

**NATIONAL RESEARCH REPORT
RESEARCH ON SITUATION OF
HUMAN RIGHTS VIOLATIONS
IN THE FRAMEWORK OF EU-
FUNDED ACTIVITIES IN
POLAND**

POLAND REPORT

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FRONT COVER IMAGE

Picture shows the construction of Noursing Home Care in Daszyna through an EU funded project.



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Introduction

Sunny Hill Senior Home + seniore.pl

The spending of European Funds in member states should be consistent with The Charter of Fundamental Rights of the European Union. The application of their provisions is also an obligation imposed under Article 6 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013.

The disbursement of European funds covers allocation of funds, priorities, provisions in calls for proposals. The whole process has to contribute to the active implementation of their requirements, inter alia, Articles 21 and 26 of the EU Charter and Articles 5 and 19 of United Nations Convention on the Rights of Persons with Disabilities (CRPD).

In Poland, EU-funded activities translate into a large number of projects proposed by non-governmental organisations (NGO's) and local authorities. They seem in general to be aimed at supporting groups at risk of social exclusion. However it is not uncommon that they violate the provisions of the EU Charter.

In accordance with Article 208 p. 1 of the Constitution of the Republic of Poland, the Ombudsman is the guardian of human and civil freedoms and rights. Human rights are also of focus to NGO's in Poland. They carry out both their monitoring activities and projects to support various groups. However, it is difficult to identify a clear-cut organisation to monitor the use of EU funds in connection with potential human rights violations. Moreover, Polish fundamental rights bodies do not have the task of monitoring the use of EU funds. The presented report aims to fill this gap.

Scope and methodology of the study

The research for the report was carried out through:

- quantitative and qualitative research with experts from different institutions and specialised in discrimination against different social groups;
- desk research.

Eighteen individual in-depth interviews were conducted with representatives of different types of institutions, organisations and independent experts. Each person also completed a questionnaire based on the template from the Research Guidelines. This document supported the national partners and included instructions and recommendations. Interviews were conducted online according to a scenario specified in the Project methodology. All research tools were translated and linguistically adapted to Polish conditions.

Due to the difficulty in reaching representatives of fundamental rights bodies, the number of interviews with representatives of civil society organisations (CSO) {5} was increased, while the number of interviewees from fundamental rights bodies {1} was decreased. Among the CSO representatives, we included people working with a variety of groups: people with disabilities, refugees and other marginalized groups.

Regardless of the perspective presented, all individuals had expert knowledge of how EU funds work in Poland. They also have an understanding of the human rights approach and the EU Charter. Each person signed an informed consent form in advance to participate in the study according to the requirements specified in the Project methodology.

The first stage of the study was to send the questionnaire to the participants with a request to fill it in and return. Most respondents chose to discuss the questionnaire during the interview. After discussing the questionnaire, the interview was conducted according to the scenario. The research was carried out between July and October 2024.

One consultation workshop (online) was organised (31.07.2024). It was attended by 21 persons, mainly representatives of NGOs, mostly organisations of persons with disabilities or, more broadly, processes related to the deinstitutionalisation of social services. The main focus of the discussion was the use of EU funds in this context. In parallel, a desk research analysis and literature review were conducted within the scope defined in the Project methodology.

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TABLE 1.
LIST OF RESEARCH PARTICIPANTS- OVERVIEW

National/regional authorities responsible for the management of EU funds:	a representative of the Managing Authority at the voivodeship level, a representative of the ESF Department in the Ministry of Funds, a representative of the Regional Social Assistance Centre.
Sectoral policies (education, social affairs, health, housing, etc.):	representatives of the Ministry of Education; Regional Welfare Centres, independent experts on public policy in specific areas, academic experts on social policies.
Civil society organisations:	Polish Disability Forum, Polish Migration Organisation, Human Foundation, local organisations working for persons with disabilities.
Fundamental rights bodies:	representatives of the Ombudsman's Office.
Public services (education, social affairs, health, housing, etc.):	representatives of the Provincial Offices, City Offices, Labour Offices, County Governor's Office.
Human rights lawyers:	lawyer at the Helsinki Foundation for Human Rights, independent human rights lawyers.

Literature review

Nursing Home Care in Daszyna

Polish literature has long addressed the EU Charter, including its violations, though publications are few. They mainly comment on court rulings and examples of breaches in Poland and beyond. However, the EU Charter is rarely discussed in relation to European funds, with most content serving as guides on compliance.

An example of a handbook is the item entitled 'Application of the Charter of Fundamental Rights in the course of implementation of projects financed by EU funds. Handbook and practical guidance for national bodies'[1] published by the Office of the Ombudsman in 2024. This comprehensive publication contains an index of rulings, discussing in detail each article of the EU Charter.

It also provides practical guidance on its application while implementing projects financed by EU funds. It pays special attention to fundamental rights, which are at high, medium and low risk of being restricted by national authorities in the course of implementing EU-funded projects.

As the authors of the publication state:

The purpose of this Guide is to support the staff of national authorities involved in the implementation of EU-funded programmes

and projects in the course of applying the Charter of Fundamental Rights and in assessing compliance with the Charter of Fundamental Rights by other bodies. The Guide is intended to facilitate the determination of whether the Charter of Fundamental Rights is effectively applied and complied with by national authorities in the course of implementing EU projects, or whether there has been a restriction of the fundamental rights contained therein in the cases investigated. A finding that a detected limitation of a fundamental right was incompatible with the Charter of Fundamental Rights (unacceptable or disproportionate) means that there has been a violation of the Charter of Fundamental Rights that must be eliminated.

It is worth noting once again that this valuable publication was created only in 2024. Before that, only such publications were issued as:

- The Charter of Fundamental Rights of the European Union as a Living Instrument. Handbook for Lawyers, Bojarski, Schindlauer, Wladasch, Wróblewski (eds.), Warsaw 2014[2];
- The Charter of Fundamental Rights of the European Union. Commentary, Wróbel (ed.), Warsaw 2013 (1st edition)[3], 2019 (2nd edition);
- The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds Baseline report prepared by the Office of the Commissioner for Human Rights (Ombudsman) (Poland), Warsaw 2023[4].

[1] <https://bip.brpo.gov.pl/pl/content/przewodnik-stosowanie-karty-praw-podstawowych-w-toku-wdrazania-projektow-finansowanych-z>

[2] https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2021/09/cfreu_manual_0.pdf

[3] <https://ruj.uj.edu.pl/entities/publication/4d8d7080-ce02-40f9-95f3-1b87bb0acc6c>

[4] <https://bip.brpo.gov.pl/sites/default/files/2024-02/%28j%C4%99zyk%20angielski%29%20Baseline%20report%20-%20FRA.pdf>

It is also appropriate to point to documents referring explicitly to human rights violations in EU-funded projects in the context of segregation of persons with disabilities:

- Concluding Observations on the initial report of Poland, prepared by the Committee on the Rights of Persons with Disabilities (2018)[5];
- Alternative Report on the Implementation of the UN Convention (2015)[6], with its update (2017)[7];
- Responses to the List of Issues of the UN Committee on the Rights of Persons with Disabilities prior to Poland's report on the implementation of the UN Convention (2018)[8];
- Complaint of the European Network of Independent Living (ENIL) and the Validity Foundation to the European Commission about rights violations in eight EU projects implemented in the Łódzkie Voivodeship (2020)[9].

The Polish Ministry of Funds and Regional Policy has prepared a procedure for the submission of notifications of suspected non-compliance with the EU Charter to the institutions implementing EU programmes[10]. However, in the Polish public discourse, there is a definite need for literature on violations of the EU Charter in the implementation of projects financed by EU funds. Only the judicial decisions of the European Court of Justice and other courts are cited in publications, but they do not directly relate to the implementation of European funds in Poland.

The relationship between the EU Charter and the funds is noticeable in Polish doctrine. But there is a lack of research on the practice of project implementation, the identification of specific violations and recommendations for their prevention.

The Charter of Fundamental Rights in Article 7 refers to the right to respect for private and family life, home and communications. In turn, Article 26 states that "the Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community".

That is why attention should also be drawn to the key documents setting a negative perspective on the implementation of deinstitutionalisation in Poland. A provision that allows further development of institutional settings is instanced in the Partnership Agreement EU-PL for the 2014-2020 programming period (p.42)[11]. Despite references to the importance of the deinstitutionalisation process there is an indication that:

At the same time, in justified cases it is justified to continue the support for institutional forms of care, especially in a situation when, due to the extent of care required by the persons residing in these institutions, it is impossible to carry out transformation towards deinstitutionalised care within the local community.

[5] <https://digitallibrary.un.org/record/1656309?v=pdf>

[6] <https://konwencja.org/cala-tresc-raportu/>

[7] <https://konwencja.org/aktualizacja-spolecznego-raportu-alternatywnego>

[8] https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=eFhqTDDzGmLyN2eHybFVXq7vUlcOdZrjFpvUdejr8dt8Y5TrmsydZVh8JkgpiRA2

[9] https://validity.ngo/wp-content/uploads/2020/08/Complaint_Poland.pdf; <https://validity.ngo/2020/08/10/enil-and-validity-challenge-polish-misuse-of-eu-funding-which-contributes-to-segregation-of-persons-with-disabilities/>

[10] https://www.rozwojspoleczny.gov.pl/media/130294/Samoocena_spelnienia_warunku.pdf

[11] https://www.funduszeuropejskie.gov.pl/media/14132/_Umowa_Partnerstwa_zmieniona_012016.pdf

A similar approach is observed in *The Guidelines for the implementation of projects in the field of social inclusion and combating poverty using the resources of the European Social Fund and the European Regional Development Fund for the period 2014-2020*[12]. It was intended that the creation of The Guidelines would define a certain minimum regarding the planning and implementation of investments, as well as the way in which services are provided. However, The Guidelines in some situations supported inappropriate spending of the EU funds. For example, the version of The Guidelines in force until 08.01.2018[13] allowed up to 12 residents to live in a single supported or sheltered housing unit. As of 09.01.2018[14], this number has been reduced to 7 residents within a single dwelling. None of the versions of The Guidelines establish a limitation on the number of assisted housing units, sheltered housing units within one building or immediate neighbourhood appear. This absence allowed for the creation of an unlimited number of sheltered or supported housing units within the same floor, building, on one property or neighbouring properties. None of the versions of The Guidelines establish a limitation on the number of residents, formally assigned to several institutions or entities, living in one building or in the immediate vicinity. This allowed for the formal circumvention of the population limit of 30 residents, indicated for one institution, in the co-financing of projects.

Indicated provisions have resulted in an internal contradiction or at least confusion. Institutions with more than 30 residents could in practice still be financed by EU funds. They could also be considered a form of deinstitutionalization which is contradictory to the UN Convention on the Rights of Persons with Disabilities (CRPD) assumptions.

SUPPORT FOR ROMA COMMUNITY

Poland has a programme of support for Roma at strategic and programme level (Programme for Social and Civic Integration of the Roma Community in Poland for 2014-2020[15], Programme for Social and Civic Integration of the Roma Community in Poland for 2021-2030[16]). It covers four areas: education, health, employment and housing. The programme is administered by the Ministry of Interior and Administration. For the period 2014-2020, the budget of the programme was approximately €2.6 million. The 2014-2020 Integration Programme covered 4 areas: education, work, housing and health. Support for the Roma community from the European Social Fund 2014-2020 was foreseen in the Operational Programme Knowledge Education Development 2014-2020 (PO WER) under Measure 2.7: Increasing employability of persons particularly at risk of social exclusion. This was the only measure in the PO WER directly targeting members of the Roma community. Within this measure it was planned to hold two competitions with a total budget of PLN 42 million. The prerequisites for the competitions were prepared, among others, based on the Integration Programme 2014-2020.

[12] <https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/dokumenty/projekt-wytycznych-w-zakresie-realizacji-przedswiecz-w-obszarze-wlaczania-spolecznego-i-zwalczania-ubostwa-z-wykorzystaniem-srodkow-efs-i-efrr-na-lata-2014-2020/>

[13] https://www.funduszeuropejskie.gov.pl/media/27996/wytyczne_CT9_24.pdf

[14] https://www.funduszeuropejskie.gov.pl/media/49753/Wytyczne_wlaczanie_spoleczne_v4.pdf

[15] <https://www.gov.pl/web/mswia/program-integracji-spolecznosci-romskiej-w-polsce-na-lata-2014-2020>

[16] <https://www.gov.pl/web/mniejszosci-narodowe-i-etniczne/programme-of-roma-integration-2021-2030>

The main objective of the above-mentioned competitions was the comprehensive implementation of measures to improve the education and employment of members of the Roma community. In the 2021-2027 funds[17], there is no separate national priority for actions targeting the Roma minority. Such projects are implemented at regional level and result from the provisions of the Regional Operational Programmes. However, a more in-depth analysis is required to determine the scope, scale and budget of these projects.

According to Assessment report of the Member States' national Roma strategic frameworks (9 January 2023)[18] all EU Member States are asked to include in National Strategic Frameworks for Roma the following elements:

- defining baselines and targets for the achievement of EU goals and main objectives, including group-specific targets, to reflect the diversity of Roma;
- combating anti-Gypsyism and discrimination;
- ensuring socio-economic inclusion of marginalised Roma;
- combining targeted measures with general measures;
- allocating a specific budget and setting up mechanisms for implementing progress, reporting on progress, as well as monitoring and evaluation mechanisms;

- involving Roma-led and Roma-supported civil society organisations, sectoral ministries, equality bodies and others in a systematic consultation and cooperation process. equality bodies and other actors in a systematic process of consultation and cooperation;
- promoting the active participation of civil society organisations in policy-making and processes within national and EU platforms;
- ensuring that the National Contact Point for Roma Inclusion has the necessary powers, sufficient resources and staff and that its role is strengthened, including through reform of the National Platforms for Roma Inclusion.

SPECIAL EDUCATION

In Poland, special education is organized for children:

- with mild, moderate or severe intellectual disabilities
- deaf or hard of hearing
- blind or visually impaired
- with physical disability, including aphasia
- in the autism spectrum, including Asperger's syndrome
- with multiple disabilities
- socially maladjusted, with the majority of these schools operating within the structure of a youth sociotherapy centre
- at risk of social maladjustment - all schools operate within the structure of a youth educational centre.

[17] https://www.funduszeuropejskie.gov.pl/media/109763/Umowa_Partnerstwa_na_lata_2021_2027.pdf

[18] https://commission.europa.eu/publications/assessment-report-member-states-national-roma-strategic-frameworks-full-package_en

In the 2024/2025 school year, 81 773 pupils (1.6% of all pupils and 26.7% of pupils with a recommendation for special education) attended special schools[19]. All graduates from special schools, with the exception of pupils with moderate and severe intellectual disabilities, receive the same school certificates as pupils from mainstream and integrated schools[20]. Despite an increase in the number of pupils with special needs, the number of pupils in special education is not increasing and is even on a downward trend.

