



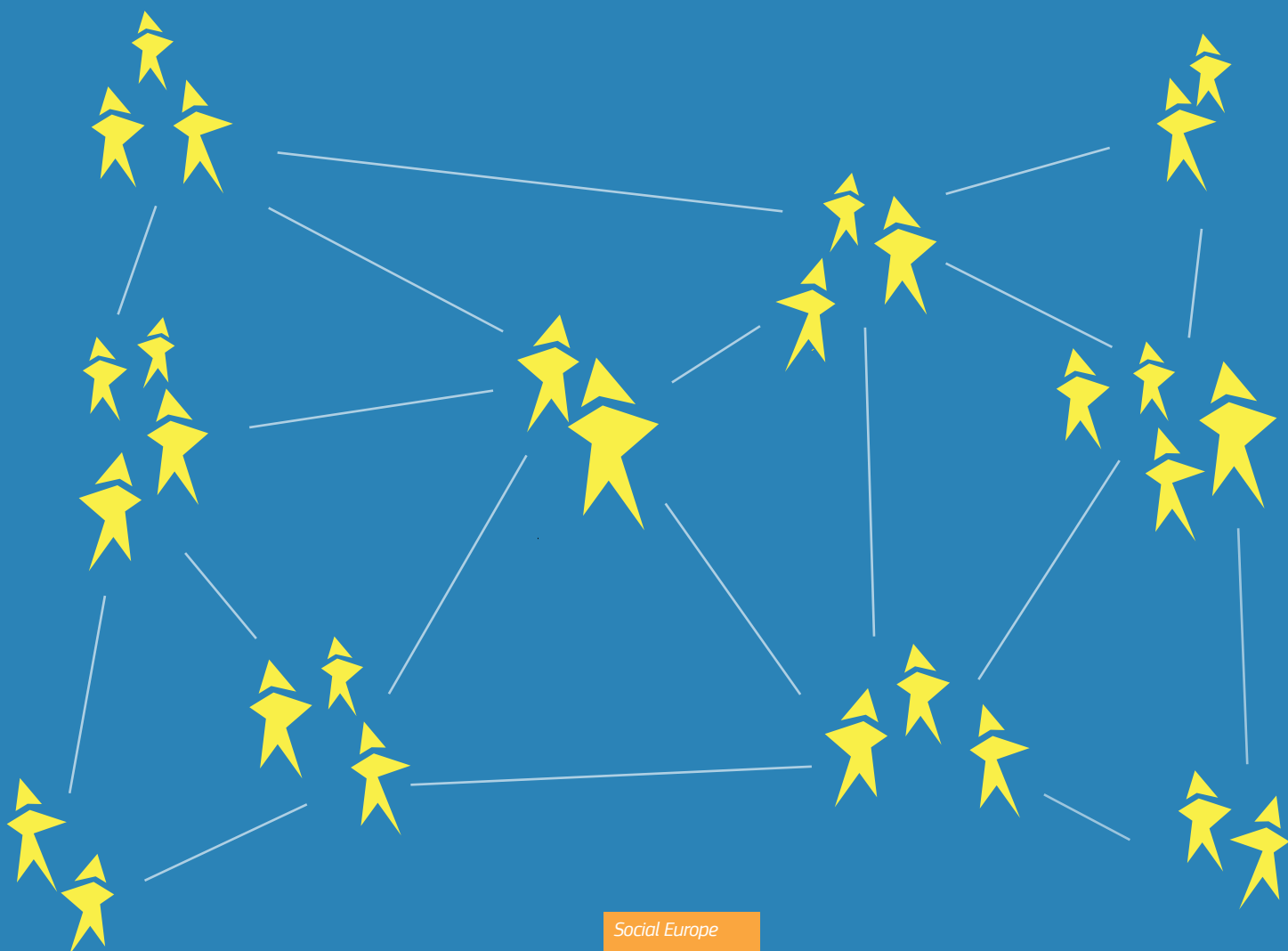
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EUROPEAN SOCIAL POLICY NETWORK (ESPN)

Social protection for people with disabilities

Poland

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Poland

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Summary

This report analyses selected important cash and in-kind social protection provisions available to adults with disabilities (i.e. aged 18 or above). There are other important provisions available to them in other areas not covered in this report. In line with Article 1 of the UN Convention on the Rights of Persons with Disabilities (CRPD), “people with disabilities” should be understood as “*those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*”.

The policy towards people with disabilities in Poland is currently based on the “care and rehabilitation” model. People with disabilities have access to a range of contributory and non-contributory benefits, including: the *Renta z tytułu niezdolności do pracy* (disability pension); the *Renta socjalna* (social pension); and various allowances aimed at providing additional income to people with disabilities and/or their carers.

Access to benefits is based on disability assessment provisions, including assessment for rehabilitation and care purposes (organised by local authorities) and assessment related to the loss of labour income (for which social security institutions in Poland are responsible). Disability status is also one of the conditions for claiming social assistance benefits.

According to EU-SILC¹ data, the risk of poverty among people with disabilities is lower than the EU average. On the other hand, people with disabilities who seek work rarely have a right to *Zasiłek dla bezrobotnych* (unemployment benefit), which is not available to people who receive disability pensions, social pensions, or the *Zasiłek stały z pomocy społecznej* (permanent allowance from social assistance).

People with disabilities also have access to assistive technology and personal assistance financed from the State Fund for Rehabilitation of People with Disabilities (*Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych*), the recently established Solidarity Fund, and the social health insurance system.

The public debate on social protection for people with disabilities concentrates on several issues: the adequacy of financial support in relation to actual needs; the transparency of the disability assessment procedures; financial support for full-time carers and the work-life balance of family care providers; and support for independent living by people with disabilities. Participants in the debate, most notably NGOs, underline the need to respect the rights of people with different needs due to disability, and the need to develop community services and move from institutional to community care whenever feasible. NGOs representing people with disabilities, and the Ombudsman, have been particularly active in stimulating discussion on the above-mentioned issues.

Furthermore, the existing rehabilitation and care model is criticised for not being compatible with the rights-based approach in the UN CRPD. Several stakeholders, including NGOs active in the area of supporting people with disabilities, underline that the overall policy approach to people with disabilities needs to be changed. According to them, it is necessary to completely change the philosophy of Polish law on disability, towards a rights-based approach.

