculum of pre-school education and core curriculum of general education for primary school, including general education in primary schools for pupils with moderate and severe mental disability, general education in stage I of trade schools, general education in special schools preparing for employment and general education in post-secondary schools,
- Act of 23 April 1964, Journal of Laws 1964 No. 16, item 93 – Civil Code,
- Act of 6 June 1997, Journal of Laws 1997 No. 88, item 553 – Penal Code.

The education law should be compatible with other legal acts in force in the state, which is why I will first of all analyse the Civil Code and the Penal Code in the context of the secure use of digital media (information technology) by children and adolescents. It is worth noting at this point that at present, information and communication technology is based mainly on new media. The term “new media” is: – “new textual experience” related to the representation and connection of the text on the Web; – “new ways of representing the world”; – “new experience of the relationship among corporeality, identity and community”, which helps to create your own identity other than the one in the “real world”; – “new concepts of the relationship of the biological body and the technological media” resulting in the merger of media and people; – “new organisational and production patterns” regarding the form of presentation and transformation of information; - “new relations among entities” connected with

the emergence of the Internet and “media technologies” (Lister, Dovey, Giddings, Grant, & Kelly, 2009).

Referring to the above definition, it is worth considering who, from the legal point of view, can be a digital media user? According to the Civil Code, it is a natural person with the “capacity to perform acts in law”, which is necessary for full functioning in the society, including entering into contracts in virtual reality. Pursuant to the said Code, in the Polish law people of the legal age, i.e., those who have attained eighteen years of age, have the capacity to perform acts in law, while minors who have attained thirteen years of age have limited capacity to perform acts in law. Such provisions lead to numerous problems connected with the use of the Internet services and mobile media by children and adolescents.

The Civil Code says that people without the capacity to perform acts in law (over 13 years of age and under 18 years of age) may enter into contracts for minor day-to-day matters and they may also dispose of their earnings. As a result, adolescents who have attained thirteen years of age, and therefore have limited capacity to perform acts in law may enter into contracts related to the use of electronic mail, creating profiles on social networking sites and those related to obtaining material benefits via the Internet services. A frequent example of this are minor youtubers, who, while running YouTube channels, place products of well-known companies in their programmes (cosmetics, food, clothes), in exchange for a financial benefit.

The Polish law does not provide for an independent use of the Internet services by children under the age of thirteen. This is dictated mainly by security and legal protection reasons related to the use of the Internet by this age group. As a result, pupils under the age of 13 are not allowed to create their own e-mail accounts or profiles in social media. However, studies indicate that this prohibition is often violated by children (Huk, 2015).

My analysis of the most popular e-mail service providers shows that the practice of complying with the law in this area is similar. Pupils under the age of 13 are allowed to create their e-mail accounts upon the consent of their parents or legal guardians with the following service providers: Wirtualna Polska, Onet.pl, Google.pl, Outlook.

The above restrictions are in accordance with the law in force in Poland, ensuring the security of the Internet use by children and adolescents and protecting this group from inappropriate content contained in advertisements placed with the e-mail services. However, there are also service providers who allow only those who have attained 16 years of age to create e-mail accounts.

The Penal Code is another important legal act for children and adolescents in Poland. This Act contains a provision on punishing anyone who, through the Internet or other devices such as a mobile phone, makes sexual proposals to children under the age of 15, including proposals to participate in producing or recording pornographic content. Such person is subject to the penalty of restriction of liberty or deprivation of liberty for up to 2 years.

The Act Education Law explicitly defines how to protect children and adolescents against dangerous situations resulting from the use of information and communication technologies. Before I proceed to discussing the provisions of the Education Law, I will describe the education stages in Poland. The education system in Poland includes three basic education stages: kindergartens, primary schools and secondary schools. The first stage of education is a kindergarten, which covers children from 3 to 7 years of age. In the calendar year in which the child attains seven years of age, he or she is subject to the “compulsory education” in primary school. Primary school is divided into two following stages: grades 1–3 and grades 4–8. The student who ends the eighth grade of primary school, depending on the month in which he or she was born, attains the age of 14 or 15. The next stage of education is started in secondary school, which lasts two, three, four or five years. In secondary schools, the 3rd grade student attains the age of majority and therefore has the capacity to perform acts in law. Such student is allowed to make decisions independently while continuing his or her education in the fourth or fifth grade of secondary school.