FOREIGNERS LEARNING IN POLISH SCHOOLS

There were around 44 000 foreigners learning in Polish schools in the 2018/2019 school year, an increase of more than 10 times compared to the figures from before 2007, when their numbers hovered around 4 000. The largest number of students came from Ukraine, but also from Belarus, Georgia, India, Moldova[21]. At the end of the 2021/22 school year, i.e. four months after the outbreak of the war in Ukraine, there were at least 356 000 Ukrainian school-age children and young people in Poland. At that time, only 39% of them were included in the Polish education system. Today, this percentage has increased to 47%. The number of refugee pupils in primary schools, high schools, technical schools and lower secondary vocational schools has remained at a similar level for the last year and a half, oscillating between 134 000 and 144 000[22].

Ukrainian pupils make up 4% of children in Polish schools, although in some places their presence is almost twice as high, e.g. in Wrocław, where they make up 7.8% of the students population[23]. According to the Central Statistical Office's 2023 data on the national-ethnic structure, that there are 11 800 Poles of Roma origin in Poland[24], of which approximately 32% are under 19 years of age[25]. Despite the outlay of measures in previous years: remedial classes, improved attendance, purchase of school books – the grade point average of Roma pupils has not increased. The percentage of pupils dropping out of the school system at secondary level remains unchanged and covers almost the entire population aged 15-18[26].

SUPPORT FOR PEOPLE IN CRISIS OF HOMELESSNESS

In Poland, support for people in crisis of homelessness is provided under the “Overcome Homelessness[27]” programmes. These are announced on an annual basis. According to the programmes, support for people in a homelessness crisis includes the following forms of support:

- Social and professional reintegration: programmes targeting people at risk of eviction, including intensive reintegration programmes for those who have already been evicted or are awaiting eviction;
- Support in social housing: promoting social renting as a form of tackling homelessness and providing access to affordable housing to prevent debt and evictions;

[19] <https://eurydice.eacea.ec.europa.eu/pl/national-education-systems/poland/ksztalcenie-specjalne-na-poziomie-wczesnej-edukacji-i-opieki-ecec>

[20] <https://eurydice.eacea.ec.europa.eu/pl/national-education-systems/poland/ksztalcenie-specjalne-na-poziomie-wczesnej-edukacji-i-opieki-ecec>

[21] <https://ore.edu.pl/2021/10/raport-edukacja-wlaczajaca-w-polsce/>

[22] <https://ore.edu.pl/wp-content/uploads/2023/12/ost.-jak-wspierac-dzieci-4.pdf>

[23] Polish Ministry of the Interior and Administration, Programme of social and civil integration Roma in Poland for the period 2021-2030.

[24] Polish Ministry of the Interior and Administration, Programme of social and civil integration Roma in Poland for the period 2021-2030.

[25] <https://ceo.org.pl/dzieci-uchodzace-w-polskich-szkolach-co-mowia-nowe-dane/>

[26] https://www.unicef.org/eca/pl/press_release/integracja-edukacyjna-dzieci-uchodzcow

[27] <https://www.gov.pl/web/rodzina/pokonac-bezdomnosc-program-pomocy-osobom-bezdomnym-edycja-2024>

- Support services: developing 'outreach' and streetworking services targeting people in public spaces. This support is tailored to the individual needs of clients, including assistance with household budget planning or addiction therapy;
- 'Housing First' programme: this model involves the provision of housing as a first step, followed by the delivery of specialized support, which is expected to be crucial for those most excluded.

The Operational Programmes in the current financial perspective assume support for people in crisis of homelessness, including projects based on the "Housing First" principle[28].

It is worth emphasising that the funds provided for the implementation of programmes to combat homelessness, including the First Home programme, are, in the opinion of experts and NGOs, insufficient and project-based rather than stable funding[29].

SUPPORT FOR REFUGEES AND MIGRANTS

Support for refugees and migrants is mainly implemented through the FAMI programme. In Poland, the disbursement of money from the Asylum, Migration and Integration Fund (FAMI) [30] had been on hold since 2015 for about two years. This was due to the approach of the ruling party (Law and Justice) to the integration of migrants. Since mid-2015, the Ministry of the Interior and Administration (MSWiA) has cancelled one competition and failed to adjudicate another two[31].

In 2017, the ministry organised two closed competitions for provincial governors only, in which NGOs were not allowed to participate. This blockage of European funds lasted for about three years, significantly hampering NGOs' access to FAMI funds. A call for proposals for NGOs for integration projects for foreigners legally residing in Poland was launched in December 2024, with a funding amount of 60 million PLN[32]. It has not yet been adjudicated. According to representatives of organisations working to support migrants, this amount is insufficient, especially since Poland has limited public funding support for people from Ukraine. In addition, in the current funding period there were calls in a non-competitive procedure announced by the Managing Authority: Legal Migration and Integration (call budget: PLN 100 674 000), Return (call budget: PLN 182 508 755.48)[33].

[28] https://bip.mcps.com.pl/wp-content/uploads/sites/2/2023/03/Program_Rozwiazywania_Kryzysu_Bezdomnosci.pdf

[29] <https://bip.brpo.gov.pl/pl/content/rpo-posiedzenie-ke-przeciwdzialanie-bezdomnosci-20-czerwca-2023>

[30] <https://www.gov.pl/web/dfe-mswia/program-funduszu-azylu-migracji-i-integracji-2021-2027>

[31] <https://oko.press/mswia-zabiera-ngo-som-pieniadze-ue-pomoc-imigrantom-daje-je-wojewodom-latwiej-kontrolowac>

[32] <https://www.gov.pl/web/dfe-mswia/rozpoczecie-naboru-otwartego-na-integracje-obywateli-panstw-trzecich-w-polsce-fami>

[33] <https://www.gov.pl/web/dfe-mswia/program-funduszu-azylu-migracji-i-integracji-2021-2027>

Target groups

The scope of the research covered major social groups in Poland affected by the risk of human right violations:

- Persons with disabilities (including persons with psychosocial disabilities);
- Senior citizens;
- The Roma minority;
- Children;
- Persons in crisis of homelessness;
- Persons with a migrant or refugee background;
- LGBTQ+.

Report limitations

Qualitative and quantitative surveys as well as consultation meetings with experts proved the matter under investigation to be sensitive. It is reasonable to assume that respondents avoided certain topics, e.g. giving examples of specific projects that violate the principles of the EU Charter. Such attitudes are probably due to the difficulty in identifying such projects as well as to the concerns of the sector about the difficult position of whistleblowers in Poland.

The limited access to information on specific projects was a crucial difficulty of desk research. Available databases make it possible to effectively search for projects targeting specific groups by using keywords. However, further analysis of specific projects is difficult. It is based on data provided by project implementers, which is usually poor. The mentioned data does not provide insight into the possibility of human rights violations.

The analysis of projects targeting the Roma community, as well as people in crisis of homelessness and refugees, was particularly difficult. While identifying titles and duration these projects is possible, investigating violations of the EU Charter using desk research is challenging.

It turned out to be easier to examine projects targeting persons with disabilities and senior citizens. The list of projects included in the Appendix was finally based on the complaint lodged to the European Commission by the ENIL and the Validity Foundation in 2020.

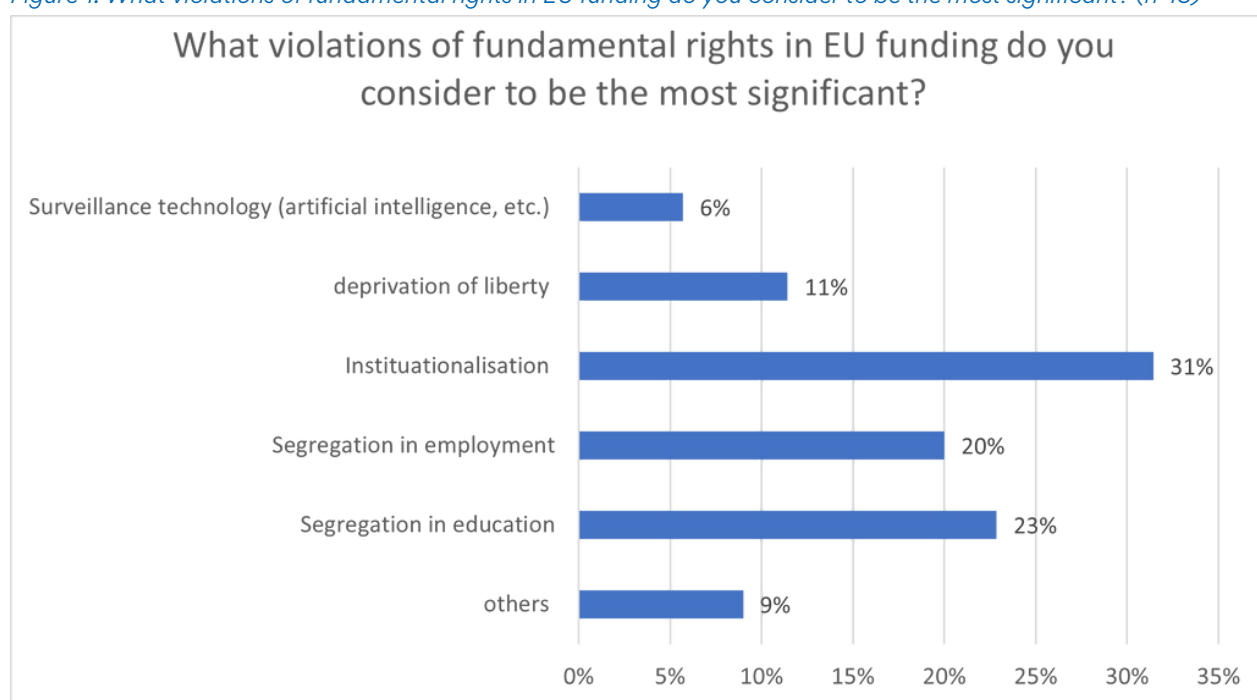
The formulation of this complaint alone does not provide a full insight into the extent of human rights violations in the indicated projects. In our report, the analysis of these cases is partly based on available data, such as geolocation or the number of people supposed to reside in a given institution. For the most part, however, the analysis is deductive. It refers to general knowledge about the functioning of the institutions. These institutions have the character of nursing homes. They are places of collective residence, especially for persons with disabilities and seniors. The knowledge on the operation of these facilities in Poland was taken from the available research literature. As a consequence, many of the answers to the questions posed in the Annexes are presumptive and refer to general knowledge rather than the case studies. In this way it has been possible to identify and partially analyse deinstitutionalisation projects. In contrast, projects related to education, professional activation, culture or other areas of social inclusion remain out of scope.

Key findings

SCOPE OF FUNDAMENTAL RIGHTS VIOLATIONS IN EU FUNDS IN POLAND

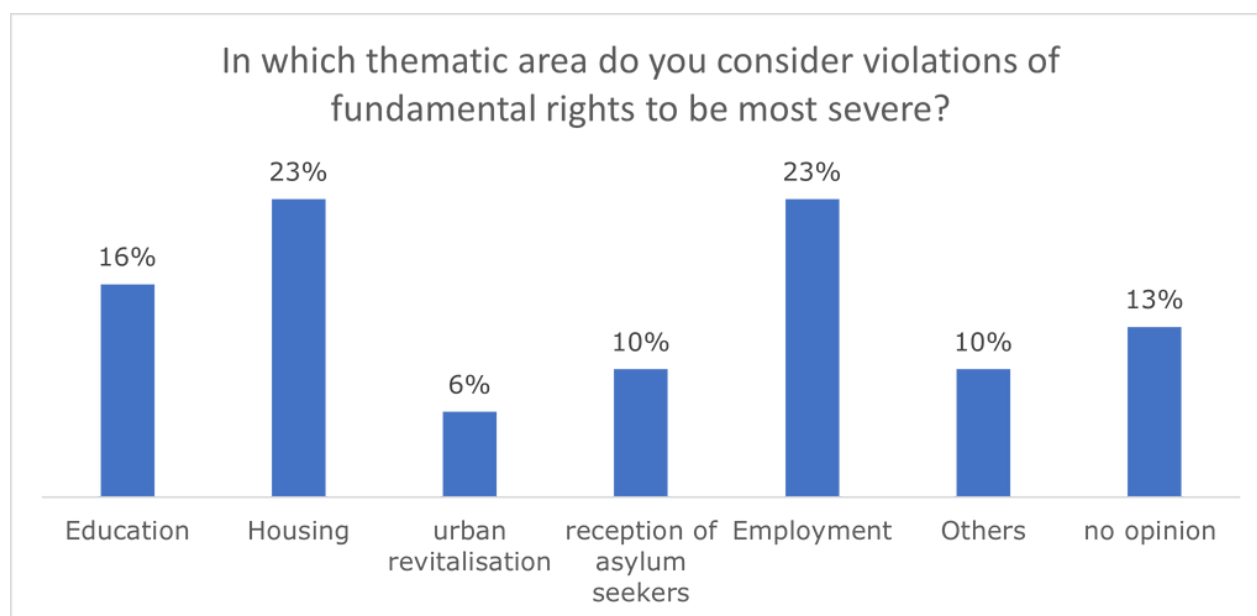
Only half of those who took part in the survey were able to point to a specific (but not related to a particular project) example of a violation of the EU Charter. The analysis of the quantitative survey showed that the biggest problem is the use of EU funds for institutionalisation.