In March 2021, the strategy for people with disabilities for 2021-2030 (*Strategia na rzecz osób z niepełnosprawnościami na okres 2021-2030*) was adopted. The strategy is aimed at strengthening social inclusion policies and activities, and increasing the labour market activity of people with disabilities (with the main goal of increasing it from 28% in 2019 to 45% in 2030). More decisive steps were also taken towards the full implementation of the UN CRPD, including the launch of a project, funded by the European Social Fund, focusing on preparing legal proposals and assessing their impact.

¹ European Union statistics on income and living conditions.

1. Access to disability-specific income support

1.1. Disability-specific benefits/pensions available to working-age people

Cash benefits for people with disabilities comprise: non-contributory benefits related to care; the social pension (paid to people whose disability occurred before they became economically active); and contributory disability pensions from social insurance systems for employees, self-employed people, and farmers.

1.1.1. *Renta socjalna* (Social pension)

a) Eligibility conditions

Disability-related qualifying criteria: Completely unable to work due to a health situation.

Age: Disability must occur before the age of 18, or during education before the age of 25.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having a work permit, and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: The *Renta socjalna* (social pension) is granted to people who did not start making social insurance contributions.

Gaps and/or obstacles: The main aim of this benefit is to provide an income to people who were not able to build up social insurance rights, therefore filling a gap in the existing contributory benefits framework.

b) Disability assessment framework

Type of assessment: Medically based assessments of disability combined with functional capacity assessment, including assessment of health detriment, its impact on the possibility of taking up work, and the persistence and timing of disability.

Responsible authorities: The Social Insurance Institution (*Zakład Ubezpieczeń Społecznych* – ZUS).

Method: Documentary evidence and/or personal interaction.

Supporting evidence:

- A certificate from the school or university confirming the period of study;
- a health certificate completed by the doctor who provides care for the applicant, issued not earlier than one month before the date of submitting the application for the determination of entitlement to the pension; and
- other medical records that may confirm the health condition (e.g. test results or hospital treatment cards).

Assessor: Evaluating doctor employed by the ZUS.

Decision maker: Evaluating doctor, with a right to an appeal to the doctors' committee of the ZUS.

Critical analysis: Not documented.

c) Benefit entitlements

Level of the benefit: The amount of the pension is determined in accordance with the Social Pension Act of 2003 (Article 6 [1]). It is equal to 100% of the minimum pension due to total work incapacity, which is determined according to the provisions of the Act on Old-Age and Disability Pensions. From March 2022, it is 1,338.44 zł (€297) per month.

Duration of the benefit: Permanent or temporary (depending on the assessment of disability). The evaluating doctor, based on the evidence, decides if the assessment is for a given period (i.e. there is a possibility of the claimant regaining the ability to work) or permanent.

Interactions with other income or other related benefits: The social pension is reduced if a pensioner receives income from work exceeding 70%, and up to 130%, of the average wage in the economy; it is suspended if the income from work exceeds 130%.² This leads to a "benefit trap", as a small increase in income leads to an income loss, particularly when the pension is suspended. The social pension is at the level of the social minimum in Poland.³

Challenges: In general, disability-related pensions are the lowest type of pension. As a result, pensioners with disabilities face higher rates of extreme poverty. According to Statistics Poland, 8.2% of disability pensioners face such a risk, compared with 5.2% in the total population (Statistics Poland, 2021).

1.1.2. *Renta z tytułu niezdolności do pracy (Disability pension)*

a) Eligibility conditions

Disability-related qualifying criteria: Full or partial work incapacity due to a health situation.

Age: Disability must occur after age 18 and before retirement age.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having work permit, and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contribution history: Minimum period of insurance (contributory and non-contributory period):

- 1 year if the work incapacity occurred before age 20;
- 2 years if it occurred at ages 20-21;
- 3 years if it occurred at ages 22-24;
- 4 years if it occurred at ages 25-29; and
- 5 years if it occurred at age 30 or over (and they must fall within the previous 10 years).

The minimum period of insurance is counted up to the date on which the pension application is submitted, or the day on which the work incapacity arose. Additionally, a reduction in work capacity must occur during the contributory or non-contributory periods specified in the Act on Disability and Old-Age Pensions from the Social Insurance Fund (for example, during the period of employment,

² These thresholds are updated quarterly. Currently, the respective limits are: 4,196.60 zł (€933) and 7,793.70 zł (€1,730).

³ In the third quarter of 2021 it was 1,342.56 zł (€298): <https://www.ipiss.com.pl/wp-content/uploads/2021/12/MS-3Q-2021-00000003.pdf>.

when social insurance contributions are paid), or within 18 months from the end of these periods.

This requirement does not apply if an applicant has total work incapacity and has at least 20 years of insurance contributions (women) or 25 years (men).

Level of financial resources: None (i.e. the benefit is not means-tested).

Gaps and/or obstacles: The minimum insurance period required in order to be eligible for the *Renta z tytułu niezdolności do pracy* (disability pension) means that young people with shorter insurance periods (e.g. aged 26 with two years of contributions) cannot receive the pension, whereas (due to the fact that they have started their working careers) they are not eligible for the social pension either. As a result, despite having a disability, they cannot receive any pension. However, there is no assessment of the size of this coverage gap.

b) Disability assessment framework

Type of assessment: Medically based assessments of disability combined with functional capacity assessment.

Responsible authorities: The ZUS.

Method: Documentary evidence and personal interaction.

Supporting evidence:

- A health certificate completed by the doctor who provides care for the applicant, issued not earlier than one month before the date of submitting the application for the determination of the entitlement to a pension;
- other medical records that may confirm the health condition (e.g. test results or hospital treatment cards); and
- card of work injury or injury occurring while on the way to or from work (if applicable).

Assessor: Evaluating doctor employed by the ZUS, who assesses:

- the level of work incapacity (full or partial);
- when the work incapacity occurred;
- why the work incapacity occurred (i.e. due to work injury or on the way to work);
- if the work incapacity is permanent or temporary;
- whether a person is incapable of independent existence, permanently or for a specified period; and
- whether professional retraining is advisable in order to enable the claimant to perform other work.

Decision-maker: Certifying physician, with a right to an appeal to the doctors' committee of the ZUS.

