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DIRECTORATE-GENERAL
REGIONAL AND URBAN POLICY

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Subject: Your Complaint registered under CHAP (2020) 2159

Dear Mrs Cojocariu and Mr Allen,

I refer to your complaint submitted to the Commission and registered on 31 July 2020 in which you allege that the Managing Authority of the Łódź Voivodeship has used the European Structural and Investment Funds ('ESI Funds'), to co-finance, under the programming period 2014-2020, a number of projects that contravene Union and national law in the area of social inclusion and the rights of persons with disabilities.

I. Subject of the complaint

Specifically, you refer to eight projects that were selected and co-financed by the European Regional Development Fund, under the Regional Operational Programme for Łódzkie Voivodeship 2014-2020 (the 'operational programme').

Six projects were selected under the calls for proposals RPLD.07.03.00-IZ.00-10-001/16¹ and RPLD.07.03.00-IZ.00-10-001/18² for EU co-financing under priority axis VII *Infrastructure for social services*, measure VII.3 *Social care infrastructure* of the

[1 Działanie VII.3 Infrastruktura opieki społecznej - RPO WŁ 2014-2020 \(lodzkie.pl\)](#)

[2 Działanie VII.3 Infrastruktura opieki społecznej - RPO WŁ 2014-2020 \(lodzkie.pl\)](#)

operational programme, to support Thematic Objective 9 (TO 9) on promoting social inclusion, combating poverty and any discrimination:

- 1) “Innovative Social Care Home” (**‘Project No. 1’**) (“Innowacyjny dom pomocy społecznej dla osób z zaburzeniami psychicznymi, jako element transformacji systemu wsparcia osób z zaburzeniami psychicznymi z instytucjonalnego w środowiskowy”).
Project value: PLN 16 319 990,99
Co-financing from the EU: PLN 6 598 715,85 from ERDF
Amount of co-financing already received: PLN 1 522 000
Beneficiary: Association of Friends of the Disabled - TPN (NGO)
- 2) “Extension and conversion of a Social Care Home in Drzewica” (**‘Project No. 2’**), (“Rozbudowa i przebudowa budynku Domu Pomocy Społecznej dla Dorosłych w miejscowości Drzewica”).
Project value: PLN 13 993 776,00
Co-financing from the EU: PLN 8 670 051,47 from ERDF
Amount of co-financing already received: PLN 6 936 041,17
Beneficiary: Opoczyński powiat (self-government/ public administration)
- 3) “Construction of a Social Care Home – Kolumna’s Senior Home” (**‘Project No. 3’**) (“Budowa domu pomocy społecznej - Dom Seniora Kolumna”).
Project value: PLN 7 863 252,92
Co-financing from the EU: PLN 3 281 430,47 from ERDF
Amount of co-financing already received: PLN 3 281 430,47
Beneficiary: Bogdan Grzegorz Waśniewski Doradztwo w Zakresie Prowadzenia Działalności i Zarządzania (Business and management consultancy)
- 4) “Construction and equipment of the social care home - Senior Home Romanov” (**‘Project No.4’**) (“Budowa i wyposażenie kompleksu mieszkalno-opiekuńczego „Dom Seniora Romanów”).
Project value: PLN 18 291 090,85
Co-financing from the EU: PLN 396 912,82 from ERDF
Amount of co-financing already received: PLN 1 669 606,92
Beneficiary: APARTAMENTY PLUS Spółka z o.o. (Company LTD)
- 5) “Adaptation and expansion of the existing building in Drzykozy in order to adapt it to the provision of social assistance services and the purchase of facility equipment” (**‘Project No. 5’**) (“Adaptacja i rozbudowa istniejącego budynku w Drzykozach w celu dostosowania do świadczenia usług pomocy społecznej oraz zakup wyposażenia obiektu”).
Project value: PLN 8 905 797,14
Co-financing from the EU: PLN 5 698 777,99 from ERDF
Amount of co-financing already received: PLN 3 623 887,60
Beneficiary: Gmina Daszyna (self-government / public administration)
- 6) “Construction of a care and rehabilitation facility providing day-care home services with the purchase of equipment necessary for the provision of services in the field of social rehabilitation and care for the elderly and people with

disabilities” (**Project No.6**) (“Budowa Zakładu Opiekuńczo-Pielęgnacyjno-Rehabilitacyjnego świadczącego usługi Dziennego Domu Pobytu wraz z zakupem wyposażenia niezbędnego do realizacji usługi w zakresie rehabilitacji społecznej oraz opieki nad osobami starszymi oraz osobami z niepełnosprawnością”).