Figure 1. What violations of fundamental rights in EU funding do you consider to be the most significant? (n=18)



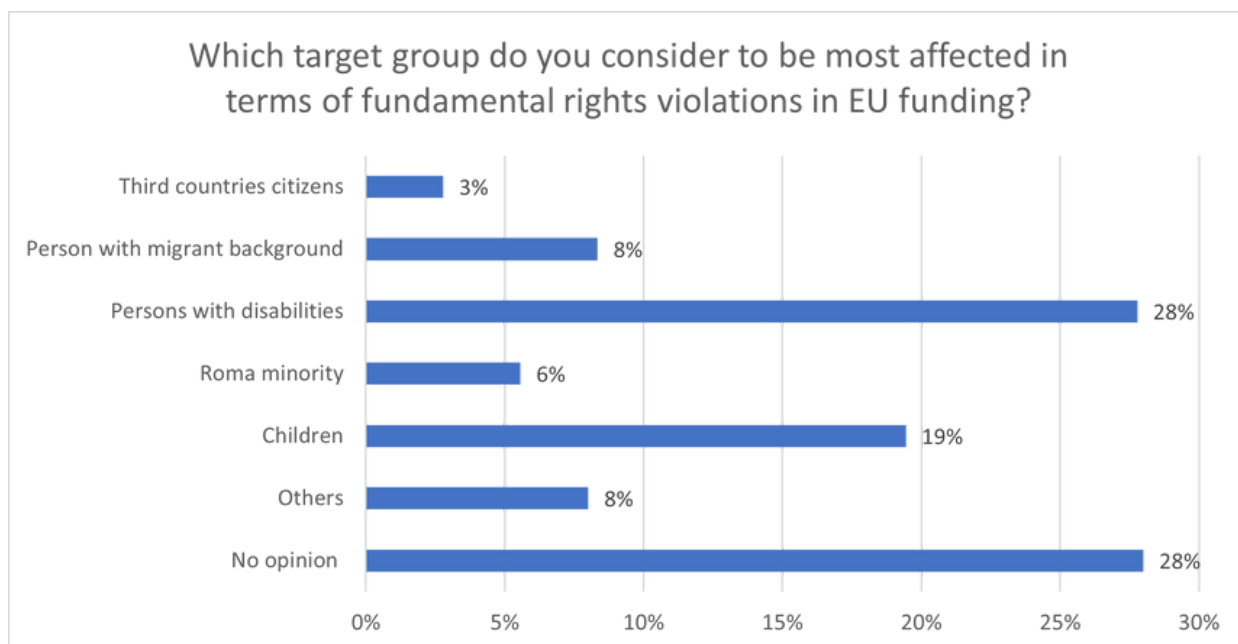
The three main areas in which respondents believe there are breaches are housing, employment and education.

Figure 2. In which thematic area do you consider violations of fundamental rights to be most severe? (n=18)



According to respondents, persons with disabilities are the group most at risk of having their rights violated in the implementation of EU-funded projects in Poland.

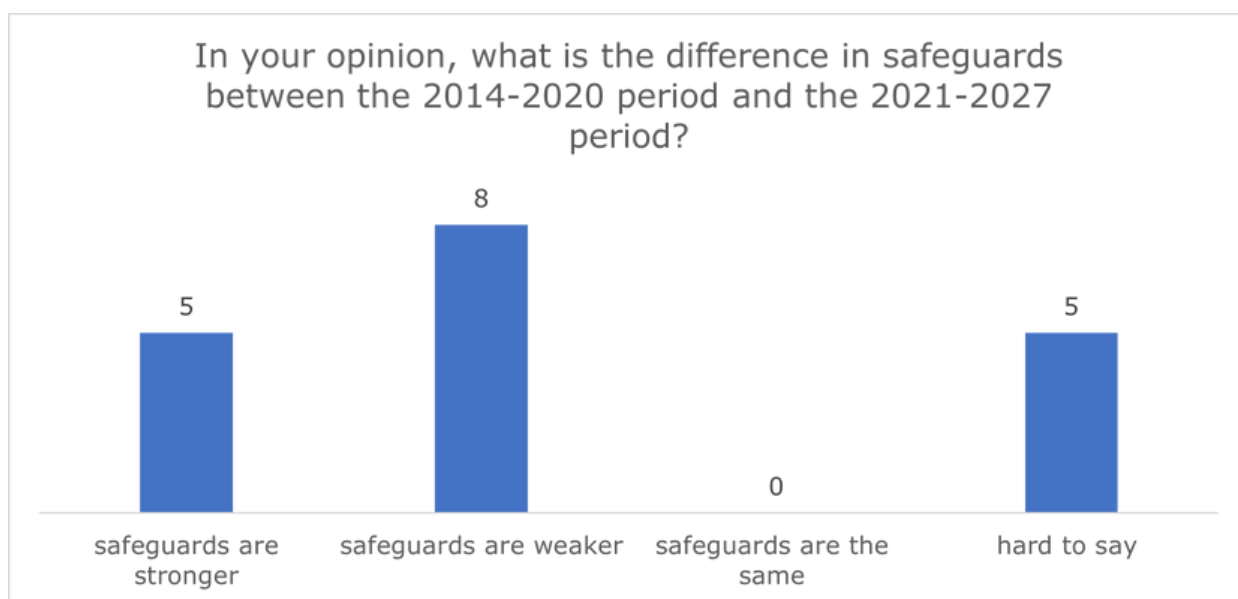
Figure 3. Which targeted group do you consider to be most affected in terms of fundamental rights violations in EU funding? (n=35, possibility of choosing no more than 3 answers)



MECHANISMS TO PREVENT AND DEAL WITH VIOLATIONS OF FUNDAMENTAL RIGHTS IN THE USE OF EU FUNDS

In the survey the respondents were asked to assess the mechanisms to safeguard fundamental rights in each financial period. According to the majority, these mechanisms are now weaker than in the previous financial perspective, as shown in the Figure 4:

Figure 4. In your opinion, what is the difference in safeguards between the 2014-2020 period and the 2021-2027 period? (n=18)



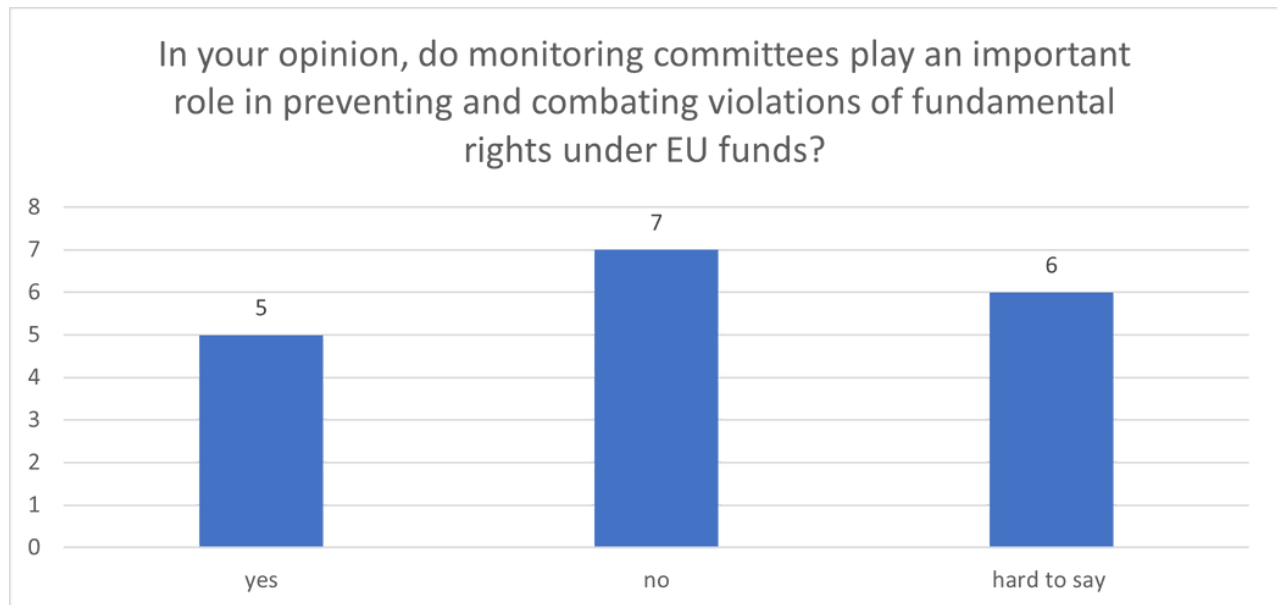
The Table 1 provides an assessment of the protection against violations of fundamental rights in the various instruments related to the implementation of EU funds:

Table 1. An assessment of the protection against violations of fundamental rights

Have sufficient safeguards been put in place to prevent violations of fundamental rights in the period 2014-2020 and 2021-2027 in the following instruments: programmes, call for proposals, selection criteria?		
Instruments/ funding period	2014-2021	2021-2027
Program		
yes	5	7
no	8	5
no opinion	4	5
Call for proposals		
yes	4	7
no	7	5
no opinion	6	5
Selection criteria		
yes	6	6
no	5	4
no opinion	6	6

According to those who took part in the survey, it is difficult to speak of the Monitoring Committee as a tool to provide protection against violations of fundamental rights:

Figure 5. Opinions on the role of monitoring committees in preventing and combating violations of fundamental rights (n=18)



Most of those who took part in the quantitative survey had no direct involvement in the complaint's procedure.

Figure 6. Being involved in the procedure for reporting and responding to fundamental rights violations in EU-funded projects (n=18)



The following conclusions can be drawn from the interviews and consultations:

- There is a lack of detailed guidance on how to implement projects in compliance with the EU Charter. It causes a problem because in practice it is not always clear what compliance with the EU Charter means in a given project and how to identify its violation. At the same time some interviewees were concerned that the introduction of standards could lead to over-regulation in this area. It was also argued that standards and guidelines in the Polish context would not guarantee greater compliance with the EU Charter;
- A complaints mechanism exists, but in practice it does not work because of a lack of knowledge of both the EU Charter and the obligations arising from it, and of the mechanism itself. Interviewees were unable or unwilling to discuss specific projects about which complaints had been made;
- Non-compliance of projects with the EU Charter occurs in various areas. But the critical point are often the selection criteria. They indirectly discriminate against certain groups through rigid access criteria that do not take into account the individual situation of a person;
- Compliance with the EU Charter appears at the declaration stage. What matters in practice is the implementation of the indicators set out in the project and the disbursement of funds. There is a lack of cross-cutting perspectives and monitoring mechanisms.

COMPLIANCE WITH THE EU CHARTER IN RELATION TO PROJECTS TARGETING SPECIFIC GROUPS

The following conclusions can be drawn from the interviews and consultations:

- It is seen as discriminatory to exclude certain groups from benefiting from project support. An example of this is the lack of projects targeting senior citizens of retirement age in previous financial perspectives, due to the link between the target group and the age of professional activity;
- There have been allegations of exclusion of groups through overly detailed rules that can be discriminatory. An example of this would be 'children who have disappeared from foster care', who could benefit from project support up to the age of 18, after which support ends;
- The absence of an intersectional approach and the associated lack of flexibility were also identified as problems. Although such disadvantages do not directly discriminate, they lead to exclusion. The lack of flexibility means that support cannot be tailored to the needs of the individual;
- In the case of projects targeting refugees and migrants, due to the anti-immigrant discourse of some governments, especially the 2015-2023 United Right governments, the distribution of funds earmarked to support these groups under the Asylum Migration and Integration Fund (FAMI) has been a problem. According to representatives of refugee advocacy organisations, it is not at all possible to talk about the compatibility of these projects with the EU Charter, as this is not seen as a criterion.

- The Agency for Restructuring and Modernisation of Agriculture, responsible for projects targeting farmers, was mentioned as a negative example in the interviews. Complaints about discriminatory provisions in competitions organised by this Agency were sent to the Ombudsman. It is worth pointing out, however, that, as it emerged from the interviews, the Ombudsman does not have the task of monitoring the way EU funds are spent. This is the role of the Monitoring Committees.
- In partnership projects between the public administration and the private sector, responsibility for implementing projects in compliance with the EU Charter is sometimes blurred, making it difficult to enforce these provisions even when irregularities are reported.

The voice of a respondent:

Systemic violations, such as violations of the right to good administration, as well as violations of the right to an effective remedy, and also violations of Article 52 of the Charter of Fundamental Rights. These violations, as I said, in my opinion have a systemic dimension, that is, they are not violations in a specific individual case, but violations of the Charter of Fundamental Rights resulting from a defective system for implementing EU funds in Poland, as well as from the defective operation of this system in practice, which is also important, in my opinion, in principle, for the right to good administration or the right to a fair judicial procedure. The Charter's addressees, the individual entities, are sometimes much more affected by the length of procedures or the inability to find particular provisions, which is precisely what the right to good administration entails, than by any specific, painful infringement in a given case, and this length is a straightforward

element of the effectiveness of the process of, for example, returning a grant or implementing a project. So these are the barriers that I think are systemic. Non-transparent non-statutory regulations on the basis of which competitions are announced.

The desk research analysis of the three regional operational programmes, i.e. Łódzkie[34], Lubelskie[35] and Warmińsko-Mazurskie[36] Voivodeship, revealed that there were provisions that allowed funds to be spent on investing in institutional solutions. Particularly problematic provisions were included in the Regional Operational Programme of the Łódzkie Voivodeship indicating that:

where it makes more sense to use institutional forms (when it is not possible to take care of a given group of people in another form due to health or other important reasons), their support will also be possible.

The Regional Operational Programme for the Lubelskie Voivodeship, in turn, includes a provision stating that it is crucial to consider support:

for the development of new forms of implementation of social services for people excluded and threatened by social exclusion, including children, people with disabilities, people with mental health problems, the elderly (inter alia, for the development of institutional and non-institutional forms of support [...])

[34] <https://www.funduszeuropejskie.gov.pl/media/127146/RPO-WL-20122023.pdf>.

[35] https://www.funduszeuropejskie.gov.pl/media/125950/RPO_WL_2014_2020_z_1_grudnia.pdf

[36] <https://rpo.warmia.mazury.pl/plik/send/?id=16908&v=1>.

The Regional Operational Programme of the Warminsko-Mazurskie Voivodeship, on the other hand, indicates that:

the provision of social services under PI 9iv will be based primarily on the principle of transition from institutional care to community care (deinstitutionalisation). Support for services in stationary forms may be offered only in a situation where it is not possible to cover a given group of people in another form (due to health or other important reasons).

In the light of these provisions it is possible to organise support and services in institutional forms.

THE SITUATION OF THE TARGET GROUPS IN THE CONTEXT OF THE EU FUNDS AND THE RISKS OF VIOLATION OF HUMAN RIGHTS

Persons with disabilities (including people with psychosocial disabilities) and senior citizens

Although no specific examples of projects were identified in the interviews, the survey and the consultation meeting, several problem areas were pointed out:

- apparent deinstitutionalisation and the use of EU funds for the actual strengthening of institutions (their renovation, apparent division into smaller units),
- the implementation of the personal assistance service in a way that deviates from its objective (which is supporting the right to independent living) and reinforces a caring and paternalistic approach towards persons with disabilities,
- the lack of accessibility (architectural, digital, communicational) of individual projects that prevents or hinders the participation of persons with disabilities.

The complaint to the European Commission by ENIL and the Validity Foundation[37] identified 8 projects, co-financed with EU funds in Poland, which violated the fundamental rights indicated in the EU Charter and the UN Convention. These projects are:

- Construction of an 'Innovative social care home' for people with mental disorders as an element of the transformation of the support system for people with mental disorders from institutional to community-based (RPLD.07.03.00-10-0031/16);
- Extension and reconstruction of the Adult Social Care Home building in Drzewica (RPLD.07.03.00-10-0018/16);
- Construction of a social welfare home - Kolumna Senior Citizens' Home (RPLD.07.03.00-10-0001/16);

[37]https://validity.ngo/wp-content/uploads/2020/08/Complaint_Poland.pdf; <https://validity.ngo/2020/08/10/enil-and-validity-challenge-polish-misuse-of-eu-funding-which-contributes-to-segregation-of-persons-with-disabilities/>.