Critical analysis: Since the reform in the late 1990s, the ZUS assessment has been focused on work capacity, rather than health detriment. Its primary purpose is to assess the loss of ability to earn income. Furthermore, the assessment is usually temporary (i.e. for a fixed period). In the light of the UN Convention on the Rights of Persons with Disabilities (CRPD), the terminology used in the assessment (e.g. "work incapacity" and "independent existence") is perceived as stigmatising and focusing on deficits, rather than capabilities (Głąb and Kurowski, 2018).

c) Benefit entitlements

Level of the benefit: The disability pension is a contributory benefit. Its calculation is based on the defined-benefit formula. The partial disability pension is equal to 75% of the full disability pension. The minimum full disability pension amounts to 1,338.44 zł (€297) monthly from March 2022. The minimum partial disability pension is 75% of this amount, that is 1,003.83 zł (€223). In 2020, the average monthly disability pension amounted to 1,999.97 zł (€444). The highest disability pensions (i.e. pensions above 5,000 zł [€1,111]) were paid to 3.6% of disability pensioners.

Duration of the benefit: Permanent or temporary (depending on the assessment of disability). The evaluating doctor, based on the evidence, decides if the assessment is for a given period (i.e. there is a possibility of the claimant regaining the ability to work), or permanent.

Interactions with other income or other related benefits:

- Income from work: The disability pension is reduced if a pensioner receives income from work exceeding 70%, and up to 130%, of the average wage in the economy. The benefit is suspended if the income exceeds 130%.
- If a beneficiary has the right to another social insurance benefit (e.g. survivor's pension), they may choose the higher or more beneficial of the two. If the pensioner receives a disability pension due to work injury, they have a right to one and a half benefits (i.e. full disability pension and half old-age pension).

Challenges: Pensioners with disabilities face relatively high rates of extreme poverty. According to Statistics Poland, 8.2% of disability pensioners face such a risk, compared with 5.2% in the total population (Statistics Poland, 2021).

1.1.3. *Renta z tytułu rolniczej niezdolności do pracy (Farmer's disability pension)*

a) Eligibility conditions

Disability-related qualifying criteria: Full or partial reduced working capacity on a farm due to a health situation.

Age: Disability must occur after age 18 and before retirement age.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having work permit, and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contribution history:

- Subject to retirement and disability pension insurance of at least:
 - 1 year if the total work incapacity on a farm occurred before age 20;
 - 2 years if it occurred at ages 20-21;
 - 3 years if it occurred at ages 22-24;
 - 4 years if it occurred at ages 25-29;
 - 5 years if it occurred at age 30 or over (and they fell within the 10 years prior to submitting the application for an agricultural pension due to work incapacity).

The periods of old-age and disability pension insurance, which determine the right to the *Renta z tytułu rolniczej niezdolności do pracy* (farmer's disability pension), also include the periods of social insurance for individual farmers and their family members before 1990, which were accumulated according to the earlier regulations on farmers' social insurance.

Level of financial resources: None (i.e. the benefit is not means-tested).

Other: Total work incapacity on a farm must occur during the periods of being subject to old-age and disability pension insurance, or not later than within 18 months from the end of these periods.

Gaps and/or obstacles: The minimum insurance period required in order to be eligible for a farmer's disability pension means that young people with shorter insurance periods (e.g. aged 26 with two years of social insurance) cannot receive the pension, whereas (due to the fact that they have started their working careers) they are not eligible for the social pension. As a result, despite having a disability, they cannot receive any pension. However, there is no assessment of the size of this coverage gap.

b) Disability assessment framework

Type of assessment: Medically based assessment of disability, combined with functional capacity assessment.

Responsible authorities: The Agricultural Social Insurance Fund (*Kasa Rolniczego Ubezpieczenia Społecznego* – KRUS).

Method: Documentary evidence and personal interaction.

Supporting evidence:

- A health certificate completed by the doctor who provides care for the applicant, issued not earlier than one month before the date of submitting the application for the determination of the entitlement to a pension;
- other medical records that may confirm the health condition (e.g. test results or hospital treatment cards); and
- card of work injury or injury occurring while on the way to or from work (if applicable).

Assessor: Evaluating doctor employed by the KRUS, who assesses:

- the level of work incapacity (full or partial);
- when the work incapacity occurred;
- why the work incapacity occurred (i.e. due to work injury or on the way to work);
- if the work incapacity is permanent or temporary;
- whether a person is incapable of independent existence, permanently or for a specified period; and
- whether professional retraining is advisable in order to enable the applicant to perform other work.

Decision-maker:

- The KRUS evaluating doctor (first instance); and
- the KRUS medical commission (second instance), as a result of an appeal by a farmer against the decision of an evaluating doctor or as a result of an objection by a regional medical inspector that the certificate of an evaluating doctor is defective.

Critical analysis: In the light of the UN CRPD, the terminology used in the assessment (e.g. "work incapacity" and "independent existence") is perceived as stigmatising and focusing on deficits rather than capabilities (Głąb and Kurowski, 2018).

c) Benefit entitlements

Level of the benefit: The farmer's disability pension is defined-benefit, and the amount depends on the period of social insurance. The minimum full disability pension amounts

to 1,338.44 zł (€297) monthly from March 2022. The minimum partial disability pension is 75% of this amount: that is, 1,003.83 zł (€223). In 2020, the average monthly disability pension paid by the KRUS amounted to 1,246.98 zł (€277).

Duration of the benefit: Permanent or temporary inability to work on the farm (depending on the assessment of disability).

Interactions with other income or other related benefits:

- Income from work: the farmer's disability pension is reduced if a pensioner receives income from work exceeding 70%, and up to 130%, of the average wage in the economy; it is suspended if it exceeds 130%.
- If a pensioner has the right to another social insurance benefit (e.g. survivor's pension), they may choose the higher or more beneficial of the two. If the pensioner receives a disability pension due to work injury, they have the right to one and a half benefits (i.e. full disability pension and half old-age pension).

Challenges: Pensioners with disabilities face relatively high rates of extreme poverty. According to Statistics Poland, 8.2% of pensioners with disabilities face such a risk, compared with 5.2% in the total population (Statistics Poland, 2021). It should be noted that the average farmers' disability pension is below the average pension in the general (ZUS) pension system, but also lower than the social pension.

