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**THE SUPPORT OF PERSONS WITH DISABILITIES
FROM EUROPEAN FUNDS**

ABSTRACT. Support for people with disabilities is a constitutional obligation imposed on the state. The problem of disability is noticed not only at the state level, but also at the international level. This is evidenced by documents adopted by the international community regarding the rights of people with disabilities.

The interest of the international community in the problems of people with disabilities has led to the creation of special mechanisms for financing the support of this social group. In Poland, funds from the European Union go to a special part of the budget – budgets of European funds. The article is devoted to the general characteristics of the budget of European funds, with particular reference to the rules of spending money. The article also discusses the financial instruments for supporting people with disabilities financed from the European budget.

The revenue of the European funds are European funds. It is worth noticing that the catalogue of European funds does not involve all funds from EU budget as well as funds received as part of the aid granted by the Member States of the European Free Trade Association. However, the expenditure of European funds is the expenditure on the implementation of programmes co-financed from European funds in part that is eligible for a refund. This expenditure can acquire the form of expenditure eligible for a refund incurred by the state budgetary units or advances paid to other beneficiaries. Despite that the revenue and expenditure of European funds constitute at the same time the revenue and expenditure of the state budget, the outcome of the European funds has no impact on the level of the surplus or deficit of the state budget.

In the light of the clear connection between the revenue and expenditure included in European funds and the programmes, the support of persons with disabilities from European funds is possible only when the programme financed from these funds involves activities of this type. In order to determine the scope of support available for persons with disabilities, it is vital to analyse the content of programmes financed from European funds

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indicated in the annexes to the Budget Act for tasks addressed to persons with disabilities that are possible to be implemented as part of their framework.

KEYWORDS: European funds, disabilities, social inclusion, European Social Fund, Cohesion Fund

General considerations

The support of persons with disabilities is a constitutional obligation imposed on a country. The problem of disability is not only a nationally recognised issue but also one that is recognised at an international level. It is corroborated by the documents concerning the rights of persons with disabilities adopted by the international community.

The first legal act concerning persons with disabilities was developed at the end of 2006 during a session of the United Nations General Assembly¹. Prepared within the framework of the United Nations, the Convention on the Rights of Persons with Disabilities entered into force in mid-2008. Despite the fact that Poland became a party to the Convention only in 2012, it was bound by the provisions of the Convention practically at the end of 2010. It was then that the Convention started to be legally binding for the European Union, thus also for the Member States².

An extremely important element of the Convention is the formulation of the definition of a person with disability as a person with 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 others³. The understanding of disability proposed by the UN was accepted by the EU, which has not introduced a new definition of persons with disabilities in its acts⁴.

Assuming the responsibility for the improvement of social and economic situation of persons with disabilities and acting to implement the Convention, EU bodies included the provisions concerning persons with disabilities in the developed documents. The Charter of Fundamental Rights of the European Union⁵ guarantees that the EU recognises and respects the right of persons with disabilities to benefit from funds aimed at ensuring their independence, social and occupational integration, and participation in the life of the community.

¹ Convention on the Rights of Persons with Disabilities drawn up in New York on 13 December 2006 Dz U item 1169.

² MEMO/10/198 <http://europa.eu/rapid/press-release_IP-11-4_pl.htm> (accessed: 07.11.2018).

³ Convention on the Rights of Persons with Disabilities (n 1).

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions: European Disability Strategy 2010–2020: A Renewed Commitment to a Barrier-Free Europe COM(2010) 636 (strategy).

⁵ Charter of Fundamental Rights of the European Union [2012] OJ C 326/02, arts 21 and 26; A Wróbel, *Karta Praw Podstawowych Unii Europejskiej. Komentarz* (A Wróbel ed, C. H. Beck 2013) 714-53; M Szablowska, *Karta Praw Podstawowych Unii Europejskiej. Komentarz* (A Wróbel ed, C. H. Beck 2013) 836-53; S Hambura and M Muszyński, *Karta Praw Podstawowych z komentarzem* (Studio STO 2001) 112-5, 128-31.

Moreover, its provisions prohibit any discrimination on grounds of disability. Also, the Treaty on the Functioning of the European Union includes the EU's obligation to fight any discrimination on grounds of disability. The treaty also stipulates the possibility to change the EU's legislation in order to implement these provisions⁶.

Developing a strategy that is aimed at ensuring complete participation of persons with disabilities in social and economic life was recognised as a fundamental element conditioning the success of the implementation of the Europe 2020 strategy for smart, sustainable, and inclusive growth⁷. The European strategy concerning disability was developed in 2010. It has the form of a Commission communication. Therefore, it is not a source of generally applicable law. The strategy can be assumed to be part of the so-called soft law that does not include the norms binding the addressees. However, the role of the non-binding acts has been increasing. The documents often become the basis for changes in national legislation so that the internal law provisions are in compliance with the objectives of the communications⁸.