- Construction and equipment of a residential and care complex Romanów Senior Citizens' Home (RPLD.07.03.0 0-10-0014/18);
- Adaptation and extension of the existing building in Drzykozy to accommodate the provision of social assistance services and the purchase of equipment for the facility (RPLD.07.03.00-10-0009/18); Construction of a Day Care and Rehabilitation Centre providing Day Care and Rehabilitation services together with the purchase of equipment necessary for the delivery of social rehabilitation and care services for the elderly and people with disabilities (RPLD.07.03.0 0-10-0053/16);
- Thermomodernisation of the branch of Social Support Home No. 1 at 27/29 Farbiarska Street in Tomaszów Mazowiecki (RPLD.04.02.0 2-10-0004/16);
- Thermomodernisation of the buildings of the Nursing Home in Rąbień (RPLD.04.02.0 2-10-0072/16).

The information gathered in the course of the review indicates that none of the 8 projects analysed are likely to comply with the requirements for independent living. The projects are most likely to maintain or reinforce the segregation of their inhabitants and overall lead to their multifaceted discrimination. Each of the projects led to the creation, extension or upgrading of a facility that fulfils the definition of an institution, as understood in accordance with the CRPD, *General Comment No. 5 of the UN Committee on the Rights of Persons with Disabilities* and the *UN Guidelines Principles on Deinstitutionalisation, including in Emergency Situations*.

All the projects analysed are institutions that cannot be modified in any simple or rapid way so that they are no longer incompatible with the requirements of independent living and the realisation of fundamental rights.

Most of the indicated projects should not have passed the formal assessment phase, due to the fact that their implementation was in direct contradiction to the objectives set out in the operational programmes and calls for proposals (social inclusion / social integration / deinstitutionalisation / development of services in the local community).

In Poland, there are approximately 100 000 people in 24-hour institutions (not including those in psychiatric hospitals). However, the full number of people at risk of institutionalisation is not known. The above situations show that virtually all mechanisms have failed, at each level of the management and use of EU funds, which should safeguard that they do not finance the development or perpetuation of institutions and similar projects do not receive funding.

The Roma minority

The Roma minority in Poland is estimated at 20,000–30,000 people[38]. Censuses in Poland do not collect data on ethnicity, so this figure is an estimate. In addition, there is no estimate of how many members of the Roma minority arrived in Poland from Ukraine following the outbreak of full-scale war in the winter of 2022. Unlike many countries in the region, the Roma in Poland are an urban group, which is an important factor in their ability to access public services. Their relatively small numbers and relatively even distribution throughout the country do not create the problem of high concentration in small areas (only isolated cases of so-called ghettoisation).

The evaluation of the PO WER[39] in support of the Roma minority revealed the following problems in the support of this group from EU projects:

- They are designed to support the Roma community by involving them in projects as participants, less often as partners or independent project implementers. The projects are implemented by specialized bodies which do not always understand the situation of this minority and the local labour market;
- Lack of synergy between PO WER projects and projects implemented under the Programme;
- Low interest of local self-government units in implementing projects for the Roma minority;
- More motivated and better educated people participated in the projects, so that only a part of the community was covered.

Based on the available evaluation reports, it is not possible to identify projects of a discriminatory nature incompatible with the EU Charter. However, the opinion of the Advisory Committee of the Council of Europe Convention for the Protection of National and Ethnic Minorities in Poland, is worth mentioning[40]. The Committee, in its recommendations for immediate action, points to the need to:

- continue the national strategy;
 - increase the number of Roma Teaching Assistants in schools and improve their remuneration;
 - increase the participation of Roma children in education, especially at the secondary level.
- The document identifies early marriage and the limited participation of Roma children in pre-school education as barriers.

The research did not identify specific problems related to discrimination against the Roma minority. It is a consequence of the fact that it was very difficult to reach organisations working in this area and experts from this minority itself. There were traces of statements concerning the fact that projects targeting Roma persons are sometimes constructed in a way that does not take their culture into account and are based on stereotypical perception of this group. It is also worth noting that in Polish conditions, the topic of the Roma minority is practically absent from public debate, and the minority itself is small in number.

[38] <https://www.nik.gov.pl/plik/id,13073,vp,15485.pdf>

[39] The European Social Fund 2014-2020 was foreseen in the Operational Programme Knowledge Education Development 2014-2020 (PO WER)

[40] <https://rm.coe.int/4th-op-poland-en/1680993391>

Education for children with disabilities, refugee and migrant pupils

As the report of the Helsinki Foundation for Human Rights points out, there is no European fund in Poland dedicated solely to solving problems affecting children[41]. Polish schools (local governments) can apply for EU funds, both for inclusive education and for equal opportunities for refugee pupils.

Special schools can apply for funding other than for inclusive education. Based on the analysis (desk research as well as the survey), it is difficult to identify projects that would violate the EU Charter.

Persons in crisis of homelessness

In the European funds for 2021–2027, support for people in crisis of homelessness is planned at the level of individual regions and is defined in regional programmes. However, it is difficult to determine what scale of measures is referred to, based on the desk research analysis carried out.

Between 2014 and 2020, a central project from the PO WER programme developed a model for supporting people in crisis of homelessness based on the 'Housing First' method (POWR.04.03.00-00-0071/18)[42].

Projects financed by the ESF are complementary to the nationwide programme 'To Overcome Homelessness' (Program Pokonać Bezdomność[43]), which is announced every year. The programme has not been evaluated (only annual reports were prepared), but organisations supporting people in crisis of homelessness point to its underfunding and the fact that public policy concerning people in crisis of homelessness in Poland is not based on human rights.

Asylum, Migration and Integration Fund (FAMI)

The withholding of FAMI funds resulted in a significant limitation of NGO opportunities, which directly translated into a reduction of support for foreigners in Poland and hindered their integration process.

One project, selected by the European Commission (Specific Action), concerned support for refugees from Ukraine, including the transition from collective segregated housing to private housing. At the same time, another project supports infrastructure and procedures related to forced returns[44]. However, due to the lack of detailed knowledge of these activities, it is difficult to analyse them in terms of compliance with the EU Charter.

Representatives of NGOs involved in human rights monitoring point out, however, that while in the case of projects implemented by an organization within the framework of published competitions such compliance can be observed, in the case of non-competitive projects implemented by the administration such certainty no longer exists. Therefore, there is a justified fear that these funds are used to reinforce a detention system. In addition, the projects are supposed to be in line with the Migration Strategy 2025–2030[45], which focuses primarily on security issues and differentiates migrants by country of origin and other factors in a worrying way (selective model). With regard to persons who have refugee and migration experience, the problem lies in the state's approach to migration policy,

[42] <https://bazakonkurencyjnosci.funduszeuropejskie.gov.pl/ogloszenia/109363;https://repo.uni.opole.pl/info/report/UOdd5fe216311c4a21a1fcc0f6e5fb1adb/>

[43] <https://www.gov.pl/web/rodzina/pokonac-bezdomnosc-program-pomocy-osobom-bezdomnym-edycja-2024>.

[44] <https://www.gov.pl/web/dfe-mswia/zmiana-polskiego-programu-fami-2021-2027>

[45] <https://www.gov.pl/web/premier/odzyskac-kontrolę-zapewnić-bezpieczeństwo---strategia-migracyjna-na-lata-2025---2030>

which is itself incompatible with the EU Charter. The government's proposed migration policy strategy entitled 'Take back control. Ensure security - Migration Strategy 2025 – 2030'[46] does not address the rights of refugees and migrants. This document puts the issue of security (related to the fact of the full-scale war in Ukraine and Russia's actions in Belarus), at the centre of migration policy. From the perspective of migrant organisations working in the human rights field, a problem is also the high entry threshold for applying for EU funds themselves. This often excludes them as potential grantees. Writing an application requires a lot of knowledge, skills, but also human resources, which are often lacking. In addition, these organisations often lack financial stability, employees are only hired for specific projects and cannot be involved in other tasks.

One of the most dramatic examples of human rights violations in Europe is the Polish-Belarusian border crisis. Thousands of people are

trying to cross the border in search of refuge, but Poland uses the brutal practice of pushbacks – illegally sending migrants back to the Belarusian side. Witness accounts document instances of physical violence and deprivation of basic needs for migrants.

From the perspective of a human rights defender, the situation is deeply disturbing. Migrants are trapped between two countries and the Polish authorities are restricting humanitarian organisations' and journalists' access to the border area.

In 2024, Poland received €52 million to strengthen border protection with Russia and Belarus, but these funds are earmarked for measures such as the construction of observation towers or the installation of optoelectronic devices. However, there is no evidence to suggest that this money is directly allocated to pushbacks on the Polish-Belarusian border.

LGBTQ+ people

So called 'LGBT-free zones' were[47] areas in Poland where local governments adopted resolutions declaring their resistance to so-called LGBT ideology. These resolutions, often supported by conservative organisations such as Ordo Iuris, were intended to symbolically reject the rights and promotion of the LGBTQ+ community. Supporters of these resolutions argued that they were not striking a blow against people, but were an expression of opposition to an ideology that they believed threatened traditional family values. Opponents argued that these were attempts to stigmatise and exclude LGBTQ+ people and their families. 'LGBT-free zones' have had a significant impact on local authorities' access to EU funds.

The European Commission considered these resolutions to be contrary to the values of the European Union, including the prohibition of discrimination on the basis of sexual orientation. As a result, a provision was included in the partnership agreement between Poland and the European Commission, which prevents funding for local governments that have adopted discriminatory resolutions.

As a result, municipalities and districts that upheld these resolutions could not count on receiving EU funds, including from cohesion policy. The European Commission closed the infringement procedure against Poland in January 2023, but continues to monitor the situation to ensure that non-discrimination provisions are respected [48].

[46] [As the report of the Helsinki Foundation for Human Rights points out, there is no European fund in Poland dedicated solely to solving problems affecting children](#)

[47] [According to recent press reports, these 'zones' have recently been eliminated: <https://wiadomosci.gazeta.pl/wiadomosci/7,114883,31838471,to-juz-oficjalnie-koniec-stref-wolnych-od-lgbt-wszystkie.html>](#)

[48] https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668

General conclusions

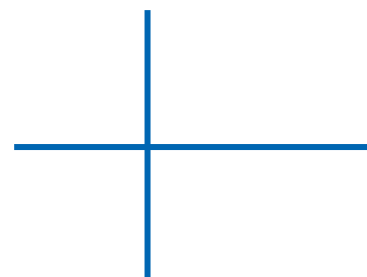
The study reveals that the perspective of assessing the compliance of EU funds with the EU Charter is difficult to understand in Polish conditions. In practice, experts with knowledge of the functioning of the funds were not able to answer questions related to fundamental rights. At the same time, those with expertise in human rights or the rights of specific minorities found it difficult to answer specific questions about the mechanisms involved in the operation of the funds.

During the interviews it was not possible to identify specific examples of projects violating the EU Charter. Interviewees either did not have such knowledge or hid behind professional secrecy. They were reluctant to identify specific projects where they had identified such violations, either because of the specificity of their role or for fear of repercussions. Comparing the different funding perspectives was also difficult. However, it was clearly indicated that discriminatory provisions occur at the level of the competition announcements on application for EU funds competitions themselves or the design of individual programmes. They consist, for example, in projects aimed at deinstitutionalizing social services in the institutions themselves. Such projects, in reality leads strengthening of the latter, or in designing measures of a paternalistic, and therefore in practice discriminatory, nature.

As a result, the research with experts did not provide specific examples of EU-funded projects that violated the EU Charter. However, it was possible to identify mechanisms of discrimination in relation to different types of projects and different target groups. Desk research provides some project examples, however, their analysis was difficult.

The provisions arising from the EU Charter are not effectively applied in practice. The problem is lack of awareness and knowledge of the document among individual stakeholders. A key issue is the low priority of the human rights approach in the formulation of public policies, which is also reflected at the level of EU-funded projects. The mentioned problem is also visible at the level of central authorities, i.e. those responsible for programming public policies and spending EU funds.

In Poland, the intersectional approach in the implementation of projects from EU funds is very limited. The lack of application of the intersectional approach in EU projects targeting excluded groups in Poland is due to several key factors. Cohesion policy guidelines do not specify how to take into account complex and overlapping forms of social exclusion, especially the specific needs of people belonging to more than one marginalised group.

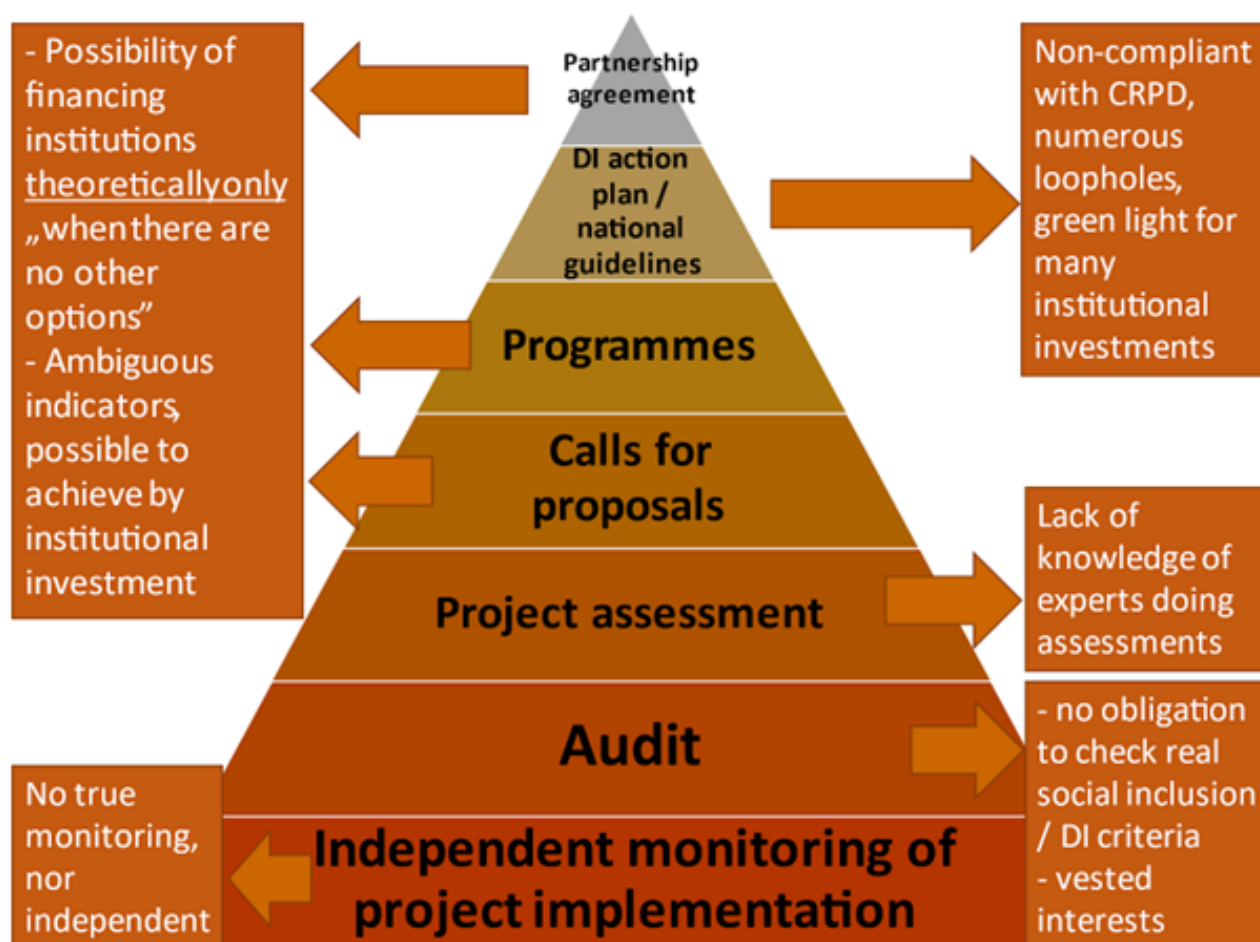


Projects often treat excluded groups as homogeneous categories, ignoring the diversity within them. For example, people with disabilities may simultaneously experience discrimination based on gender, ethnicity or refugee status. Project institutions often lack the tools and knowledge to apply an intersectional approach. There is a lack of training and expert support in the analysis of multidimensional social exclusion. In addition, representatives of excluded groups are rarely involved in the design and monitoring of activities aimed at them, which limits the possibility of identifying specific needs resulting from the intersection of different forms of exclusion.