1.1.4. Dodatek pielęgnacyjny (Care supplementary allowance)

a) Eligibility conditions

Disability-related criteria: The *Dodatek pielęgnacyjny* (care supplementary allowance) is granted to people who have full incapacity for work and independent existence, assessed by the ZUS evaluation doctor.

Age: Disability must occur after age 18 and before retirement age.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having work permit, and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None; but the allowance is granted to people who receive disability pensions, and therefore the requirements for a pension apply.

Level of financial resources: None (i.e. the allowance is not means-tested).

Other: None.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this allowance.

b) Disability assessment framework

The ZUS assessment framework (see Section 1.1.1).

c) Benefit entitlements

Level of benefit: The allowance is flat-rate and from March 2022 is 256.44 zł (€57) per month. It is an allowance linked to contributory pensions.

Duration of the benefit: The allowance is paid for the period of eligibility for a disability pension (temporary or permanent).

Interactions with other income or other related benefits: The allowance is paid together with a disability pension.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

1.1.5. **Zasilek pielęgnacyjny (Care allowance)**

The *Zasilek pielęgnacyjny* (care allowance) is granted to partially cover the expenses resulting from the need to receive care and assistance from another person, due to barriers to living independently.

a) Eligibility conditions

Disability-related qualifying criteria: The allowance is paid to people who have been assessed as having a severe disability, or moderate disability if the disability occurred before the age of 21.

Age: 16 or over.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having work permit, and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: None (i.e. the allowance is not means-tested).

Other: None.

Gaps and/or obstacles: No of evidence (reports, papers...) was identified on gaps/obstacles related to this allowance.

b) Disability assessment framework

Type of assessment: Medically based assessment of disability, combined with functional capacity assessment.

Responsible authorities: Local authorities (*powiat*⁴), through *powiat* centres of disability assessment.

Method: Documentary evidence and personal interaction.

Supporting evidence:

- A health certificate completed by the doctor who provides care for the applicant, issued not earlier than one month before the date of submitting the application;
- other medical records that may confirm the health condition (e.g. test results or hospital treatment cards); and
- other supporting documents (e.g. psychological and pedagogical opinions).

Assessor: *Powiat* disability assessment teams within *powiat* centres of disability assessment, comprising medical doctors, psychologists, pedagogues, vocational advisors, and social workers, who issue:

- disability certificates;
- a certificate of the degree of disability; and
- decisions on indications of additional reliefs and rights.

Decision-maker:

- On disability assessment:
 - *powiat* disability assessment team (first instance); and

⁴ A *powiat* is the second-level unit of local government and administration in Poland, equivalent to a county, district or prefecture.

- *voivodship*⁵ disability assessment team (second instance), as a result of an appeal against the decision of the *powiat* team; and
- on the right to care allowance: *gmina* authorities.

Critical analysis: Not documented.

c) Benefit entitlements

Level of benefit: From 1 November 2021, the care allowance amounts to 215.84 zł (€48) monthly.

Duration of the benefit: The right to the care allowance is determined for an indefinite period, unless the certificate of disability (or of the degree of disability) has been issued for a specified period of time. In the latter case, the right to the care allowance is determined by the last day of the month in which the validity of the certificate expires.

Interactions with other income or other related benefits: No interactions.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

1.1.6. Świadczenie uzupełniające dla osób niezdolnych do samodzielnej egzystencji (Supplementary allowance for people incapable of independent existence)

a) Eligibility conditions

Disability-related qualifying criteria: Incapacity to live independently, confirmed by an assessment thereof (see Section 1.1.5); a certificate of total work incapacity and incapacity to live independently (see Section 1.1.1); or a certificate of total work incapacity on a farm and incapacity to live independently (see Section 1.1.3)

Age: 18 or over.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having work permit, EU citizens living in Poland and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: None (i.e. no minimum contributory record is required).

Level of financial resources: None (i.e. the allowance is not means-tested).

Other: None.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this allowance.

b) Disability assessment framework

Type of assessment: Medically based assessment of disability, combined with functional capacity assessment.

Responsible authorities: The ZUS, KRUS, or *powiat* local authorities.

Method: Based on the primary disability assessment (see Sections 1.1.1., 1.1.3 and 1.1.5).

Supporting evidence: A certificate of total work incapacity and incapacity to live independently, of total work incapacity on a farm and incapacity to live independently, or of total incapacity to live independently.

⁵ A *voivodeship* is the highest-level administrative division of Poland, corresponding to a province in many other countries.

Assessor: Based on the earlier assessment of disability (see Sections 1.1.1, 1.1.3 and 1.1.5).

Decision-maker: The ZUS or KRUS.

Critical analysis: Not documented.

c) **Benefit entitlements**

Level of benefit: The *Świadczenie uzupełniające dla osób niezdolnych do samodzielnej egzystencji* (supplementary allowance for people incapable of independent existence) is payable in the amount of 500 zł (€111) monthly, if the person is not entitled to an old-age or disability pension and does not have an established right to any other cash benefit financed from public funds, or has such benefits but in a total amount not exceeding 1,272.08 zł (€283). If a person receives an old-age pension, disability pension or other benefit financed from public funds and the total gross amount of these benefits exceeds 1,272.08 zł (€283), but does not exceed 1,772.08 zł (€383), the amount of the supplementary allowance is lower than 500 zł (€111). That is, it is the difference between the amount of 1,772.08 zł (€383) and the total amount of the benefits due. If the gross income exceeds 1,772.08 zł (€383), the allowance is not paid. The allowance is paid monthly.

Duration of the benefit: The right to the allowance is determined for an indefinite period, unless the certificate of disability (or degree of disability) has been issued for a specified period of time. If a certificate has been issued for a specified period, the right to the allowance is determined by the last day of the month in which the validity of the certificate expires.

Interactions with other income or other related benefits: The allowance level depends on the level of pension received (see level of benefit).

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

1.2. Disability-specific old-age pension schemes

1.2.1. *Emerytura z urzędu (Old-age pension ex officio)*

a) **Eligibility conditions**

Disability-related qualifying criteria: Full or partial work incapacity due to a health situation, assessed prior to reaching retirement age.

Age: 60 for women and 65 for men.

Nationality and/or residency: Polish nationals, residents (EU and non-EU) in Poland on a permanent, long-term or temporary basis, defined in the legal provisions or having work permit, and refugees.