The implementation of provisions included in the above-mentioned acts requires appropriate financial effort. The purpose of this article is to indicate the types of public funds allocated for the support of persons with disabilities within European funds.

European funds are a financial plan that is part of the state budget⁹. In accordance with the statutory definition, it is an annual plan of revenue and expenditure eligible for a refund allocated for the implementation of programmes co-financed from European funds. The plan does not include funds allocated for the implementation of technical assistance projects and funds listed in the regulation of the European Parliament on the financing of the common agricultural policy¹⁰.

Therefore, the revenue of the European funds are European funds. It is worth noticing that the catalogue of European funds does not involve all funds from EU budget as well as funds received as part of the aid granted by the Member States of the European Free Trade Association¹¹. However, the expenditure of European funds is the expenditure on the implementation of programmes

⁶ Treaty on the Functioning of the European Union (consolidated version) [2016] OJ C 202/01; A Wróbel (ed), *Traktat o funkcjonowaniu Unii Europejskiej. Komentarz*, vol I (Wolters Kluwer 2012) 238-9, 402-30.

⁷ Communication from the Commission: Europe 2020. A strategy for smart, sustainable, and inclusive growth COM (2010) 2020 (Europe 2020 strategy).

⁸ J Barcz (ed) *System prawa Unii Europejskiej. Źródła prawa Unii Europejskiej*, vol IV (Instytut Wydawniczy EuroPrawo 2010) 34, 36.

⁹ Act of 27 August 2009 of the Public Finance Act [2017] Dz U item 2077 (Public Finance Act).

¹⁰ Public Finance Act (n 9); Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management, and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005, and (EC) No 485/2008 [2013] OJ L 347/549.

¹¹ Public Finance Act (n 9) art 2 item 5.

co-financed from European funds in part that is eligible for a refund. This expenditure can acquire the form of expenditure eligible for a refund incurred by the state budgetary units or advances paid to other beneficiaries¹². Despite that the revenue and expenditure of European funds constitute at the same time the revenue and expenditure of the state budget, the outcome of the European funds has no impact on the level of the surplus or deficit of the state budget¹³.

In compliance with the Public Finance Act, both revenue and expenditure of European funds ought to be appropriately included in the budget, in accordance with the budgetary classification. The revenue of European funds is defined in the Budget Act in accordance with the parts of the budget classification, and then, in accordance with the programmes co-financed from European funds. Whereas, the expenditure of European funds is defined in the Budget Act in the division into parts and sections of the classification of expenditure, and then, in accordance with the programmes co-financed from European funds as part of the parts and sections of the classification of expenditure¹⁴.

Apart from the revenue and expenditure of European funds, a specific purpose reserve has been created. It can be used to cover reimbursable expenditure connected with the implementation of programmes co-financed from European funds¹⁵. Apart from the indicated elements of European funds, the Budget Act also features programmes co-financed from European funds in the form of an annex. For each programme, it is necessary to specify the managing institution, state budget revenue on account of the inflow of European funds planned for the current financial year and two following years, expenditure of the state budget and European funds connected with the implementation of the programme planned for the current financial year and two following years, and state budget expenditure for programme funding planned for the current financial year¹⁶.

In the light of the clear connection between the revenue and expenditure included in European funds and the programmes, the support of persons with disabilities from European funds is possible only when the programme financed from these funds involves activities of this type. In order to determine the scope of support available for persons with disabilities, it is vital to analyse the content of programmes financed from European funds indicated in the

¹² M Bitner, *Prawo finansowe. Prawo finansów publicznych. Prawo podatkowe. Prawo bankowe* (Wolters Kluwer 2017) 264.

¹³ *Ibid* art 118.

¹⁴ *Ibid* art 119.

¹⁵ *Ibid* art 120.

¹⁶ *Ibid* art 121.

annexes to the Budget Act for tasks addressed to persons with disabilities that are possible to be implemented as part of their framework.