All this leads to the creation of activities that do not respond to the complexity of the life situation of people from marginalised groups.

Problems, shortcomings and errors in the different levels of management of EU funds in terms of ensuring that spending complies with the principles of independent living and respect for fundamental rights are summarised in Diagram 1.

Diagram 1. Functioning of mechanisms for ensuring compliance of spending with the provisions of the Charter and the Convention under the ERDF and the ESF in Poland in the financial perspective 2014-2020.



The diagram demonstrates the ineffectiveness of the indicated safeguard mechanisms on a nationwide scale. Some of them are of a universal nature (e.g. Partnership Agreement, National Guidelines for Social Inclusion[49]), and in relation to the rest (e.g. evaluation of grant applications) numerous similar breaches are known in other voivodeships.

The fact that despite the very high scale of violations within the analysed projects and their obviousness, they were not counteracted, makes one assume that the safeguards mechanisms were even less able to counteract violations easier to overlook, such as small group homes prohibited by the CRPD.

Recommendations

The key recommendations are:

- Additional independent assessment of the signed operational programmes to ensure that they are fully compliant with the EU Charter and the CRPD, especially with regard to independent living and deinstitutionalisation, including possible proposals for changes to the partnership agreements and operational programmes, with the aim of making clear that all types of residential institutions (including small and large, long-term care facilities, shelters, etc.) are excluded from support from EU funds.
- Inclusion in the Partnership Agreement, operational programmes and calls for proposals of a commitment to comply with, inter alia, the *UN Guiding Principles on deinstitutionalisation, including in emergency situations* (with particular reference to the definition of institutions and community-based services) and the *General Comment on CRPD No. 5*.
- Strengthen the teams of institutions overseeing the implementation of EU projects and evaluating projects in calls for proposals with expertise in specific areas of compliance with the Charter and the CRPD, especially in the implementation of their requirements in practice of the implementation of activities with EU funds.
- Revision of the current procedures for assessing complaints and introduce in-depth analyses, including assessments by independent human rights bodies, and exclude the use of assessments by any bodies with a clear interest in a particular outcome (especially management institutions).
- Independent assessment of Member States' national or regional guidelines on the use of ERDF and ESF in full compliance with the Convention on the Rights of the Child and the EU Charter and their monitoring (including amendments), including assessment of risk areas, ways to mitigate them, possible proposals for change.

[49] The full name of the guidelines indicated is "Guidelines for the implementation of projects in the field of social inclusion and combating poverty using the resources of the European Social Fund and the European Regional Development Fund for 2014-2020". Link: <https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/dokumenty/projekt-wytycznych-w-zakresie-realizacji-przedsiwziec-w-obszarze-wlaczania-spolecznego-i-zwalczania-ubostwa-z-wykorzystaniem-srodkow-efs-i-efrr-na-lata-2014-2020/>.

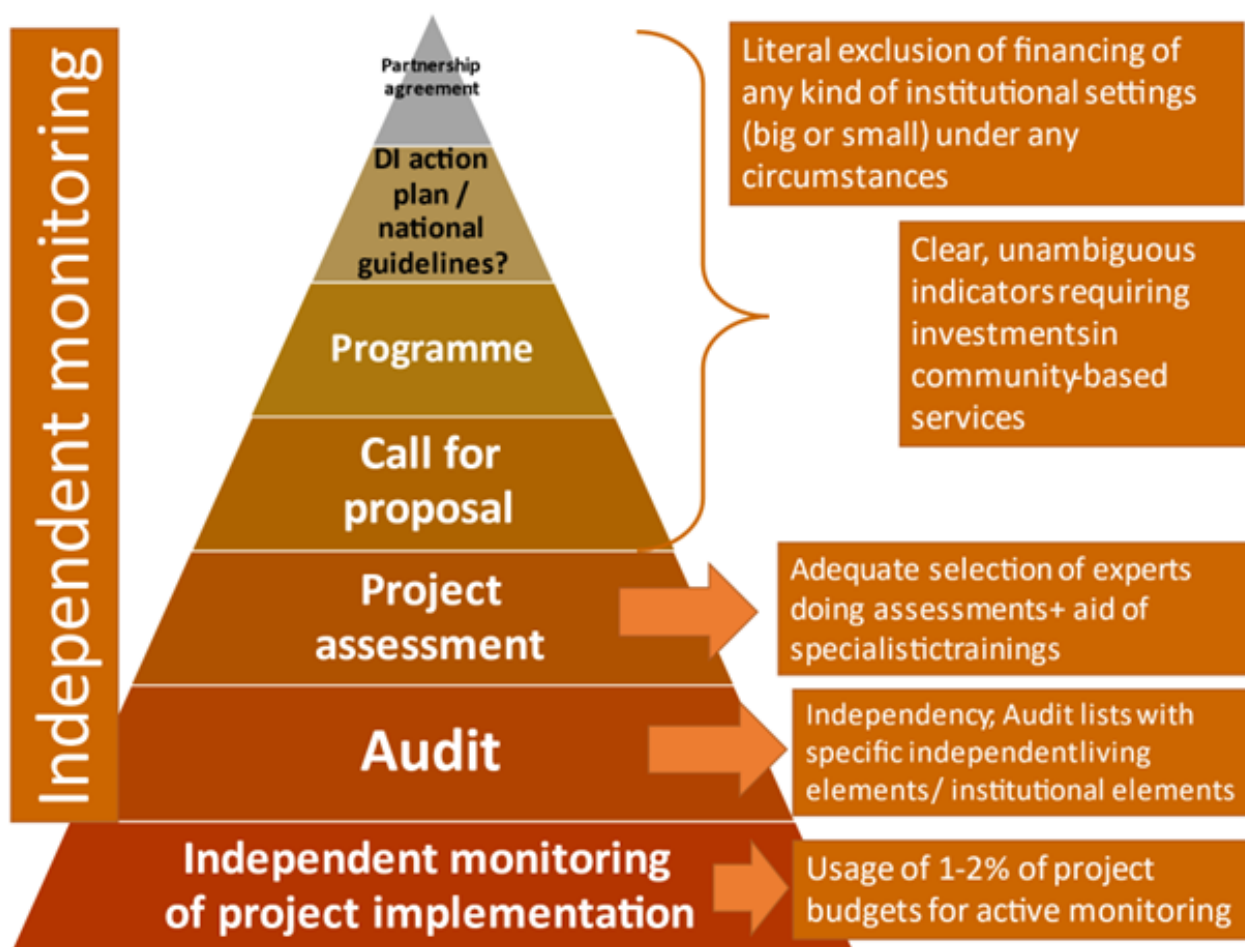
- Independent evaluations and monitoring should not be commissioned by entities that may have a vested interest in the specific results of the evaluations.
- Provision of the detailed documents (guidelines, checklists, criteria) for the creation of calls for proposals and criteria for evaluating projects for compliance with the EU Charter.
- Implementation an independent mechanism to monitor the implementation of the CRPD and the CRPD. The only public, independent monitoring (based on constitutional provisions) of the CRPD is possible by the Office of the Ombudsman or the Supreme Audit Institution.
- Implementation the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities on Poland's report[50] on the implementation of the CRPD.
- Enhance the participation of the Roma community in consultation processes, expand the involvement of Roma organisations in advisory panels and monitoring committees for operational programmes, and conduct targeted information sessions. It is also important to track the effectiveness of Roma inclusion in the implementation of these programmes and tailor communication strategies to the specific needs of Roma communities[51].
- Certain amount of funding should be used for active monitoring as a strictly rational safeguard for the proper use of project funds.
- Ensuring that the composition rules of the monitoring committees are in line with the principle of partnership and the specific provisions (e.g. Articles 4.3 and 33 of the CRPD), guaranteeing the effective representation of persons with disabilities and organisations of persons with disabilities.
- The rules on the use of ERDF and ESF funds (the 'best outcome' / 'value for money' principle) require that investments which constitute incompatibility with human rights or a high risk of such incompatibility, should not be supported or financed.
- Any ERDF investment in monitoring social infrastructure must include an ESF component (also: cross-financing), and both require a thorough assessment of individual needs, human resources and infrastructure.

Separately, a range of recommendations relating strictly to safeguards to ensure the proper spending of EU funds are also included below. For better clarity, they have been included within the diagram and the description below it.

[50] <https://digitallibrary.un.org/record/1656309?v=pdf>

[51] <https://op.europa.eu/hr/publication-detail/-/publication/71d1f298-3b24-11ee-bd8d-01aa75ed71a1/language-en>

Diagram 2. Indicating further necessary mechanisms to ensure compliance of spending with the EU Charter and the CRPD within the framework of EU funds in Poland in the financial perspective 2021-2027



The recommendations in the aforementioned area include, starting from the highest and also most general level:

1. Partnership agreement;
2. National Implementation Plan for Deinstitutionalisation and/or National Guidelines affecting the disbursement of EU funds in the area of social inclusion;
3. Operational programmes;
4. Calls for proposals;
5. Evaluation of projects;
6. Control/audit - covering all levels and all institutions, i.e. implemented on a planned or extra-coordinated basis by intermediary body (IB), managing authority (MA) and implemented on a planned or extra-coordinated basis by audit services of institutions supervising the implementation of EU projects or implemented by other units of the above mentioned institutions within the framework of complaint proceedings;
7. Independent monitoring of project implementation.

Within levels 1-4, i.e. the Partnership Contract, the National Deinstitutionalisation Implementation Plan and/or the National Guidelines affecting the disbursement of EU funds in the area of social inclusion, the Operational Programmes and the Calls for Proposals, it is necessary to explicitly exclude any type of institution (large or small) under any circumstances and to have clear, unambiguous indicators requiring investment in community-based services.

The next level, project appraisal, requires ensuring an appropriate selection of experts carrying out appraisals + support for experts both in the form of specialised training and expert advice available to both the expert and the Intermediate Body and Managing Authority.

The level of implementation of controls and audits, in turn, requires ensuring in particular: the independence of controls and audits, free from any possible vested interest in a specific control/audit outcome.

Necessary in this respect will also most likely be the use of checklists with specific independent living and institutional elements that would be checked in the course of the control/audit implementation.

Similarly, as in the case of the project appraisal level, also in the case of controls and audits the support for controllers/auditors in the form of both specialised training and expert advice available both to controllers/auditors and to the Intermediate Body, Managing Authority and representatives of other institutions supervising the implementation of EU projects may be crucial.

The final level, which is the most detailed but also includes elements of other levels (vertical level), is the independent monitoring of project implementation commissioned in a way that:

- will make it impossible or radically more difficult, both formally and strictly in practice, to influence the final outcome of the monitoring of the project(s) concerned,
- ensure a high level of detail in project monitoring,
- be implemented and, where necessary, renewed, at the various stages of the project, starting from the project evaluation phase, covering areas or topics likely to pose particularly high evaluation difficulties, up to and including implementation, at a point in the project when all the main project activities will be carried out.

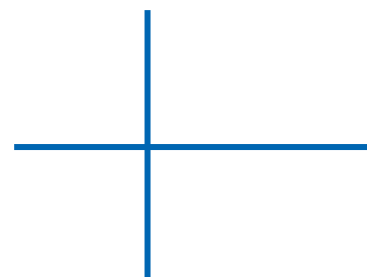
With a view to implementing the 'best value for money' principle, it makes sense from the point of view of even this principle alone to allocate 1-2% of the budget of projects implemented in the broad area of social inclusion for independent, active monitoring of project implementation.

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18. https://commission.europa.eu/publications/assessment-report-member-states-national-roma-strategic-frameworks-full-package_en
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34. <https://www.funduszeuropejskie.gov.pl/media/127146/RPO-WL-20122023.pdf>
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46. As the report of the Helsinki Foundation for Human Rights points out, there is no European fund in Poland dedicated solely to solving problems affecting children
47. According to recent press reports, these 'zones' have recently been eliminated:
<https://wiadomosci.gazeta.pl/wiadomosci/7,114883,31838471,to-juz-oficjalnie-koniec-stref-wolnych-od-lgbt-wszystkie.html>.
48. https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668
49. The full name of the guidelines indicated is "Guidelines for the implementation of projects in the field of social inclusion and combating poverty using the resources of the European Social Fund and the European Regional Development Fund for 2014-2020". Link:
<https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/dokumenty/projekt-wytycznych-w-zakresie-realizacji-przedswiezec-w-obszarze-wlaczenia-spolecznego-i-zwalczania-ubostwa-z-wykorzystaniem-srodkow-efs-i-efrr-na-lata-2014-2020/> .
50. <https://digitallibrary.un.org/record/1656309?v=pdf>
51. <https://op.europa.eu/hr/publication-detail/-/publication/71d1f298-3b24-11ee-bd8d-01aa75ed71a1/language-en>



ANNEX: THE LIST OF PROJECT EXAMPLES

Please read the chapter on the report limitations before reading the projects descriptions.