Waiting period: None (i.e. it is granted from the moment the disability is certified).

Contributory history: As required for the disability pension (see Section 1.1.2).

Level of financial resources: None (i.e. the pension is not means-tested).

Other: None.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this pension.

b) Disability assessment framework

Type of assessment: Medically based assessment of disability, combined with functional capacity assessment.

Responsible authorities: The ZUS.

Method: Documentary evidence.

Supporting evidence: None. The old-age pension is granted *ex officio*, to people who receive disability pensions prior to reaching retirement age (see Section 1.1.2).

Assessor: Evaluating doctor (upon granting a disability pension prior to retirement age).

Decision maker: The ZUS.

Critical analysis: Not documented.

c) Benefit entitlements

Level of benefit: The amount of the *Emerytura z urzędu* (old-age pension *ex officio*) is calculated based on the general old-age pension rules (defined-contribution formula), but it cannot be lower than a previously received disability pension. The pension is paid monthly.

Duration of the benefit: Lifetime benefit.

Interactions with other income or other related benefits: If a beneficiary has the right to another social insurance benefit (e.g. survivor's pension), they may choose the higher or more beneficial of the two. If the pensioner receives a disability pension due to work injury, they have the right to one and a half benefits (i.e. full disability pension and half old-age pension).

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

1.3. Income support aimed at covering disability-related healthcare and housing expenses**1.3.1. Healthcare**

Medical services are granted to people with disabilities based on general rules regarding universal access to healthcare. Specific regulations apply to people with severe disabilities, enabling access to medical services, including: primary, secondary, and tertiary care; rehabilitation without delay (on the day of request and – if not feasible – not later than within seven days); specialist care without referral; and the purchase of medical aids.⁶ There are no cash benefits for people with disabilities designed to cover healthcare expenditure (in particular purchases of medication), but selected costs are tax-deductible. Furthermore, the purchase of rehabilitation equipment and medications is subject to reduced prices for people who have a disability assessment.

⁶ Regulation of 9 May 2019 on particular solutions supporting people with severe degree of disability (Dz.U.2019 poz.932).

1.3.2. Housing

1.3.2.1. **Dofinansowanie likwidacji barier architektonicznych, w komunikowaniu się i technicznych, w związku z indywidualnymi potrzebami osób niepełnosprawnych (Co-financing of the elimination of architectural, communication and technical barriers in connection with the individual needs of people with disabilities)**

a) Brief description

Funding is granted upon application and financed from the State Fund for Rehabilitation of People with Disabilities (*Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych* – PFRON). A subsidy for the elimination of architectural barriers in dwellings may be applied for by people with disabilities who face difficulties in moving around, if they are owners of real estate or perpetual users of real estate or have the consent of the owner of the premises or residential building in which they permanently reside. The maximum subsidy cannot exceed 15 times the average wage. Municipalities declare a maximum level of co-financing. The amount of the subsidy may vary in different parts of the country. The amount of the subsidy is also affected by the ownership of the dwelling. An applicant who owns the dwelling in which the construction work is to be carried out can receive up to 95% of the project costs. An applicant who does not own the dwelling where the construction works are to be carried out can receive up to 80% of the costs.

b) Main gaps/obstacles

If a person with disabilities is not the owner of the dwelling, and does not have the owner's consent for the construction works related to the elimination of architectural barriers, it is not possible for them to receive funding from the PFRON. Funding for the elimination of architectural barriers cannot be provided for: 1) equipment installed in the common parts of multi-family residential buildings, such as lifts and stair platforms; 2) flats under development or construction; 3) flats purchased and exchanged after obtaining a disability certificate from the applicant; 4) flats to which the applicants have a legal title for less than five years from the moment of submitting the application; and 5) renovation and finishing works that do not improve the functioning of a person with disabilities but constitute an improvement to the standard of rooms (e.g. replacement of plumbing and electrical installations).

c) Main adequacy challenges

The funding limits introduced by local authorities, as well as the required co-financing, may be too restrictive (e.g. the requirement to be the owner of the dwelling) and, as a result, some people with disabilities may need to seek additional funding for the elimination of architectural barriers in their dwellings.⁷

2. Access to some key general social protection cash benefits

2.1. Old-age benefits

2.1.1. *Emerytura* (Old-age pension)

There is no higher amount of the general old-age pension for people with disabilities. Old-age pensioners who have a disability and those aged 75 or over (with implicit limitations), receive an additional allowance, as described in Section 2.1.2.

⁷ See, for example, an MP interpellation on the inability to receive co-financing due to continuing proceedings to acquire the right to a dwelling: <https://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=4E678BE6>.

2.1.2. *Dodatek pielęgnacyjny* (Care supplementary allowance)

a) Brief description

The care supplementary allowance is paid to all pensioners aged 75 or over. It is assumed that they have a health condition that requires additional support. The allowance is flat-rate and from March 2022 it is 256.44 zł (€57). It is paid monthly, as a lifetime benefit. It is a benefit linked to old-age or other contributory pensions (e.g. survivor's pension).

b) Main gaps/obstacles

The allowance is universal above the age threshold; there are therefore no gaps or obstacles related to its payment.

c) Main adequacy challenges

The allowance leads to improved adequacy of social protection income received by older people, contributing to a reduced risk of poverty at older ages. According to EU-SILC⁸ data, in 2020 the risk of poverty for people aged 65-74 in Poland was 18.3%, and for people aged 75 or over it was 18.0%.

2.2. Unemployment benefits

2.2.1. *Zasiłek dla bezrobotnych* (Unemployment benefit)

a) Eligibility conditions

Zasiłek dla bezrobotnych (unemployment benefit) may be obtained by a person who registers at the local (*powiat*) employment office. People who receive public transfer payments, such as disability pensions, are not eligible for unemployment benefit.

b) Additional amount/compensation included and adequacy issues

No additional amount for people with disabilities.

c) Gaps/obstacles

Most people with disabilities receive pensions, and as a result they cannot claim the unemployment benefit. They can register as job-seekers eligible for the active labour market policies financed from the Labour Fund (*Fundusz Pracy*), as well as programmes financed by the PFRON. In December 2021, fewer than 61,000 people with disabilities were registered as unemployed (i.e. less than 10% of all unemployed people).