Forms of support of persons with disabilities from European funds

The allocation of public funds included in European funds is subject not only to principles indicated in the Public Finance Act (arts 42–66a, 184–195, 204, 206) but also to principles resulting from the European legislation. As a consequence, funds expenditure is made only as part of the programmes listed in the annex to the Budget Act. Depending on the funding source, the programmes can be divided at least into two groups. The first group constitutes programmes financed from EU funds. The second group consists of the remaining programmes whose costs are covered from non-EU funding sources that are part of European funds. As part of the programmes financed from EU funds, it is possible to enumerate¹⁷: Regional operational programmes for individual provinces for the years 2014–2020; Operational Programme Eastern Poland 2014–2020; Operational Programme Knowledge Education Development 2014–2020; Operational Programme Digital Poland for the years 2014–2020; Operational Programme Infrastructure and Environment for the years 2007–2013 and 2014–2020; Operational Programme Intelligent Development 2014–2020; Operational Programme Fisheries and the Sea 2014–2020; Operational Programme Food Aid 2014–2020; Common Agricultural Policy; Connecting Europe Facility.

Among the programmes funded by the EU within European funds, it is possible to distinguish regional and national operational programmes. Regional programmes¹⁸ have limited territorial reach. They are developed for individual provinces. These programmes are characterised by diverse thematic scope – in general, they concern all or a vast majority of thematic objectives indicated as possible to be funded from EU funds¹⁹.

Operational programmes also encompass national operational programmes²⁰ focused on the implementation of only certain objectives indicated in the regulation of the European Parliament and of the Council. These programmes cover the territory of a whole country, but have limited material scope.

¹⁷ Annex no 3, 4, 15 to the Budget Act for 2018 of 11 January 2018 [2018] Dz U item 291.

¹⁸ Act of 11 July 2014 on the principles of implementation of the cohesion policy programmes, financed under the 2014-2020 financial perspective [2018] Dz U item 1431 (implementation act) art 2 item 17 (c).

¹⁹ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 [2013] OJ L 347/320 (general regulation) art 9.

²⁰ Implementation act (n 18) art 2 item 17 (a).

The trait connecting both groups of programmes is the common identification of the main implementation principles. The funding of the Common Agricultural Policy²¹ and Connecting Europe Facility²² follows slightly different principles.

Apart from the programmes financed from EU budget, European funds involve expenditure funded from other sources. Currently, this group of programmes includes²³: The Swiss–Polish Cooperation Programme; The EEA Financial Mechanism 2009–2014; The EEA Financial Mechanism Third Financial Perspective; The Norwegian Financial Mechanism 2009–2014; The Norwegian Financial Mechanism Third Financial Perspective.

When analysing all of the enumerated programmes for the inclusion of persons with disabilities in their content, it is possible to notice that none of the programmes is fully or to a considerable extent dedicated to persons with disabilities. However, it does not mean that these persons cannot benefit from the available financial means.

Support of persons with disabilities within the framework of programmes financed from EU funds

An operational programme contributes to the implementation of the European strategy for smart, sustainable, and inclusive growth and to the achievement of economic, social, and territorial cohesion²⁴. The programmes are documents of operational and implementational nature established in order to implement a medium-term national development strategy and other development strategies. They define the activities planned for implementation in accordance with the established funding and execution system that is part of the programme. The programmes are adopted by way of a resolution or decision of an appropriate authority²⁵. It is possible to enumerate three types of operational programmes: national operational programme, regional operational programmes, and European Territorial Cooperation programme²⁶. The principles concerning the construction of content, funding, and criteria for expenditure within a given programme are included both in national and EU acts.

The need to develop operational programmes results not only from the national law. Their adoption conditions the possibility to benefit from EU funds. Budgeting within the scope of EU expenditure is of a multi-level

²¹ Public Finance Act (n 9) art 208.

²² Commission Delegated Regulation (EU) 2016/1649 of 8 July 2016 supplementing Regulation (EU) No 1316/2013 of the European Parliament and of the Council establishing the Connecting Europe Facility [2016] OJ L 247/1.

²³ Annex no 3, 4, 15 to the Budget Act (n 17).

²⁴ General regulation (n 19) arts 96-103.

²⁵ Act of 6 December 2006 on the principles of conducting development policy [2018] Dz U item 1307, art 15.

²⁶ Article 2 item 17 of the implementation act (n 18).

nature. Each document of a higher order establishes another document that is of a more operational and implementational nature. The primary instrument determining the directions of socio-economic development of the European Union is the Europe 2020 strategy. Its implementation entails common principles concerning European Structural and Investment Funds²⁷ that encompass all five funds: European Regional Development Fund (ERDF); European Social Fund (ESF); Cohesion Fund; European Agricultural Fund for Rural Development (EAFRD); European Maritime and Fisheries Fund (EMFF).