Project value: PLN 6 533 748,03

Co-financing from the EU: PLN 839 058,38 from ERDF

Amount of co-financing already received: PLN 839 058,38

Beneficiary: ALFAMEDICA Spółka z o.o. (Company LTD)

Two projects were selected under the call for proposals RPLD.04.02.02-IZ.00-10-001/15³ for EU co-financing under the priority axis IV *Low-carbon economy*, measure IV.2 *Thermomodernisation of buildings*, sub-measure IV.2.2 of the operational programme, to support Thematic Objective 4 (TO 4) on promoting the shift towards a low-carbon economy in all sectors:

- 7) “Thermomodernisation of the branch of the Social Care Home No.1 at Fabiarska 27/29 Street in Tomaszów Mazowieckie” (**Project No.7**) (“Termomodernizacja filii Domu Pomocy Społecznej Nr 1 przy ul. Farbiarskiej 27/29 w Tomaszowie Mazowieckim”).

Project value: PLN 2 403 078,40

Co-financing from the EU: PLN 903 436,71 from ERDF

Amount of co-financing already received: PLN 903 436,71

Beneficiary: Tomaszowski powiat (self-government / public administration)

- 8) “Thermomodernisation of social care home buildings in Rąbień” (**Project No.8**) (“Termomodernizacja budynków Domu Pomocy Społecznej w Rąbieniu”).

Project value: PLN 2 823 284,92

Co-financing from the EU: PLN 2 086 801,22 from ERDF

Amount of co-financing already received: PLN 2 086 801,22

Beneficiary: Zgierski powiat (self-government / public administration)

According to you, the above listed projects involve the construction, renovation, extension or modernisation of institutional care facilities for persons with disabilities, including some with up to one hundred residents. Therefore, you allege that they will reinforce the segregation, exclusion and discrimination of this group of individuals, thus denying their right to live independently and being included in the community as well as other fundamental rights set out in the UN Convention on the Rights of Persons with Disabilities, the Charter of Fundamental Rights of the European Union and other international, European as well as national laws and policies (e.g. the Polish “Guidelines for the implementation of projects in the area of social inclusion and combating poverty with the use of the European Social Fund and the European Regional Development Fund for 2014-2020”).

Specifically, you allege that the projects in question breach:

³[Poddziałanie 4.2.2 Termomodernizacja budynków - RPO WŁ 2014-2020 \(lodzkie.pl\)](http://poddzialanie.4.2.2.Termomodernizacja.budynkow.-RPO.WL.2014-2020.lodzkie.pl)

The Treaty on the Functioning of the European Union (hereinafter ‘the TFEU’)⁴, in particular Article 216(2) (*Conclusion of international agreements*); the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’)⁵, in particular Article 26 (*Integration of persons with disabilities*) and Article 21 (*Non-discrimination*); the United Nations Convention on the Rights of Persons with Disabilities (hereinafter ‘the UNCRPD’)⁶, in particular Article 5 (*Equality and non-discrimination*) and Article 19 (*Living independently and being included in the community*). You also refer to the General comment No 5 (2017) on living independently and being included in the community (hereinafter ‘the General Comment No 5 of the UNCRPD’)⁷, adopted by the Committee on the Rights of Persons with Disabilities on 31 August 2017 and to the General comment No 6 (2018) on equality and non-discrimination (hereinafter ‘the General comment No 6 of the UNCRPD’)⁸, adopted on 9 March 2018 by the same Committee; Regulation (EU) No 1303/2013 (hereinafter ‘the CPR’)⁹, in particular Article 4 (*General principles*), Article 6 (*Compliance with Union and national law*) and 7 (*Promotion of equality between men and women and non-discrimination*); the European Pillar of Social Rights¹⁰, in particular principle 17 (*Inclusion of persons with disabilities*) and principle 18 (*Long-term care*).