2.3. Guaranteed minimum income schemes and other social assistance benefits

2.3.1. *Zasiłek okresowy z pomocy społecznej* (Periodic allowance from social assistance)

a) Eligibility conditions

The *Zasiłek okresowy z pomocy społecznej* (periodic allowance from social assistance) is one of the income-tested cash benefits from social assistance. This allowance is payable to, among others, people with a long-term illness or disability. In 2020, more than 40,000 people received the allowance (15% of all social assistance beneficiaries).⁹

b) Additional amount/compensation included and adequacy issues

There is no higher amount of the allowance, or supplement, for people with disabilities.

⁸ European Union statistics on income and living conditions.

⁹ <https://www.gov.pl/web/rodzina/statystyka-za-2020>

c) Gaps/obstacles

No evidence (reports, papers...) was identified on any specific gaps/obstacles people with disabilities face in relation to this allowance. However, experts underline that the social assistance and minimum benefit schemes in Poland fail to provide full protection from poverty. One of the proposed changes presented in the recent EAPN report is to eliminate the cap on the social assistance allowance, and to guarantee a 100% difference between actual income and the minimum income threshold (Szarfenberg, 2020).

2.3.2. *Zasilek stały z pomocy społecznej* (Permanent allowance from social assistance)

a) Eligibility conditions

The *Zasilek stały z pomocy społecznej* (permanent allowance from social assistance) is an income-tested benefit that can be granted to an adult who is (i) unable to work due to age, or (ii) is completely unable to work (due to disability), if their income (including income from pensions) is lower than the income criterion. The permanent allowance is determined as the difference between the respective income criterion and the person's income from all sources. The amount of the allowance from 1 January 2022 may not be higher than 719 zł (€160) per month, in the case of a single person. The amount of the permanent allowance cannot be lower than 30 zł (€6.67) per month. There are no differences with regard to the right to the allowance or its amount in respect of the two eligibility conditions described above.

b) Additional amount/compensation included and adequacy issues

There is no higher amount of the allowance, or supplement, for people with disabilities.

c) Gaps/obstacles

If people are entitled to other benefits related to a social pension due to disability, the permanent allowance is not payable, even if the income criteria are met. Experts also underline that the social assistance and minimum benefit schemes in Poland fail to provide full protection from poverty. One of the proposed changes presented in the recent EAPN report is to eliminate the cap on the social assistance allowance, and guarantee a 100% difference between actual income and the minimum income threshold (Szarfenberg, 2020).

3. Provision of assistive technology and personal assistance

Provision of **assistive medical devices** for people with severe disabilities can be partially or fully financed from the social health insurance system. To obtain financing, medical devices need to be prescribed by a competent medical professional, including a specialised physician, nurse, or physiotherapist. Prescriptions can be obtained following an in-person or remote medical consultation. A prescription is typically given for a certain period – six or 12 months. Medical devices that can be obtained cover a broad range of products, such as hearing aids, eyeglasses, orthopaedic shoes, wheel chairs, various types of prostheses, anti-bedsore mattresses, canes, and crutches as well as diaper pants, catheters, and ostomy appliances. Financing limits per type of device are set by a regulation of the Ministry of Health.¹⁰ Costs above the limits set by the regulation can be co-financed by the PFRON. Eligibility criteria for co-financing include a disability certificate and (in the case of a family) an income per capita below 50% of the average wage (65% in the case of a single person). Co-financing is subject to a maximum of 100% for devices whose cost is within the National

¹⁰ Regulation of the Minister of Health of 19 May 2017 on the list of medical aids issued on request (Dz.U.2017.poz.1061).

Health Fund limit, and up to 150% if the cost is higher than the limit. Financing decisions are taken by the *powiat* centre of family support (*powiatowe centrum pomocy rodzinie*).

Under the annual governmental programmes “**Personal assistant** of a person with disabilities” (*Asystent osobisty osoby niepełnosprawnej*) and “Personal assistant of a person with disabilities” (*Asystent osobisty osoby z niepełnosprawnościami*), local authorities and NGOs can obtain financial resources to ensure personal assistance to adults with moderate and severe disability, and children with disabilities under the age of 16. A personal assistant can be: a person qualified as an assistant of a person with disabilities; a carer of older people or a medical carer; a person with six months of proven professional experience in taking care of a person with a disability; or a person appointed by a person with disabilities, although it cannot be a close relative (e.g. mother or other family member). Personal assistive services cover help with outside activities, transportation, shopping, participation in educational activities or cultural events, during contacts with administrative bodies and with performing activities of daily living. Personal assistive services financed within programmes cannot exceed 60 hours per month. Access to these services is limited though slowly growing. In 2021, they were provided by 36 NGOs and in 740 local authorities (*gmina*). In 2022, personal assistance was provided in 1,129 out of 2,477 local authorities. Access to these services is therefore limited to the local authorities that participate in the programme and by available funding. Furthermore, the total time allocated for personal assistance is short (on average two hours per day), compared with the needs of many people with disabilities. According to the assessment of the Ombudsman office, the support currently offered to people with disabilities (mainly in the form of care services and specialist care services) is far from sufficient to ensure their right to pursue an independent life, or even to satisfy their basic life needs (Błaszczak-Banasiak and Kubicki, 2017).

4. National debates, reforms, and recommendations

4.1. National debates

Several issues regarding access to social protection for people with disabilities and their carers have been in the public eye, such as: the adequacy of financial support for their actual needs; the transparency of the disability assessment procedures; financial support for full-time carers and the work-life balance of family care providers; and support for independent living by people with disabilities. NGOs representing people with disabilities, and the Ombudsman, have been particularly active in stimulating discussion on the above-mentioned issues.¹¹

Over the past decade there have been several proposals regarding the need to simplify and harmonise the separate disability assessment systems: assessment of work incapacity for working-age people¹² (by the ZUS), for farmers (by the KRUS), for military and uniformed services, and assessment by the *powiat* centres of disability assessment (*powiatowe centra orzekania o niepełnosprawności*).¹³ Furthermore, access to additional benefits (e.g. the new supplementary allowance for people incapable of independent existence, introduced in 2019) requires additional decisions based on yet another set of documents that has to be submitted by claimants. NGOs point to the need to unify and simplify these systems.¹⁴ The reform of the disability assessment system is also one of the elements of the recently adopted strategy for people with disabilities for 2021-2030.