It is worth noting that not all principles introduced through the general regulation concern each of the European Structural or Investment Funds to an equal extent. Distinct regulations were enacted for individual funds²⁸. Regardless of the separate regulations, eleven strategic objectives were identified for five funds. They develop the objectives formulated in the Europe 2020 strategy. These objectives are as follows²⁹: strengthening research, technological development, and innovation; enhancing access to, use, and quality of information and communication technologies; enhancing the competitiveness of SMEs, the agricultural sector, and the fishery and aquaculture sector; supporting the shift towards a low-carbon economy in all sectors; promoting climate change adaptation, risk prevention and management; preserving and protecting the environment and promoting resource efficiency; promoting sustainable transport and removing bottlenecks in key network infrastructure; promoting sustainable and quality employment and supporting labour mobility; promoting social inclusion, combating poverty and any discrimination; investing in education, training, and vocational training for skills and lifelong learning; enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

Along with the general regulation, the Common Strategic Framework was adopted. It consists of guidelines and directions concerning tasks that constitute the execution of Europe 2020 strategy undertaken by Member States. Both the

²⁷ General regulation (n 19).

²⁸ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 [2013] OJ L 347/289; Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 [2013] OJ L 347/470; Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 [2013] OJ L 347/281; Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 [2013] OJ L 347/487; Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council [2014] OJ L 149/1.

²⁹ General regulation (n 19) art 9.

general regulation and the Common Strategic Framework place emphasis on combining a number of strategic objectives with different funding sources as part of the undertaken activities. Such an approach is supposed to foster the effectiveness of the used measures and implemented tasks³⁰.

In accordance with the act regulating the principles of conducting development policy³¹ at the national level, the document implementing the guidelines included in EU legislative acts is a partnership agreement³² describing the ways of using European Structural and Investment Funds during the programming period. It is a document prepared by a Member State involving partners in accordance with the approach based on multi-level governance. It defines the strategy of the Member State, its priorities, and the conditions for the effective and efficient use of EU funds for the implementation of the EU strategy for smart, sustainable, and inclusive growth. Partnership agreement requires to be accepted by the Commission³³. It is not the only legal act which, in the perspective of the next few or over a dozen years, determines the problem areas requiring particular support, including the indication of expected funding sources for particular activities. With regard to the new financial perspective for the years 2014–2020, adjusting the national law acts to the modified principles of allocating EU funds became a necessary step. An implementation act was adopted for that purpose. It completes both the act on conducting development policy and partnership agreement.

Despite the fact that both the partnership agreement and the remaining documents are characterised by a high level of generality, they have an important role in the elimination of diagnosed problems. First of all, they clearly indicate the areas requiring support. Secondly, they condition the commencement of the procedure aimed at obtaining financial support from EU funds. Thirdly, they allow to make a preliminary assessment of the amount of required and available funds and their types.

Particular operational programmes are developed on the basis of a partnership agreement. The principles for their creation are largely laid down in the general regulation and the Common Strategic Framework. However, while preparing the operational programme, the Member State is required to adjust the programme content to the local conditions, including the existing needs and occurring difficulties.

The national operational programme is a programme intended for the implementation of the partnership agreement within the scope of cohesion policy. It is passed by the Council of Ministers and adopted by the European

³⁰ General regulation (n 19) item 16 of the introduction.

³¹ Act of 6 December 2006 on the principles of conducting development policy (n 25) arts 14e-14f.

³² Programming the Financial Perspective 2014-2020. Partnership Agreement (partnership agreement).

³³ General regulation (n 19) art 14.

Commission. It ought to reflect the objectives included in the Common Strategic Framework and the partnership agreement that are supposed to be fulfilled with the aid of EU funds³⁴. The structure of the content of national operational programmes is similar and involves nine essential elements, listed in the programme practically in any order.

The first part of the programme presents the extent to which the programme is linked with the Europe 2020 strategy. The second part indicates the priority axes of the programme. These are generally defined objectives of the programme with references to the thematic objectives listed in the general regulation. The third element is the financial plan of the programme which includes the types of EU funds that can be used as a funding source for the project. This part also includes the remaining funding sources and the anticipated obligations on account of the execution of the programme. The fourth part is devoted to the presentation of the impact of the programme on the territorial development, the support of areas affected by poverty to the greatest extent or of social groups at risk of discrimination or social exclusion, and the implementation of the specific needs of geographical areas resulting from natural or demographic handicaps. In the fifth part, the programme indicates institutions responsible for project management, audit, and control. This part also lists potential partners whose aid will be used for the implementation of the programme, including the ways of acquiring them. The sixth part refers to the content of the first and the third parts. It involves the presentation of principles concerning the coordination of activities funded from various sources and aimed at objectives that are similar to those set in a specific programme. The seventh part describes the degree of implementation of the conditions necessary to mobilise EU funds. These conditions result from EU legal acts. Among them, it is possible to distinguish general conditions concerning all funds and all thematic objectives as well as thematic conditions whose fulfilment is required only for specific thematic objectives. The eighth part describes the existing structure of public administration entities engaged in the implementation of programmes, including the assessment of their usefulness and effectiveness. In case of the occurrence of unwanted phenomena, proposals are made for the revision of the structure or the catalogue of public entities executing the programme. The ninth part is devoted to the analysis of the degree of implementation of horizontal principles³⁵ which, owing to their universal and priority character, need to be included, at least in an indirect way, for each thematic objective.

