



Cap sur l'école inclusive
en Europe



Resource sheet

Implementation of the social model: the example of Poland

CORE D FOR /DEFINE AND DELIMIT

In Poland, the social model has been adopted in the official social policy. However, in practice its principles have not been incorporated and implemented to ensure a structural and comprehensive change of approach to disability. The Polish acts of law defining the country's disability policy were made in the period of time dominated by the medical model.

Polish legislation's key safeguard of the rights of persons with disabilities is the country's Constitution from 2 April 1997 (Journal of Laws No. 78 item 483 with further amendments) which ensures the right to non-discrimination and imposes the obligation on public authorities to ensure health care for the disabled (Article 68) as well as support in everyday needs, training and adaptation for work as well as social communication (Article 69).

The currently binding Polish legislation offers fragmented definitions of disability and describes it specifically in particular regulations depending on their aims and the sphere of social life they pertain to. Therefore, no unambiguous definitions are available and there is no single act of law to comprehensively define a commonly binding definition of disability and the obligations of authorities vis-a-vis persons with disabilities. Definitions of disability differ through the extent to which they emphasize a particular model of disability (e.g. medical, social), through their cross-disciplinary or single-discipline references (e.g. medical assessment to define rights to benefits and services), through the status of the definition (as definitions may be protected by law or constitute only a part of the mechanism of administration), or through their goal (e.g. pension system definitions of disability).

From the point of view of the institutional system it is of fundamental importance to construct a legal category of disability. In Poland, there are currently two separate disability assessment systems. The first one offers assessment and certification for pensions and is issued by assessing doctors from the national Social Security Institution (ZUS). The second one is a disability certificate issued by local or municipal disability certification teams for purposes other than pensions – these certificates are needed to access various benefits and allowances. Both systems focus on dysfunction diagnosis rather than functional diagnosis which defines the needs and capabilities of the disabled person. Biologically speaking, disability can refer to persons without a disability certificate but with limited basic abilities and skills for their age group. The institutional system in Poland doesn't recognize any other disability than legally certified disability – which in itself is discriminating.

The definition of disability and the legal basis for qualifying people as disabled in Poland comes from the provisions of the Act on Employment and Vocational and Social Rehabilitation of

Disabled Persons (Journal of Laws 1997, no. 123, item 776), and is based predominantly on the assessment of social and vocational constraints. According to the Act, persons with disabilities are persons whose “physical, mental or intellectual state permanently or temporarily hinders, constrains or excludes the persons’ fulfilment of social roles, particularly their ability to work” (Article 1).

Another definition of disability has been adopted by the acts of law concerning social assistance and eligibility for social support. It is provided in the Act of 14 June 1996 amending the Act on Social Assistance and the Act on Employment and Combating Unemployment (Journal of Laws 1996, no. 100, item 459 with further amendments) that disability is a “physical, mental or intellectual state which causes permanent or temporary difficulty, constraint or inability to exist independently”. Similarly, the Act of 17 December 1998 on Pensions and Allowances from the Social Insurance Fund (Journal of Laws 2004, no 39, item 353) contains a definition of a person who is unable to perform remunerated work: “According to the Act, a person is unable to perform remunerated work if they have fully or partially lost their ability to perform such work due to a reduction in the capacities of their organism and if the person is not likely to regain this ability after vocational re-training”.

A characteristic feature of these regulations is their focus on the person with a disability, his/her deficits, capabilities and his/her capacity to adapt to social requirements. Another feature which characterises the Polish legislative approach to disability is the emphasis on its economic aspect: the ability to work and the ability to independently ensure one’s own economic maintenance. This focus results from the objectives of the legislation. The objectives, in turn, require a conceptual apparatus to facilitate their description. Currently, support for persons with disabilities in Poland is associated with notions such as “vocational rehabilitation”, “social rehabilitation”, “employment”, which produces many problems. Firstly, there are difficulties in separating the meanings of the terms and distinguishing the processes they describe. Secondly, the terms are blatantly anachronistic when compared with the international approach to disability as a phenomenon which requires the application of specific measures to facilitate equal functioning of persons with disabilities within societies. Legislation and administrative practice remain aligned with the concept of social policy based on a maximal adaptation of the disabled person to the requirements and expectations of the person’s social environment, whereas activities aimed at adapting the social environment to the needs of the disabled person are still treated as less important or disregarded altogether.