¹¹ <https://pfon.org/aktualnosci/uchwala-konczaca-vii-kongres-osob-niepelnosprawnościami-w-dniu-23-pazdziernika-2021-r/> and <https://bip.brpo.gov.pl/pl/kategoria-tematyczna/osoby-z-niepe%C5%82nosprawno%C5%9Bci%C4%85-ozn>

¹² Working age in Poland is from 18 until 59 (women) and 64 (men).

¹³ <http://www.niepelnosprawni.pl/ledge/x/1822840;jsessionid=4D8E5B426DC59A81E4407016E2A0B801>

¹⁴ <https://bip.brpo.gov.pl/pl/content/jak-wygladaja-prace-nad-reforma-systemu-orzecznictwa-ws-niepelnosprawnościami-mrips-odpowiada>

One of the important debates regarding disability concentrates on the need to support independent living. On the one hand, it underlines the need to respect the rights of people with different needs due to disability, and on the other the need to develop community-based services and move from institutional to community support whenever feasible. Note that the provision of community care and institutional care in Poland is low if measured by the share of people with health problems in different care settings, as it accounts for about 20% of the dependent population in Poland (European Commission 2021). The need to support independent living is expressed in the government action plan for supporting people with disabilities (*Plan działania na rzecz wsparcia osób niepełnosprawnych*), supported by projects funded by the European Social Fund (ESF), and within governmental activities designed to improve community care and daycare for older people and people with disabilities.¹⁵

4.2. Recent reforms and reforms currently in the pipeline

4.2.1. General reforms

In January 2019, the Solidarity Support Fund for People with Disabilities (*Solidarnościowy Fundusz Wsparcia Osób Niepełnosprawnych*) was established. It is funded from deductions from employers' contributions on wages paid into the Labour Fund. The new fund is largely used to finance government programmes supporting social services for people with disabilities and their carers. Already in 2019, several programmes aimed at improving access to care services for older people and people with disabilities were launched by the Ministry of Family and Social Policy. Some of these programmes – including the above-mentioned "Personal assistance to people with disabilities", "Personal assistant to people with disabilities" and "Respite care" – are financed from the fund. The Solidarity Support Fund is also used for the programme "Care and living centres" (*Centra opiekuńczo-mieszkalne*). Within the programme, local authorities in co-operation with NGOs can gain financial resources to create day and institutional care centres for people with disabilities, providing rehabilitation, nursing and care as well as social activities.

The programme "Care 75+" (*Opieka 75+*) has also been in place since 2019. It is aimed at increasing access to care services in rural and depopulated areas (i.e. *gminy* with fewer than 60,000 inhabitants). On an annual basis, local authorities can apply for co-financing of up to 50% of the cost of providing care services for the dependent population aged 75+.

In the same year a supplementary programme "Care services for people with disabilities" (*Usługi opiekuńcze dla osób niepełnosprawnych*) was launched, targeted at people under 75 with disabilities. This initiative complemented the one aimed at older people. Similar to "Care 75+", a subsidy of up to 50% of the cost of services was granted to local communities, without restrictions related to the care provision (type of employment/contract, etc.). The programme was, however, discontinued in 2022.

In March 2021, the strategy for people with disabilities for 2021-2030 was adopted (Rada Ministrów, 2021).¹⁶ The strategy is aimed at strengthening social inclusion policies and activities, and increasing the labour market activity of people with disabilities (with the main goal of increasing it from 28% in 2019 to 45% in 2030). The strategy encompasses activities in eight areas: supporting independent living; accessibility; education; work; living conditions and social protection; health; building awareness; and co-ordination. It broadly responds to the main goals of the EU strategy for the rights of people with disabilities for 2021-2030. Another strategic document currently under consultation is the draft strategy, prepared by the Ministry of Family and Social Policy, focusing on improving access to social services and supporting independent living (*strategia wspierania rozwoju usług społecznych*) (Ministry of Family and Social Policy, 2021). It focuses on improving social services for people with disabilities and their families, including deinstitutionalisation

¹⁵ <https://niepelnosprawni.gov.pl/a.1126,plan-dzialania-na-rzecz-wsparcia-osob-niepelnosprawnych>

¹⁶ <https://niepelnosprawni.gov.pl/a.1180,strategia-na-rzecz-osob-z-niepelnosprawnosciami-2021-2030-ogloszona-w-dzienniku-urzedowym-rzeczypospolitej-polskiej-monitor-polski>

of service-provision. In December 2021, the Ministry of Health published a strategic framework for developing the healthcare system up to 2030 (Ministerstwo Zdrowia, 2021). The document includes two appendices on supporting independent living by older people and people with mental disabilities. Their priorities are oriented at: developing community nursing and care services; setting up daycare medical centres for older people, memory-training centres and up to 300 mental health community care centres; providing local crisis intervention centres; and improving daycare in psychiatric hospitals for children and adults.

Finally, Poland has recently taken strategic, programme and legislative measures aimed at incorporating the provisions of the UN CRPD into the Polish legal system. 2021 saw the launch of an ESF-funded project led by the Ministry of Family and Social Policy, with the participation of NGOs for people with disabilities and research institutions, on the development of a draft law implementing the CRPD (with the proposed name: Act on Equal Opportunities for People with Disabilities), together with the regulatory impact assessment and justification, as well as proposed legislative changes. The project is designed to systematically approach many problems related to the implementation of the CRPD in Poland and to clarify the legal provisions in the area of disability. It covers issues related to the labour market, cash benefits and social services, and covers most of the key areas of everyday life of people with disabilities and their families.