³⁴ Act of 6 December 2006 on the principles of conducting development policy (n 25) art 5 item 9a.

³⁵ General regulation of the Common Strategic Framework (Common Strategic Framework) item 5 of the Annex no 1.

Among the national operational programmes that are being currently implemented, none is directly targeted at the support of persons with disabilities. The analysis of the content of the programmes leads to a conclusion that despite the lack of a clear support of persons with disabilities, the programmes foster social inclusion of groups at risk of exclusion. It results from the necessity to include horizontal guidelines in the content of the programmes, especially within the scope of priority axes of specific programmes. These are legal instruments defining unified implementation conditions and procedures of the specified EU funds. They are addressed to the institutions participating in the implementation of operational programmes and ought to be applied by these institutions pursuant to an appropriate agreement, territorial contract, or contract. They are also addressed to the beneficiaries on the basis of the grant assignment agreement or the decision on project funding³⁶. Initially, on the basis of the applicable provisions, it was possible to distinguish horizontal guidelines, which had a national character and pertained to all programmes, and programme guidelines for specific programmes. Currently, the act does not differentiate the guidelines despite the fact that these can still pertain to all programmes or only to specific programmes. The formulated guidelines, as directions concerning the way of allocating EU funds, ought to foster the implementation of the Europe 2020 strategy, thus execute, among others, the provisions of the general regulation and the Common Strategic Framework. The Common Strategic Framework ought to facilitate the sectoral and territorial coordination of EU interventions within the scope of European Structural and Investment Funds and the coordination with other EU policies and instruments, in accordance with the objectives of the EU strategy for smart, sustainable, and inclusive growth, considering the most important territorial challenges of particular territory types.

One of the elements of the Common Strategic Framework is horizontal principles and cross-cutting political objectives³⁷: 1) partnership and multi-level governance; 2) sustainable development; 3) promotion of equality between men and women as well as non-discrimination; 4) accessibility; 5) issues connected with demographic changes; 6) climate change mitigation and adaptation.

Striving to provide the accessibility entails carrying out activities preventing any discrimination on grounds of disability. All products, goods, services, and infrastructure that are publicly available or provided for the majority of the society and that are co-financed from the European Structural and Investment Funds are available to all citizens, including persons with disabilities.

³⁶ Implementation act (n 18) art 2 item 32.

³⁷ Common Strategic Framework (n 35) item 5.

It contributes to the existence of barrier-free environment for persons with disabilities and the elderly. In particular, it concerns the accessibility of the physical environment and transport as well as applies in information and communication technologies for the purpose of promoting the inclusion of disadvantaged groups, including persons with disabilities³⁸.

Regardless of the planned activities executed within the scope of the programmes, each undertaking is assessed for its usefulness from the horizontal principles point of view, including availability principle. The greater the number of implemented principles as part of the project, the greater the chances for obtaining funds³⁹.

Regional operational programmes are governed by similar requirements concerning their content and structure. These are programmes intended for the implementation of the partnership agreement within the scope of cohesion policy. They are passed by province government and are subject to approval by the European Commission. Regional programmes ought to reflect the objectives included in the Common Strategic Framework and the partnership agreement that are supposed to be fulfilled with the aid of EU funds⁴⁰.

As it was already mentioned, they differ from the national operational programmes mostly through a limited territorial scope and wider material diversification. As a rule, over a dozen priority axes are formulated in regional programmes. They also place greater emphasis on the sustainable development at the territorial level. Currently, each province has developed a regional operational programme. In each of these programmes, one of the priority axes is counteracting social exclusion on grounds of, among others, disability. The improvement of situation of persons with disabilities can also be implemented as an element of raising the level of employment, education, or increasing the accessibility of health care services.

Another programme financed from EU funds is the Common Agricultural Policy whose main objective is the development of rural areas. The basic funding source of the Common Agricultural Policy is the European Agricultural Fund for Rural Development⁴¹. Similarly, as in the case of the remaining funds, its use should entail the implementation of objectives of the Europe 2020 strategy, thus, among others, counteracting social exclusion. While analysing the content of the documents regulating the principles of using the fund, it is possible to notice that activities with direct impact on the improvement of

³⁸ Common Strategic Framework (n 35) item 5.4.

³⁹ Guidelines on the implementation of the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities and the principle of equal opportunities of women and men within the scope of European funds for the years 2014-2020, 19-20.