On the basis of the data collected and general knowledge on functioning of institutional system in Poland, it can be concluded that the projects described below fulfil the criteria for being an 'institution' within the meaning of the CRPD as well as General Comment No. 5, and that the way it operates is contrary to the provisions of, inter alia, Articles 5 and 19 of the CRPD and constitutes a violation of the implementation towards future residents of the investment of the principles of independent living in community inclusion and non-discrimination.

1. INNOVATIVE SOCIAL CARE HOME FOR PEOPLE WITH MENTAL DISORDERS AS AN ELEMENT OF THE TRANSFORMATION OF THE SUPPORT SYSTEM FOR PEOPLE WITH MENTAL DISORDERS FROM AN INSTITUTIONAL TO A COMMUNITY-BASED ONE

Background information - Project 1		
1	Name of the project	Innovative social care home for people with mental disorders as part of the transformation of the support system for people with mental disorders from an institutional to a community-based one
2	Project number	RPLD.07.03.00-10-0031/16-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	9 635 879,98 PLN
6	Funding	6 598 715,85 PLN
7	Project implementation period	11.10.2016 - 30.06.2018 Annex 1 dated 21.12.2018 - extension from 30.06.2018 to 31.12.2019 Annex No. 2 of 28.10.2019 - extension from 31.12.2019 to 31.12.2020 Annex 3 dated 10.05.2021 - extension from 31.03.2021 to 30.09.2021 Annex 4 dated 03.09.2021 - extension from 30.09.2021 to 31.12.2022 Annex 5 in preparation - request for extension until 31.12.2023
8	Recruitment number	RPLD.07.03.00-IZ.00-10-001/16
9	Date of signing of the grant agreement	01.01.2017
10	Name of beneficiary	Society of Friends of the Disabled
11	Final legal form of the facility	Nursing home
12	Dedicated group	Persons with mental disorders
13	Population	to 2022 (funding applications, including Annex 4 dated 03.09.2021): 100 persons according to Annex 5 (in preparation for 08.2022): 60 persons
14	Form of residence	A 4-storey building with an area of XYZ: Rooms for 1-4 persons - until 2022 (funding applications, including Annex 4) Rooms for 1-3 persons - according to Annex 5 (in preparation)

Photo 1. Satellite isometric view (adjacent building of the neighbouring DPS at 56 Rudzka Street for 100 elderly and chronically somatically ill people is visible next to the development)

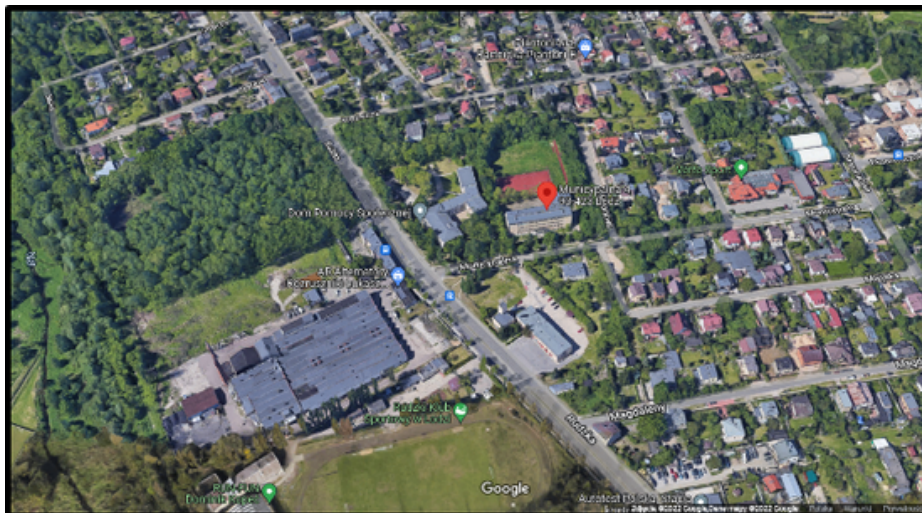
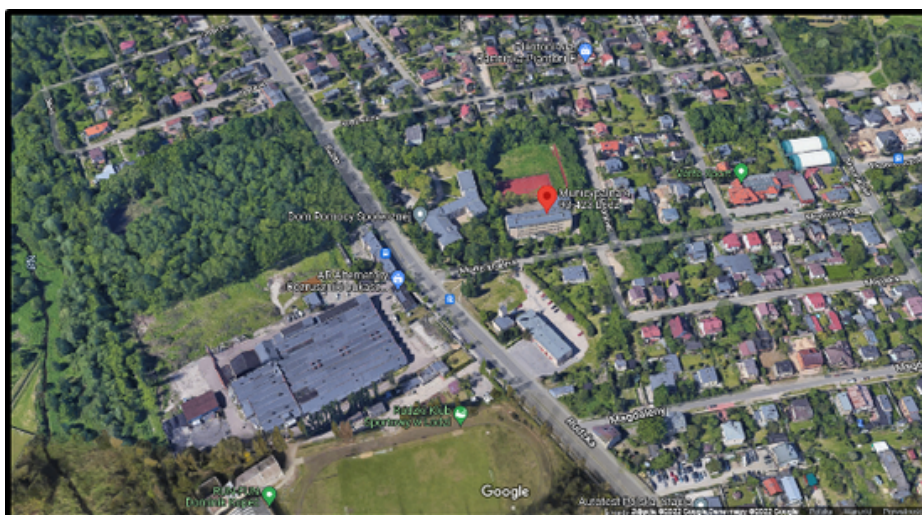


Photo 2. Front of the building



Photo 3. Satellite view of the mapped public transport route from the DPS location to the city centre (Lodz)



2. EXTENSION AND RECONSTRUCTION OF THE ADULT SOCIAL CARE HOME BUILDING IN DRZEWICA, 21/25 STAWOWA ST.

Background information - Project 2		
1	Name of the project	Extension and reconstruction of the Adult Social Care Home building in Drzewica, 21/25 Stawowa St.
2	Project number	RPLD.07.03.00-10-0018/16-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	11 450 776,64 PLN
6	Funding	8 670 051,47 PLN
7	Project implementation period	27.07.2016 - 31.05.2020 Annex No. 2 of 26.08.2019 - extension from 31.05.2020 to 30.11.2020 Annex 4 dated 25.05.2020 - extension from 30.11.2020 to 30.04.2021
8	Recruitment number	RPLD.07.03.00-IZ.00-10-001/16
9	Date of signing of the grant agreement	23.05.2017
10	Name of beneficiary	Opoczno County
11	Final legal form of the facility	Nursing home
12	Dedicated group	Elderly people
13	Population	77 people
14	Form of residence	Building with three storeys Rooms for 1, 2, 3, 4 persons

Photo 4. Satellite isometric view of the DPS in Drzewica

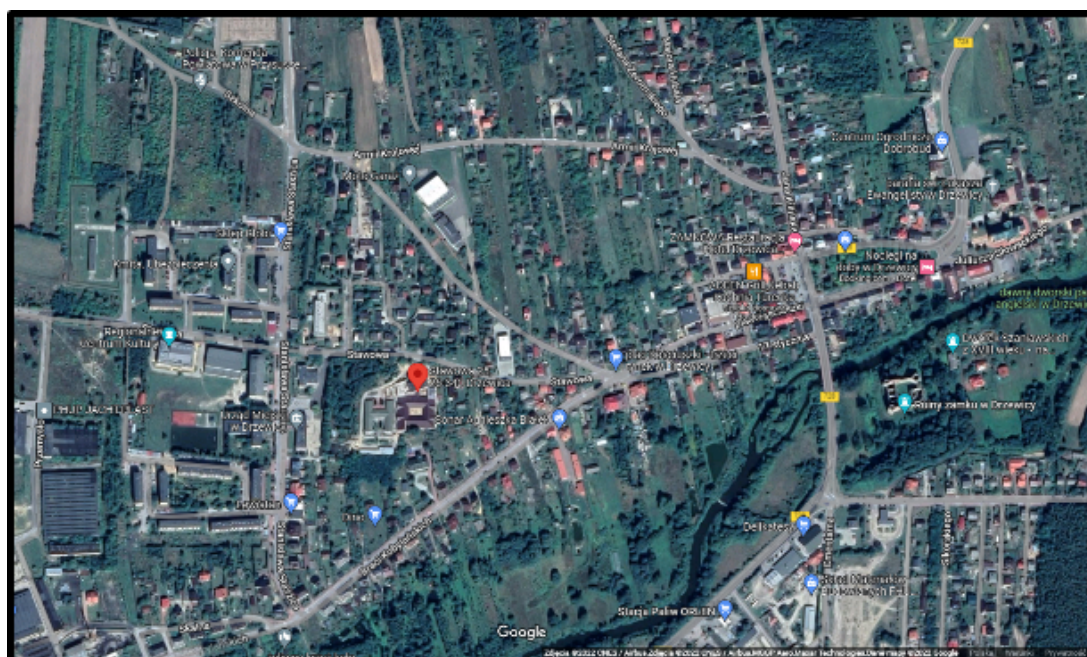


Photo 5. Satellite isometric view (close-up) of the DPS in Drzewica

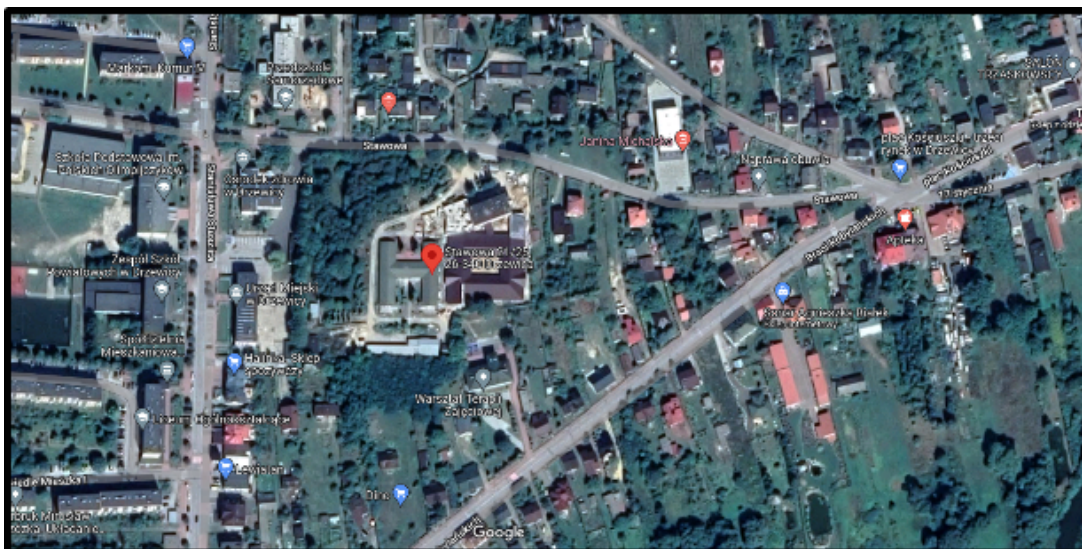


Photo 6. Satellite view with footpath from the DPS in Drzewica to the main square in Drzewica

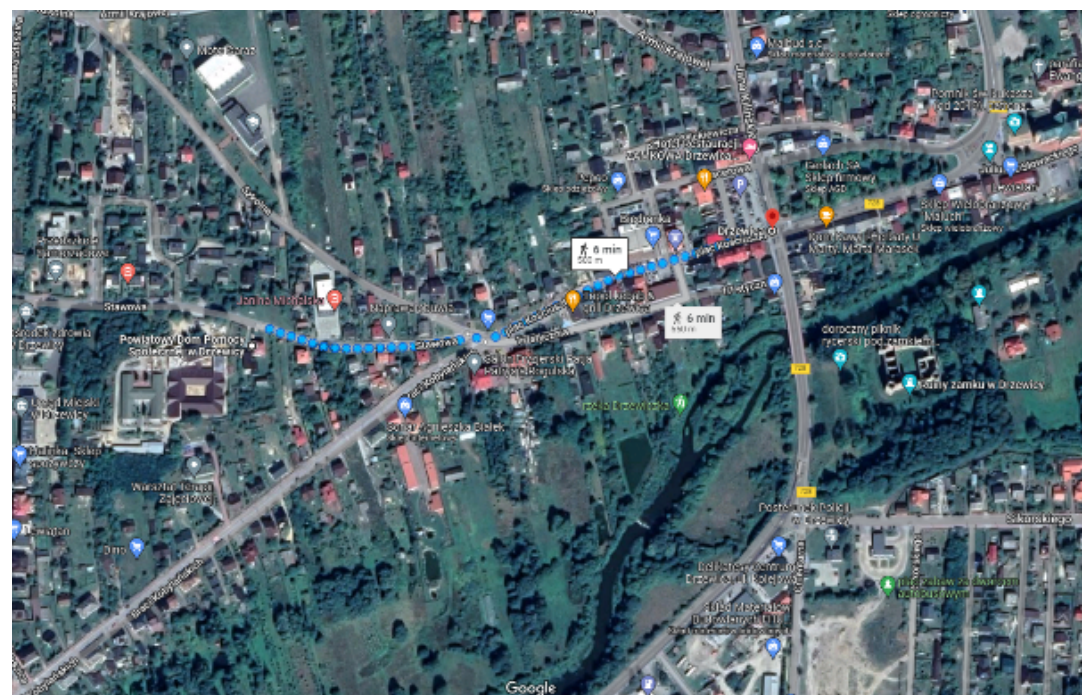


Photo 7. View from the front of the property (gate) of the DPS in Drzewica



Photo 8. Below are two photos captioned, respectively: "Photo (Zdjęcie) no 3 - new extended single-storey building from outside" and "Photo (Zdjęcie) no 4 - construction"



Zdjęcie nr 3. Plac budowy – nowy rozbudowywany parterowy budynek z zewnątrz



Zdjęcie nr 4. Plac budowy - nowy rozbudowywany budynek Domu Pomocy Społecznej.