According to the education law, kindergartens and schools are obliged to protect students using the media on the school premises against access to content that may threaten their proper development. At present, this provision is implemented more often in schools than kindergartens, because in schools students use digital media on their own. The implementation of these postulates in schools entails two aspects: technological and organisational one. In technological terms, schools apply anti-virus programs and firewalls that filter unwanted content. In organisational terms, procedures and regulations are in force in schools regarding the secure use of digital media.

The studies indicate that the majority of schools implementing the provisions related to protecting students against the negative effects of the use of digital media limit their use in schools by students. Therefore, many schools prohibit the use of mobile phones and other mobile devices. Excessive restrictions do not always bring the desired effects, and above all they do not fully comply with an equally important provision included in the Education Law, which refers to

developing students' skills of the efficient use of information and communication technologies. Such restrictions lead to situations in which students use new media secretly, for example, in school toilets. The education practice indicates that prevention as well as development of the appropriate attitudes of students towards risks related to the use of information and communication technologies are more important than prohibitions.

In Poland's education policy, special attention is paid to the security of children and adolescents in new media. In 2017, the Minister of National Education adopted the direction of *Security on the Internet. Responsible use of social media*. This postulate is reflected in the core curriculum containing content related to the secure use of new media at each of the education stages, and directly in educational activities planned by each school.

Unfortunately, not all legal acts related to the education policy are consistent with each other. The analysis of the legal acts described above and the analysis of the curriculum containing content taught to grades 4–6 of primary school identify contradictions. It turns out that according to the core curriculum, fourth grade students (at the age of 10), hence without the capacity to perform acts in law, should develop their social competences through the use of electronic mail and cooperation in a virtual environment in the so-called cloud.

The consequence of this provision includes IT curricula and textbooks designed for grades 4, 5 and 6 of primary school which cover the achievement of the abovementioned competences. In the school practice, students at the age of 10 create their e-mail accounts, although this infringes the Civil Code and the regulations of the Internet service providers. The analysis of selected regulations of the service providers indicates that such an option is permitted only if parents or legal guardians agree to the above and administer their children's e-mail accounts. However in practice, teachers rarely cooperate with parents in this respect. Therefore, as a result of legal contradictions, individual protests of parents emerge that are addressed directly to IT teachers in schools or to the Ministry of National Education. Pointing out the problem, individual parents do not want their children to have e-mail accounts, because it allows minors to use numerous Internet services intended for adults. Such services are related to gambling, sex, financial operations and other civil law contracts.

CONCLUSIONS

In a society based on digital media, protecting children and adolescent against the problematic use of digital media is one of the key directions of the education policy in Poland. However, it should be emphasised that the operationalisation of this direction at the level of ordinances of the minister in charge of education is not always in accordance with the superior legal acts. As a result, the secondary legislation for the education policy does not keep up with the changes related to the development of information and communication technologies. The contradictions in legal acts issued at the ministry level are observed in IT curricula and textbooks designed for pupils under the age of thirteen. They include content related to the use of the Internet services, which pupils are not allowed to use without the consent of their parents/legal guardians. Hence, in practice, school teachers commit an infringement of the Civil Code by teaching the content of the core curriculum.

The issues described in the article have important implications for the education policy in Poland, which should be consistent with other legal acts in Poland. However, it is significant for the assumptions of the policy not to focus only on limitations, but also on promoting media literacy, so that students could have a critical view of the presence of violence in digital media. The analyses indicate that individual parents are aware of the antinomies that are present in the Polish education policy. Probably many of such antinomies could be avoided if the authorities did not discourage education entities from participating in decision-making processes (Śliwerski, 2018). Therefore, one of the tasks of the education policy should be to seek appropriate solutions that on the one hand will protect children and adolescents against the problematic use of digital media, but on the other hand, they should promote these media without introducing unnecessary bans or restrictions. In conclusion, the education policy in the described area should be developed jointly by the Ministry of Education, teachers, parents and representatives of digital media.

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