⁴⁰ Implementation act (n 18) art 2 item 17 (b).

⁴¹ Regulation (EU) No 1305/2013 of the European Parliament and of the Council (n 29).

the situation of persons with disabilities are not covered by the scope of the Common Agricultural Policy.

Connecting Europe Facility is financed from EU funds as well. As part of this programme, it is possible to indicate three main objectives of activities⁴²: 1) bridging missing links, removing bottlenecks, enhancing rail interoperability, and improving cross-border sections; 2) ensuring sustainable and efficient transport systems in the long run as well as enabling all modes of transport to be decarbonised through transition to innovative low-carbon and energy-efficient transport technologies, while optimising maximum safety; 3) optimising the integration and interconnection of specific transport modes and enhancing the interoperability of transport services, while ensuring the accessibility of transport infrastructure.

As part of the undertaken activities, it is vital to strive, among others, to improve the access of persons with disabilities to transport infrastructure⁴³. Therefore, Connecting Europe Facility can be directly used as a tool improving social inclusion of persons with disabilities. In contrast to the remaining programmes, the only administrator of funding means intended for the implementation of the programme is the European Commission. The Commission autonomously selects projects through competitive calls for proposals. An additional prerequisite for participation in the calls for proposals is the necessity to obtain a consent for the investment of the Member State where the project will be implemented.

In case of EU funds, the mechanism of obtaining them follows a specific pattern. The applicant usually participates in the competitive procedure entailing the verification of the submitted documents. An agreement is concluded after the positive decision of the European Commission. It specifies in detail the principles of project implementation and the conditions for the disbursement of funds. When the project is finished, it is vital to draw up a detailed documentation concerning the undertaken activities indicating the level of fulfilment of initial objectives⁴⁴.

Such a mode of funds allocation ensures the participation of private entities in the execution of public tasks. The assignment of state or self-government tasks to private entities has numerous advantages, yet it is not free from drawbacks.

An indisputable advantage of passing part of the competences on to private entities is social activation. In this type of arrangement, the hierarchical structures and the ensuing need for subordination are replaced with the inclusion and engagement in co-operation of entities from outside of the

⁴² Commission Delegated Regulation (EU) 2016/1649 (n 22) item 1 of the Annex.

⁴³ Ibid item 2.3 (ii) of the Annex.

⁴⁴ Implementation act (n 18) art 31.

administrative authorities with the use of the mechanisms of decentralisation, disposing techniques, persuasion, and encouragement⁴⁵.

Among the most often indicated shortcomings of delegating public tasks to private entities, it is possible to enumerate: slightly idealistic character; mechanisms facilitating corruption can occur relatively easily; the use of this governance form as a panacea for the helplessness of the public law entities within the scope of some public tasks⁴⁶.

Forms of support of persons with disabilities from the remaining sources as part of European funds

The implementation of the Swiss–Polish Cooperation Programme ended in mid-2017⁴⁷. Therefore, it is currently impossible to request for funding as part of this programme. The Swiss funds had the aim of decreasing the socio-economic differences existing between Poland and more developed EU countries and the differences within the Polish territory – between the urban centres and regions that are poorly developed structurally. The programme involved four primary areas⁴⁸: 1) safety, stability, and supporting reforms; 2) environment and infrastructure; 3) private sector; 4) social and human resources development.

As part of the social and human resources development, a number of projects aiming at limiting social exclusion, among others, of persons with disabilities, were implemented.

The European Economic Area Financial Mechanism and the Norwegian Financial Mechanism, defined as EEA Grants and Norway Grants are a form of non-repayable foreign aid granted by Norway, Iceland, and Lichtenstein to new EU Member States. These funds are related to Poland's accession to the European Union and to the entry of the country to the European Economic Area. In return for financial support, donor countries benefit from the access to EU internal market, without being an EU member⁴⁹.

Both of the above-mentioned instruments are mobilised for a period of few years. Currently, the principles of spending these funds were devised for the years 2014–2021. Both in the past and currently, the regulations concerning the implementation of EEA Grants determine general and specific objectives which

⁴⁵ D Sześciło, 'Administracja i zarządzanie publiczne. Nauka o współczesnej administracji' in Sześciło D (ed), Stowarzyszenie Absolwentów Wydziału Prawa i Administracji Uniwersytetu Warszawskiego 2014), 15-20; M Marks-Krzyszowska, *Zarządzanie publiczne – istota i wybrane koncepcje* [2016] Acta Universitatis Lodzianis, Folia Sociologica, no 56, 37-51 doi: 10.18778/0208-600X.56.03.