3. CONSTRUCTION OF A SOCIAL WELFARE HOME - KOLUMNA SENIOR CITIZENS' HOME

Background information - Project 3		
1	Name of the project	Construction of a nursing home - Kolumna Senior Citizens' Home
2	Project number	UDA-RPLD.07.03.00-10-0001/16-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	7 863 252,92 PLN
6	Funding	3 281 430,47 PLN
7	Project implementation period	01.04.2017 - 31.12.2019
8	Recruitment number	RPLD.07.03.00-IZ.00-10-001/16
9	Date of signing of the grant agreement	26.01.2018
10	Name of beneficiary	Applicant: Bogdan Grzegorz Waśniewski Business and management consultancy Partner: Association of Amazons Łask - Kolumna
11	Final legal form of the facility	24-hour care facility run on a commercial basis
12	Dedicated group	Elderly people
13	Population	62 persons
14	Form of residence	Building with three storeys Single and double rooms

Photo 9. Front of the building



4. CONSTRUCTION OF A CARE, NURSING AND REHABILITATION CENTRE PROVIDING DAY CARE SERVICES TOGETHER WITH THE PURCHASE OF EQUIPMENT NECESSARY FOR THE PROVISION OF SOCIAL REHABILITATION SERVICES AND CARE FOR THE ELDERLY AND PEOPLE WITH DISABILITIES

Background information - Project 4		
1	Name of the project	Construction of a Day Care and Rehabilitation Centre providing day care services together with the purchase of equipment necessary for the provision of social rehabilitation services and care for the elderly and people with disabilities.
2	Project number	RPLD.07.03.00-10-0053/16-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	6 565 013,71 PLN
6	Funding	839 533,26 PLN
7	Project implementation period	01.01.2017 - 31.03.2018 Annex 1 dated 17.01.2018 - extension from 31.03.2018 to 30.09.2018 Annex No. 2 dated 10.09.2018 - extension from 30.09.2018 to 31.12.2018 Annex 3 dated 07.02.2019 - extension from 31.12.2018 to 30.06.2019 Annex No. 5 of 19.09.2019 - extension from 30.06.2019 to 30.09.2019
8	Recruitment number	RPLD.07.03.00-IZ.00-10-001/16
9	Date of signing of the grant agreement	27.04.2017
10	Name of beneficiary	Alfamedica Z.O.P.R. Limited liability company
11	Final legal form of the facility	• A facility providing 24-hour care, run as a business; • Support centre
12	Dedicated group	Elderly people
13	Population	30 persons in the Day Care Centre + 30 persons in the Permanent Residential Centre
14	Form of residence	Building with three storeys Unclear information as to how many people each room is for - to be verified

Photo 12. Satellite perpendicular view



Photo 13. Front of the building



Photo 14. Satellite perpendicular view - direct neighbourhood

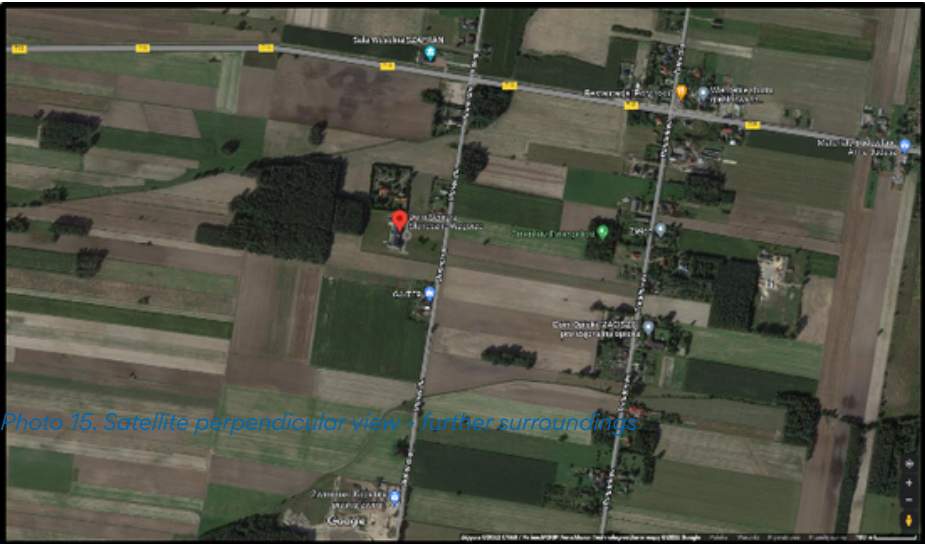


Photo 15. Satellite perpendicular view - further surroundings

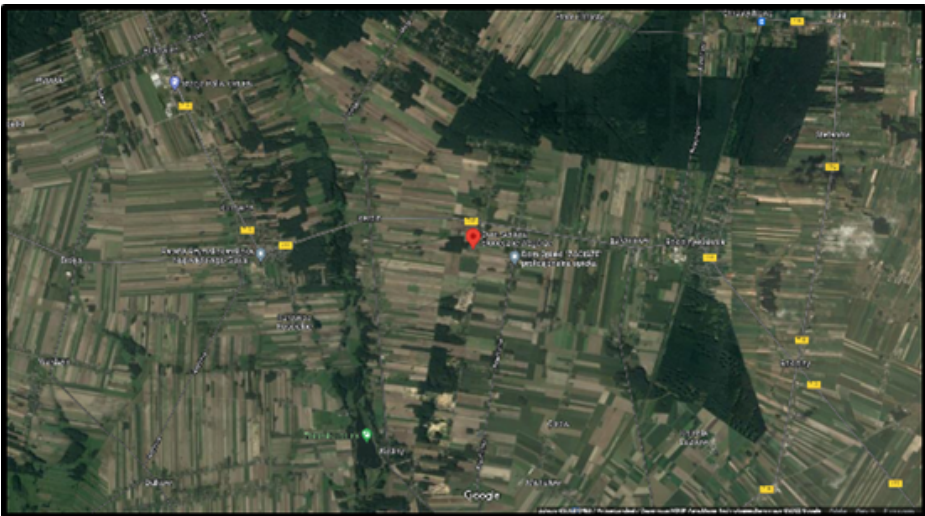
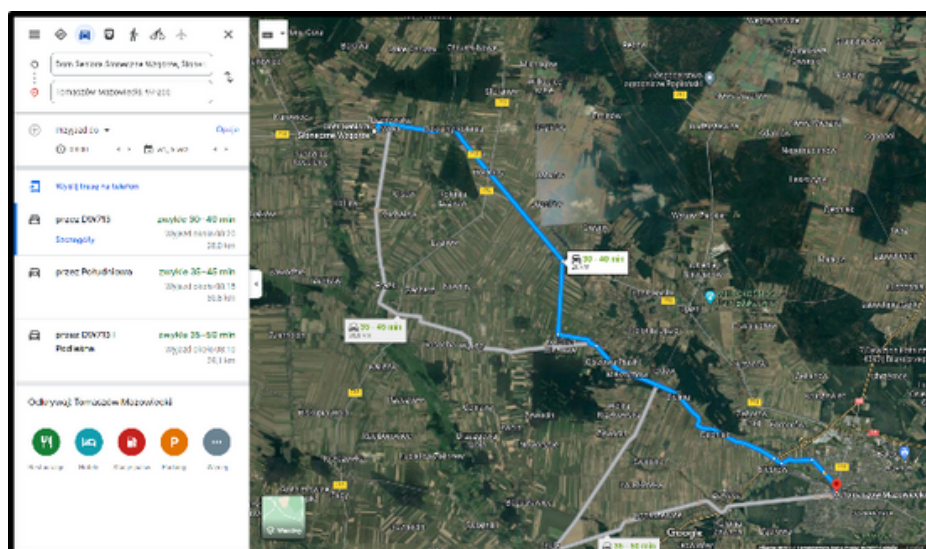


Photo 16. The distance to the county seat (Tomaszów Mazowiecki) is 28km, there is no public transport, the only transport option is a private car (approx. 30-40min drive)



5. CONSTRUCTION AND EQUIPPING OF RESIDENTIAL AND CARE COMPLEX ROMANÓW SENIOR CITIZENS' HOME

Background information - Project 5		
1	Name of the project	Construction and equipping of the residential and care complex Romanów Senior Citizens' Home
2	Project number	RPLD.07.03.00-10-0014/18-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	18 291 090,85 PLN
6	Funding	3 396 912,82 PLN
7	Project implementation period	30.01.2019 - 30.12.2020 Annex 2 dated 07.10.2019 - extension from 30.12.2020 to 30.12.2021 Non-annexation approval for 90-day extension (under the fund spec) - from 30.12.2021 to 31.03.2022 Annex 3 dated 15.06.2022 - extension from 30.03.2022 to 30.09.2022
8	Recruitment number	RPLD.07.03.00-IZ.00-10-001/18
9	Date of signing of the grant agreement	03.01.2019
10	Name of beneficiary	Applicant: Apartamenty Plus Spółka z ograniczoną odpowiedzialnością Partner: Centre for Therapy and Development Martyna Kowalska
11	Final legal form of the facility	24-hour care facility run as a business activity
12	Dedicated group	Eld
13	Population	126 people
14	Form of residence	2 5-storey buildings (1st phase) Rooms including 2-bed rooms

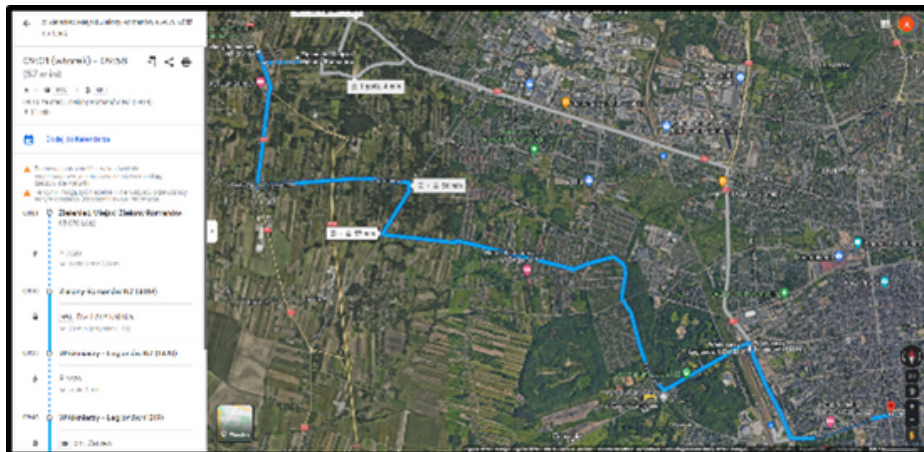
Photo 17. Northern (front) elevation - Romanów Senior Citizens' Home



Photo 18. In red are 2 buildings marked as "Phase I Romanów Senior Citizens' Home", in green two more buildings, connected by a link, marked as "Phase II Romanów Senior Citizens' Home"



Photo 19. Satellite view of the mapped public transport route from the location of the Romanów Senior Citizens' Home to the city centre (Łódź). The route requires a walk of approximately 700 metres, followed by two buses. The journey takes approximately one hour



6. PROJECT DESCRIPTION - ADAPTATION AND EXTENSION OF THE EXISTING BUILDING IN DRZYKOZY TO ACCOMMODATE THE PROVISION OF SOCIAL WELFARE SERVICES AND THE PURCHASE OF EQUIPMENT FOR THE FACILITY

Background information - Project 6		
1	Name of the project	Adaptation and extension of an existing building in Drzykozy to accommodate the provision of social welfare services and the purchase of equipment for the facility
2	Project number	RPLD.07.03.00-10-0009/18-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	8 905 797,14 PLN
6	Funding	5 698 777,99 PLN
7	Project implementation period	01.04.2014 - 31.03.2021 Annex 1 dated 09.06.2020 - extension from 31.03.2021 to 15.01.2022 Annex no. 2 dated 18.02.2022 - extension from 15.01.2022 to 30.06.2022 Annex No. 3 in preparation (based on Consent to Extension of Deadline issued by Deputy Speaker on 22.06.2022, letter dated 23.06.2022) - Extension from 30.06.2022 to 31.12.2022
8	Recruitment number	RPLD.07.03.00-IZ.00-10-001/18
9	Date of signing of the grant agreement	31.01.2019
10	Name of beneficiary	Municipality of Daszyna
11	Final legal form of the facility	Nursing home
12	Dedicated group	Elderly people
13	Population	30 persons (permanent residence) + 50 persons (day residence)
14	Form of residence	2-storey buildings

Photo 20. Satellite perpendicular view of the building complex and its immediate surroundings



Photo 21. The distance to the municipality office (Daszyna) is 4.7km (about 1h walking at an average pace), public transport does not function, the only other option is transport by private car



Photo 22. Satellite perpendicular view. The distance to the county office (Łęczyska) is 12km, public transport does not function, the only option is by private car (13min)

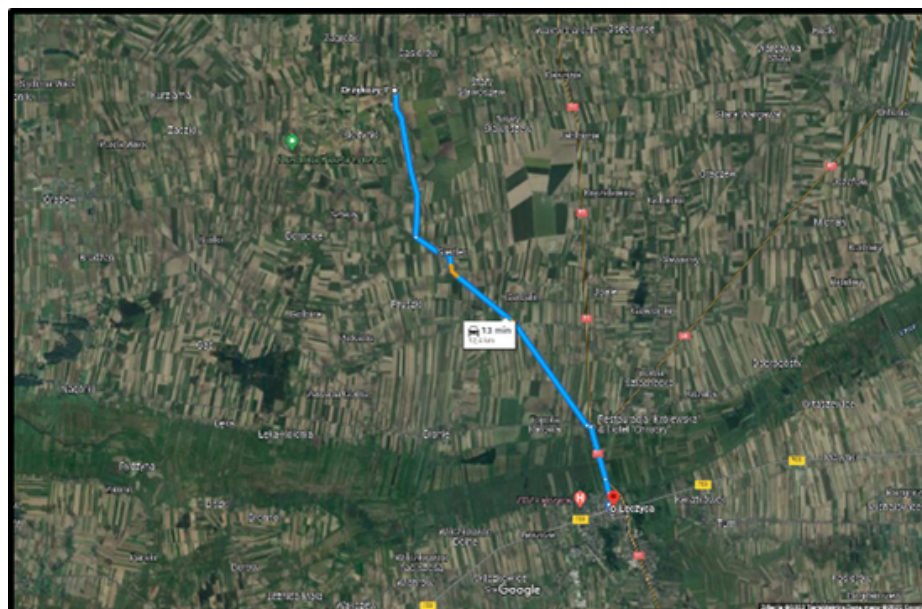


Photo 23. View of Drzykozy plot 7 and the development site

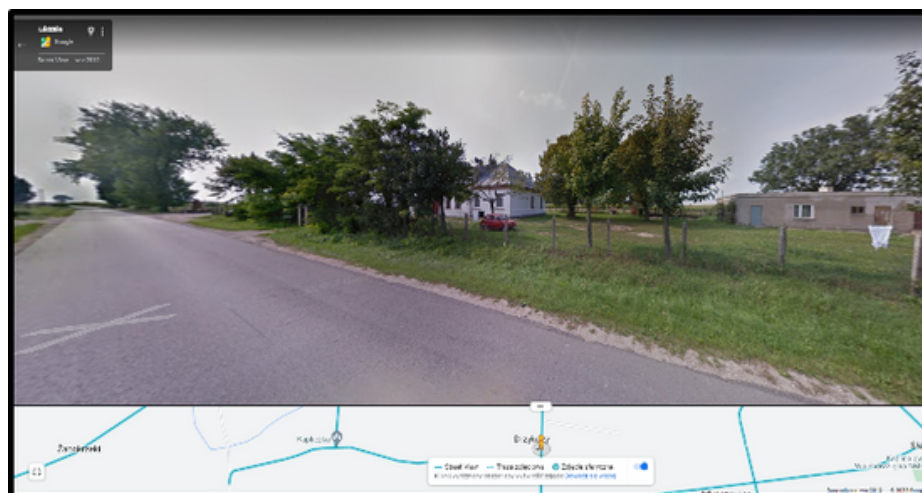


Photo 24. Photo of the buildings during the development (photo in depth of the complex)