4.2.2. Activities related to COVID-19 pandemic

According to the COVID-19 taskforce advising the president of the Polish Academy of Sciences, the pandemic was particularly unfavourable for people with disabilities. There are several reasons for this. Firstly, the system of disability and work incapacity assessment stopped temporarily, and therefore benefits were paid out late. Secondly, the activity of rehabilitation and care centres was suspended. Some people, including numerous residents of long-term care facilities, have not left their homes for over a year, even if a few of them could continue working remotely. They were deprived of contact with their family, and other social contacts, and could not benefit from ongoing rehabilitation or rehabilitation stays in sanatoria. This confinement within four walls had a particularly dramatic effect on people with intellectual disabilities and their families or carers. People with intellectual disability, deprived of stimuli and the possibility of therapy, were at risk of losing their life skills for years. The severity of this situation was exacerbated by the fact that people often did not understand the pandemic threat or the safety rules introduced. People with hearing impairments, who could not use the online consultation services, had other problems, and their social contacts were additionally limited by the fact that they could not lip-read through masks, which deepened their state of misunderstanding and confusion. Thirdly, the information exclusion of people with disabilities turned out to be particularly problematic in the pandemic, often resulting from the lack of communication tools (e.g. lack of messages for people with hearing impairments) to enable people with disabilities not only to maintain social contacts, but also to work or to participate in distance learning.

The experts of the Polish Academy of Sciences underlined the fact that the European disability strategy for 2010-2020 promoted the idea of transforming institutional care into community care. Such an approach, properly implemented, especially during a pandemic, would have been an opportunity for people with disabilities to fully integrate into the life of society, and a guarantee of respect for their fundamental rights. Deinstitutionalisation of services would also have eliminated most of the problems faced by these people in a pandemic. However, there is a risk that, as observed during the pandemic, smaller public benefit centres and organisations would be left without guidelines and without the support of state institutions.¹⁷

In response to the COVID-19 pandemic, a series of measures were implemented, supporting people with disabilities. In 2020-2021 the PFRON implemented module III and IV (related to support in connection with the situation caused by infectious diseases) of the

¹⁷ <https://kijow.pan.pl/?p=818>

programme "Helping people with disabilities affected by natural disasters or crisis situations caused by infectious diseases". The module was addressed at *powiat* and *gmina* local authorities that, due to the pandemic situation, provided additional support for people with disabilities or their environment. In 2021 the budget for this activity under module IV was 50 million zł (€11 million).

Under module III, people with disabilities who, due to the pandemic, could not use the care provided in a rehabilitation facility, could count on co-financing of the costs of care at home in the amount of 500 zł (€111) per month for a period not longer than three months.

Under module IV, local authorities could receive financial support for their own activities for the benefit of people with disabilities, aimed at mitigating the effects of the pandemic, as well as for activities carried out by NGOs. Financial support for the activities of local authorities could include:

- providing psychological help for people with disabilities or their families;
- transportation;
- providing medicines, food products and other basic necessities to people with disabilities;
- homecare organisation;
- purchase of protective equipment (e.g. disinfectants, visors, and protective clothing);
- purchase of equipment for people with disabilities to facilities after the onset of the disease (e.g. bedding and clothes);
- purchase of equipment increasing the level of sanitary safety in institutions (e.g. creating separate canteens);
- maintenance of a sheltered apartment during the pandemic for people with disabilities or their family carers in connection with the imposed quarantine and necessary isolation of either a person with disability or a carer of such person (e.g. costs of maintaining the premises, purchase of protective equipment, food);
- purchase of food for people with disabilities; and
- organising activities to improve the condition of people with disabilities.

Importantly, the PFRON did not define a catalogue of co-financed activities. Local authorities could independently choose the type of assistance that was necessary, related to the specific needs of people with disabilities or their environment.

Moreover, the PFRON carried out an additional task related to the payment of wage compensation to the employees of establishments of vocational activation for people with disabilities (*zakład aktywizacji zawodowej – ZAZ*). The employer could receive a wage refund in proportion to the number of days of downtime in the activity of the ZAZ or reduction of income from this activity occurring in a given month. 56 institutions applied for such support in 2020. Almost 2 million zł (€444,444) was spent for this purpose, and the support covered 2,988 people.

NGOs also had the opportunity to submit projects to the PFRON, the purpose of which was to counteract the negative effects of the COVID-19 pandemic through psychological support, and in particular the consequences of neglecting or limiting therapeutic measures. A total of 69 contracts were concluded, with total co-financing amounting to almost 8 million zł (€1.78 million).

These projects and activities are temporary and designed to support people with disabilities during the time of the pandemic. The impact of the activities undertaken has not yet been assessed.

4.3. Good practice and recommendations on how to tackle gaps and obstacles

According to EU-SILC data, among people with some or severe activity limitations aged 16 or over in Poland, 27.3% were at risk of poverty or social exclusion in 2020, compared with 28.9% in the EU-27.¹⁸ However, a more in-depth analysis of the 2019 EU-SILC data shows that, among people under 60 living in households with very low work intensity, people with some or severe activity limitations had a poverty risk of 17.9% in Poland, compared with 22.8% in the EU-27. This shows that the existing benefit system has some impact on reducing poverty among people with disabilities of working age.¹⁹

The stakeholders, including the NGOs active in the area of supporting people with disabilities, underline that the **overall policy approach to people with disabilities needs to be changed**. It is currently based on the "care and rehabilitation" model. Despite the fact that, under Article 2 of the Act on Social Assistance, social assistance is "*an institution of the social policy of the state, aimed at enabling individuals and families to overcome difficult life situations, which they find difficult to overcome using their own powers, resources and possibilities*", its further provisions are constructed from the perspective of care for these people and families. Furthermore, in the Act on Vocational and Social Rehabilitation and Employment of Disabled People, rehabilitation of disabled people is defined as "*a set of activities, in particular organisational, therapeutic, psychological, technical, training, educational and social activities, aimed at achieving, with the active participation of these people, the highest possible level of their functioning, quality of life and social integration*".

As a result, Polish legal regulations relating to people with disabilities are oriented to securing their existence, focusing far too little on the need to guarantee them equal access to all rights and freedoms, autonomy (including the freedom to make choices), and respect for the independence of the person, as formulated in the UN CRPD. Therefore, to implement the CRPD, **it is necessary to completely change the philosophy of Polish legislation relating to the issue of disability, towards a rights-based approach**.

It is also important to **strengthen data-collection mechanisms, ensuring that comprehensive, reliable and disaggregated data on disability and people with disabilities are collected**, in line with Article 31 (statistics and data collection) of the UN CRPD. Currently, existing data do not allow an adequate assessment of the population of people with disabilities, as well as the structure of this population by important socio-economic characteristics.

¹⁸ <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/edn-20211203-1>

¹⁹ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Tab_1_at-risk-of-poverty_or_social_exclusion_AROPE_by_level_of_activity_limitation,_2019_v3.png

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