⁴⁶ Marks-Krzyszowska (n 45) 37-51.

⁴⁷ Assessment of the effects as well as management and implementation system of the Swiss–Polish Cooperation Programme. Final report.

⁴⁸ Memorandum of Understanding on the Swiss–Polish Cooperation Programme.

⁴⁹ *Przewodnik po programach funduszy norweskich oraz funduszy EOG II edycji 2009-2014* [2014] Ministerstwo Infrastruktury i Rozwoju 4.

are supposed to be fostered by the projects funded from the grants. The main objective of the EEA Financial Mechanism 2014–2021 is its contribution to reducing economic and social disparities within the whole European Economic Area and improving bilateral relations between donor states and beneficiary states⁵⁰. In order to achieve the primary objective, five priority areas were formulated⁵¹: 1) innovation, research, education, and competitiveness; 2) social inclusion, youth employment, and poverty reduction; 3) environment, energy, climate change, and low carbon economy; 4) culture, civil society, good governance, and fundamental rights and freedoms; 5) justice and home affairs.

Therefore, the EEA Grants are explicitly targeted at counteracting social exclusion. The mode of funding as part of these grants is twofold. First of all, the applicants can apply following a competitive procedure. The second way of allocating funds is publishing the so-called predefined projects. These are projects implemented following a non-competitive procedure. Due to their importance, these should be indicated in the agreement whereby the donor states donate funding resources to Poland. There is also a possibility to formulate such projects after the agreement is concluded⁵².

Currently, the Norwegian Financial Mechanism is supposed to serve the implementation of identical objectives as the EEA Financial Mechanism. Allocating Norwegian Grants is subject to the same principles as the EEA Grants. Most programmes are implemented following a competitive procedure. There is also a possibility to publish predefined projects⁵³.

Summary

The resources that are part of European funds can have a largely beneficial impact on the improvement of the situation of persons with disabilities. The endeavour to normalise the principles of allocating the funds is visible despite their considerable diversity. The programmes, within which the funds can be allocated, are diverse enough that the support of persons with disabilities can surely be multidirectional. At the same time, common overarching objectives, whose degree of implementation is verified in case of every undertaking, are formulated for groups of programmes. Even if a programme is not directly targeted at the social inclusion of persons with disabilities, promoting equal opportunities is still one of the assessment criteria of undertaken activities.

⁵⁰ Memorandum of Understanding on the implementation of the EEA Financial Mechanism 2014-2021, art 1 s 1; Regulations on the implementation of the European Economic Area (EEA) Financial Mechanism 2014-2021, art 1. 2,

⁵¹ Ibid art 1 s 2.

⁵² Implementation regulations of EEA 2014-2021 (n 50), arts 6.2 and 6.6; *Przewodnik po programach funduszy norweskich oraz funduszy EOG II edycji 2009-2014* (n 49) 9.

⁵³ Memorandum of Understanding on the implementation of the Norwegian Financial Mechanism 2014-2021 (n 50); Regulations on the implementation of the Norwegian Financial Mechanism 2014-2021 (n 50).

Creating a possibility, mainly through a competitive application procedure, to actively include society in the implementation of public tasks merits a positive assessment. Such a way of allocating public funds increases the influence of private entities on the type and scope of initiatives undertaken in their immediate surroundings. It creates a chance for a better adjustment of undertaken activities to the actual needs. The tendency to share competences by public entities is consistent with the postulated model of the so-called public co-governance, otherwise referred to as public participatory governance or interactive governance. It is connected with the necessity to pass part of the public entities' competences on to other entities. It also entails co-operation and blurring boundaries between sectors, their interdependence (while keeping autonomy), and the need to endow other entities with trust⁵⁴.

However, entrusting entities with the implementation of tasks aiming at social inclusion does not guarantee the effective achievement of the objectives. Therefore, with an efficient system supporting the social inclusion of persons with disabilities in mind, it is vital to modify the activities undertaken to date. Moving away from the co-governance model is probably neither reasonable nor possible in that case. However, it seems that in order to increase the effectiveness of undertaken activities, a system of information exchange at the level of all local self-government units and at the national level should be created. It would entail mostly the data concerning the functioning forms of support together with an indication of implementing units and entities eligible to use the resources. Gathering and systematising this type of information would increase the accessibility of the offered aid and simultaneously allow for the identification of areas with insufficient support. It is the first step to coordinate activities undertaken for the benefit of persons with disabilities. Moreover, publishing of systematised data concerning entities implementing financial support from public funds fosters transparency in allocating these resources and makes it easier to limit negative phenomena that can occur in the interactive governance model.