Photo 25. Photo of the buildings within the development (side photo)



7. THERMOMODERNISATION OF THE SOCIAL WELFARE HOME NO. 1 BRANCH AT 27/29 FARBIARSKA STREET IN TOMASZÓW MAZOWIECKI

Background information - Project 7		
1	Name of the project	Thermomodernisation of the Social Welfare Home No. 1 branch at 27/29 Farbiarska Street in Tomaszów Mazowiecki
2	Project number	RPLD.04.02.02-10-0004/16-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	2 423 176,21 PLN
6	Funding	1 183 002,48 PLN
7	Project implementation period	07.03.2016 - 29.12.2017
8	Recruitment number	RPLD.04.02.02-IZ.00-10-001/16
9	Date of signing of the grant agreement	02.09.2016
10	Name of beneficiary	Tomaszów County
11	Final legal form of the facility	Nursing home
12	Dedicated group	Elderly people
13	Population	82 persons
14	Form of residence	3-storey building Rooms for 2-4 persons

Photo 26. Front view of the DPS building

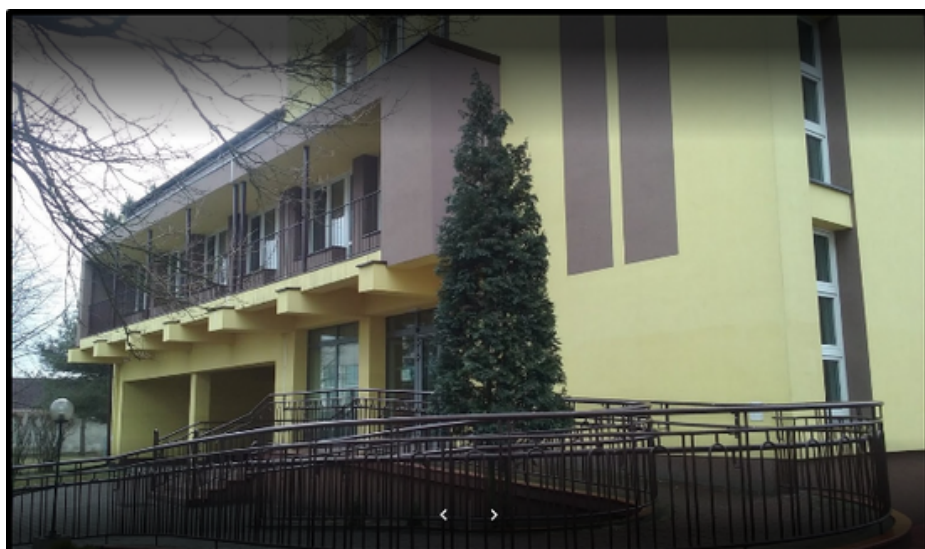


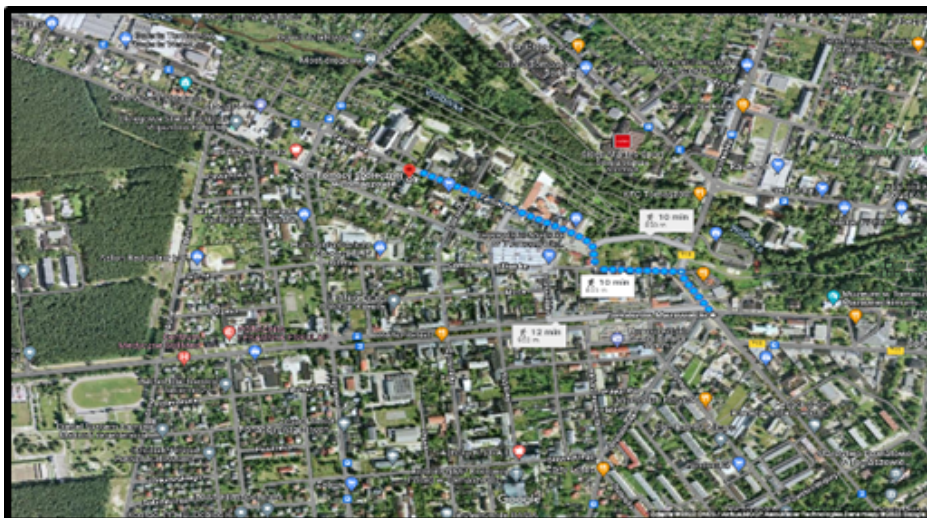
Photo 27. A side view of the DPS building



Photo 28. Perpendicular satellite view. Further surroundings of the site



Photo 29. The distance from the property to the city centre (Tomaszów Mazowiecki) is 800m (10min walk at a moderately fast pace)



8. PROJECT DESCRIPTION - THERMOMODERNISATION OF THE NURSING HOME BUILDINGS IN RĄBIEŃ

Background information - Project 8		
1	Name of the project	Thermomodernisation of the Nursing Home buildings in Rąbień
2	Project number	RPLD.04.02.02-10-0072/16-00
3	Province	Lodz
4	Source of co-financing	European Regional Development Fund (ERDF)
5	Total value of the project	3 220 711,00 PLN
6	Funding	2 200 710,46 PLN
7	Project implementation period	31.01.2017 - 29.12.2017
8	Recruitment number	RPLD.04.02.02-10-0001/15
9	Date of signing of the grant agreement	07.09.2016
10	Name of beneficiary	Zgierz County
11	Final legal form of the facility	Nursing home
12	Dedicated group	Men with intellectual disabilities
13	Population	130 people
14	Form of residence	Complex of one- and three-storey buildings, two-storey H-building. Double, triple rooms

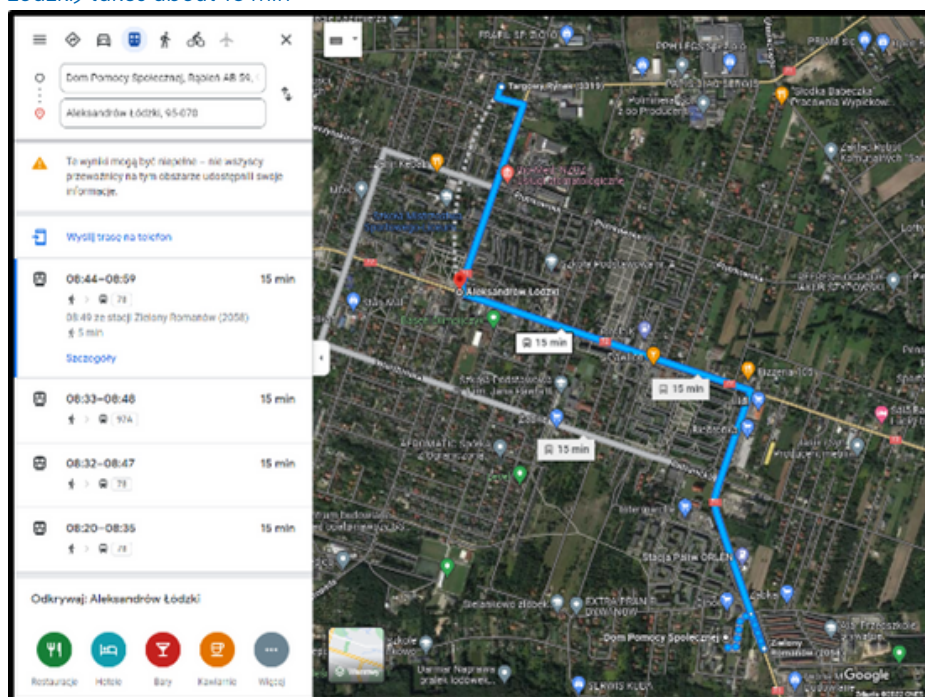
Photo 30. The entrance (gate) to the DPS complex at the end of Daliowa Street



Photo 31. Immediate surroundings of the DPS complex. Entrance only possible from Daliowa Street through the main gate



Photo 32. Transport from the DPS by public transport to the centre of the municipality (Aleksandrów Łódzki) takes about 15 min



THE PROJECTS EVALUATION

Evaluation of the implementation of the elements of independent living and respect for fundamental rights and a test of the characteristics of institutions		
No.	Element of respect for fundamental rights	Evaluation
1	Rules for admission to and departure from a supported project site	1, 3, 5, 6, 7, 8 : Insufficient data 2, 4: Admission takes place on the basis of an administrative decision of the social welfare centre or a court decision (compulsory admission). Overall, there is the possibility of leaving the facility, with the exception of people with psychosocial disabilities, for whom the director has restricted their ability to leave the DPS care home premises on their own. Residents who are allowed to leave the facility must notify the appropriate DPS care home staff member each time they leave. The resident does not have a right to the room/location (e.g. tenancy or ownership) in which he/she is staying, but only to stay in the facility.
2	Inclusive or segregated nature of the supported facility	1, 3, 5, 6, 7, 8: Segregation 2, 4: Very strongly segregated in nature, the facility is architecturally and functionally separated from the community. The facility should accommodate people "who require round-the-clock care due to age, illness or disability, who are unable to function independently in daily life and who cannot be provided with the necessary assistance in the form of care services".
3	What measures are in place to make it easier to leave the facility and live in an individual home (with the support of a personal assistant/equipment if necessary)	1, 2, 3, 4, 5, 6, 7, 8: Lack of any measures to facilitate leaving the facility and living in an individual home
What options were presented to residents?		
4	Where they able to choose between the use of services in institutions/residential facilities and those provided at the community level?	1, 2, 3, 4, 5, 6, 7, 8: Not
5	Were they able to choose between living in residential institutions (large or small scale) and in CRPD-compliant assisted housing or at home (with the support of a personal assistant and/or equipment if necessary)?	1, 2, 3, 4, 5, 6, 7, 8: Not
6	Under what conditions were they asked about their choices (interview, survey) Or was it decided by the organisation's management?	1, 3, 5, 6, 7, 8: Decided by managers or social welfare centre 2, 4: Residents' survey, however, very limited in terms of choices and contradictory, indicating that it was most likely created post-factum for the purposes of the audit
7	Is there a regular review of choices and options for residents? How often? By whom is it conducted?	1, 3, 5, 6, 7, 8: Not 2, 4: There is no regular review of choices and options for residents
8	Availability and implementation of individual development plans for each resident/beneficiary (how often is it reviewed? By whom is it maintained?)	1, 3, 5, 6, 7, 8: Insufficient data 2, 4: Individual development plans for the resident/beneficiary are not implemented
9	Conditions of accessibility to and within buildings (e.g. wheelchair ramps)	1, 2, 3, 4, 5, 6, 7, 8: Partially accessible

No.	Element of respect for fundamental rights	Evaluation
10	Accessibility of information (e.g. website, documents)	1, 3, 5, 6, 7, 8: Mostly inaccessible 2, 4: Website partially inaccessible (does not meet some of the WCAG 2.0 criteria, level AA), documents on the website are in inaccessible forms
11	Internal rules and the possibility of choice and independence in all aspects of residents' lives (e.g. what freedom do residents have with regard to the organisation of their lives - food, sanitation aspects and decision-making that affects them)	1, 3, 5, 6, 7, 8: Limited opportunities for choice and independence 2, 4: The minimum requirements under the Social Welfare Act of 2-hour meal slots are being met.
12	Access to social and health care (do residents have the right and access to mainstream social and health care in the community, to seek services outside of their place of residence, or are they imposed to be treated only by staff chosen by their place of residence)?	1, 3, 5, 6, 7, 8: Formally allowed, in practice limited 2, 4: In theory, access to social and health assistance, as required by law, is allowed, but in practice limited
13	Opportunities to participate in community life - including access to community services - offered to people (education, work, leisure), their obstacles, challenges and fields for improvement.	1, 3, 5, 6, 7, 8: In practice limited 2, 4: The nursing home is a large, fenced and segregated complex of buildings
14	Situation regarding the legal capacity of residents and the issue of incapacitation	1, 2, 3, 4, 5, 6, 7, 8: Insufficient data
15	Staff qualifications (and training opportunities offered to staff)	1, 3, 5, 6, 7, 8: Insufficient data 2, 4: A number of trainings were provided as part of the project activities, however none of them were directly related to the implementation in practice of the CRPD or the EU Charter
16	Location of the residence (is it within the main community space or is it located in an isolated setting?)	1, 3, 5, 6, 7, 8: Isolated 2, 4: The building is isolated from the general community
17	Access to legal advice and the possibility of filing complaints in a secure manner	1, 3, 5, 6, 7, 8: Limited 2: In theory, access to legal advice, as required by law, exists. There is no possibility for complaints to be made in a fully secure manner for those who need support in preparing them (e.g. with support through AAC) or in transferring/sending them 4: In theory, access to legal advice, as required by law, exists. It is not possible to make complaints in a fully secure manner for people who need support in preparing them (e.g. with support through AAC) or in handing over/shipping them
Institutional characteristics:		
18	Mandatory sharing of assistants with others	1, 2, 3, 4, 5, 6, 7: Yes. There is no personal assistance in institutions, but only the support of 'carers', who are compulsorily shared between many people.
19	No or limited influence on who to accept support from	1, 2, 3, 4, 5, 6, 7, 8: Yes, residents in general have no say in who is to provide them with support. Carers are assigned to residents top-down, overall without their input.

No.	Element of respect for fundamental rights	Evaluation
20	Isolation and separation from independent community life	1, 2, 3, 4, 5, 6, 7, 8: Yes
21	Lack of control over daily decisions	1, 2, 3, 4, 5, 6, 7, 8: Partially
22	Not being able to choose who you want to live with	1, 2, 3, 4, 5, 6, 7, 8: Yes, overall, it is not possible to choose the person you will live with.
23	Rigidity of routine regardless of personal will and preference	1, 3, 5, 6, 7, 8: Partially 2, 4: A specific institutional routine is established and in general there is no possibility to take into account the individual will and preferences of different residents
24	Identical activities in the same place for a group of people under a specific authority	1, 2, 3, 4, 5, 6, 7, 8: Partially
25	Paternalistic approach in service provision	1, 3, 5, 6, 7, 8: Yes 2, 4: Yes, services have a paternalistic orientation. There are 'carers' within the care home.
26	Supervision of living conditions	1, 3, 5, 6, 7, 8: Yes 2, 4: Yes, living conditions are directly supervised by staff.
27	Disparity in the number of people with disabilities living in the same community	1, 3, 5, 6, 7, 8: Yes 2, 4: Yes, there are 60 residents within the building, which is a drastic disproportion in the number of people with disabilities living in the same environment, having an overall ghettoising effect