In order to increase the effectiveness of the undertaken activities, it would be essential to increase the degree of engagement of units that are the administrators of European funds in the implementation of social inclusion policy. They should verify the efficiency of execution of tasks entrusted to private entities in a genuine, not only illusory, way. The ostensible character of the undertaken activities is especially visible in the formulation of indicators of the degree of objectives achievement. The number of people who participated in a training or workshops cannot be perceived as a sufficient indicator of the degree of task implementation. In such a case, the influence of the participation

⁵⁴ Sześciło (n 45) 15-20; Marks-Krzyszowska (n 45) 37-51.

in the project on the actual improvement of their situation should be verified. For example, how many people found employment as a result of the training.

Another element undermining the efficiency of social inclusion policy is the generality degree of the functioning programmes. The implementation of the programmes covered by European funds requires devising an array of more specific legal acts. At this stage, it would be advisable to indicate the areas requiring support very specifically and indicate implementation tasks that are strictly adjusted to them using the created data base.

In practice, the calls for proposals duplicate the very generally formulated notions taken from the documents regulating the principles of project implementation at the national level. Apart from making the content of competition documentation more detailed, the indicators allowing to assess the implementation degree of intended objectives should be formulated in an unambiguous and a rigorous way.

Practice shows that private entities most often initiate the implementation of particular undertakings that aim at fostering social inclusion. Then, the role of European funds administrators is limited only to the formal assessment of such an initiative. The vaguely and generally indicated objectives of particular programmes within the scope of social inclusion policy provide the administrative authorities with practically full freedom in allocating public funds in this regard. It fosters the wasting of public funds and creates space for corruption. It seems that a better solution would be if public entities took the initiative to carry out particular undertakings having systematised areas with insufficient support beforehand. Whereas private entities could apply for the implementation of activities proposed by public authorities.

It seems that in case of a policy fostering social inclusion, interactive governance is the best method to execute public tasks. However, public authorities cannot forget that passing part of their competences on to private entities does not relieve them of the responsibility to implement tasks. Therefore, entrusting activities to the private sector should not be an expression of the helplessness of a public entity but a result of a deliberately adopted governance model.

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ПІДТРИМКА ОСІБ З ІНВАЛІДНІСТЮ ЗА КОШТИ ЄВРОПЕЙСЬКОГО СОЮЗУ

Анотація. Підтримка осіб з інвалідністю – це конституційний обов’язок держави. Актуальність проблеми інвалідності відзначається не тільки на державному, а й на міжнародному рівні. Про це свідчать документи, ухвалені міжнародною спільнотою щодо прав осіб з інвалідністю.

У результаті турботи міжнародної спільноти про людей з інвалідністю та про їхні проблеми, були створені спеціальні механізми фінансування для підтримки цієї соціальної групи. У Польщі кошти, що надходять від Європейського Союзу (ЄС), перераховуються до спеціальної частини бюджету – бюджету коштів ЄС.

Метою статті є надати загальну характеристику бюджету коштів ЄС, з приділенням особливої уваги правилам витрачання коштів. Також розглядаються фінансові інструменти підтримки осіб з інвалідністю за кошти бюджету ЄС.

Дохідна частина бюджету коштів ЄС формується з коштів, що перераховуються із країн Європи. Слід зазначити, що загальний обсяг коштів з ЄС включає не тільки кошти, що увійшли до бюджету коштів ЄС, та кошти, отримані як допомога, яка надається державами – членами Європейської асоціації вільної торгівлі. Кошти бюджету ЄС витрачаються на реалізацію програм, що спільно фінансуються із коштів ЄС у частині, яка підлягає відшкодуванню. Ці видатки можуть набувати форми витрат, які підлягають відшкодуванню і які понесені державними бюджетними одиницями, або авансів, сплачених іншим бенефіціарам. Незважаючи на те, що дохідна і видаткова частина бюджету коштів ЄС є одночасно доходами і видатками державного бюджету, фінансовий результат бюджету коштів ЄС не впливає на рівень профіциту або дефіциту державного бюджету.

З огляду на чіткий зв’язок між надходженнями і видатками бюджету коштів ЄС і програмами, підтримка осіб з інвалідністю за кошти ЄС можлива лише за умови, що програма, фінансована з цих коштів, передбачає діяльність відповідного характеру. Для визначення обсягу підтримки, доступної особам з інвалідністю, перш за все, необхідно проаналізувати зміст програм, які фінансуються з бюджету коштів ЄС, як зазначено у додатках до Закону про бюджет, у зв’язку з завданнями, що стоять перед особами з інвалідністю і можуть бути вирішені у межах таких програм.

Ключові слова: кошти з фондів Європейського Союзу; інвалідність; соціальна інклюзія; Європейський соціальний фонд; Фонд солідарності.