II. Legal framework

1. The TFEU

Article 10 of the TFEU states that “*In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation*”. While Article 19 gives the EU the power to adopt legislation to address such discrimination.

4 Consolidated version of the Treaty on the Functioning of the European Union OJ C 326, 26.10.2012, p. 47–390. [EUR-Lex - 12012E/TXT - EN - EUR-Lex \(europa.eu\)](#)

5 Charter of Fundamental Rights of the European Union OJ C 326, 26.10.2012, p. 391–407. [EUR-Lex - 12012P/TXT - EN - EUR-Lex \(europa.eu\)](#)

6 OHCHR | [Convention on the Rights of Persons with Disabilities](#)

7 [Treaty bodies Download \(ohchr.org\)](#)

8 [Treaty bodies Download \(ohchr.org\)](#)

9 Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320). [EUR-Lex - 32013R1303 - EN - EUR-Lex \(europa.eu\)](#)

10 [The European Pillar of Social Rights in 20 principles | European Commission \(europa.eu\)](#)

2. The Charter

The Charter became legally binding on the EU with the entry into force of the Treaty of Lisbon, in December 2009 and has the same legal value as the EU Treaties.

Article 6 of the Charter states that “*Everyone has the right to liberty and security of person*”.

Article 20 of the Charter upholds the principle of equality of persons before the law.

Article 21 of the Charter on non-discrimination stresses that “*any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.*”

Article 25 of the Charter, on the rights of the elderly, stresses “*The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.*”

Article 26 of the Charter 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.*”

Pursuant to Article 51(1) of the Charter, its provisions are addressed to the EU institutions, bodies, offices and agencies, subject to the principle of subsidiarity, and to the Member States when they are implementing EU law. Accordingly, they must respect the rights and observe the principles enshrined in the EU Charter and promote their application in accordance with their respective powers when adopting and implementing rules.

Article 51(2) of the Charter and Article 6(1) of the TEU specify that the provisions of the Charter may not extend in any way the competences of the Union as defined in the Treaties.

3. The UNCRPD

The UNCRPD was ratified by both the EU¹¹ and its Member States. The Commission is the EU focal point and is responsible for its implementation at the EU level to the extent of its competences. The UNCRPD forms an integral part of the EU legal order and thus binding for the EU institutions¹².

Article 4 of the UNCRPD sets out “*to refrain from engaging in any act or practice that is inconsistent with the present Convention [...]*”.

¹¹ [EUR-Lex - 32010D0048 - EN - EUR-Lex \(europa.eu\)](#)

¹² ECJ judgment of 11.04.2013 in case C-335/11, HK Danmark:
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=136161&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1023924>

Art 5 of the UNCRPD highlights that “*States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.*”

In particular, Article 19 of the UNCRPD on living independently and being included in the community, recognises “the equal right of all persons with disabilities to live in the community, with choices equal to others” and that “State Parties to the Convention shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community”.

Article 28 of the UNCRPD recognises “*the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.*”

General Comment No 5 of the UNCRPD aims at assisting States parties in their implementation of Article 19 and fulfilling their obligations under the Convention. It concerns primarily the obligation to ensure every individual’s enjoyment of the right to live independently and be included in the community, but it is also related to other provisions of the Convention.

General Comment No 6 of the UNCRPD aims at clarifying the obligations of States parties regarding non-discrimination and equality as enshrined in article 5 of UNCRPD.

4. Regulation (EU) 1303/2013 (the ‘CPR’) (and Regulation (EU, Euratom) 2018/1046¹³)

In accordance with Article 4(7) of the CPR, as a general rule, the part of the budget of the Union allocated to the European Structural and Investment (ESI) Funds “*shall be implemented within the framework of shared management between the Member States and the Commission, in accordance with Article 63 of the Financial Regulation.*”

The Financial Regulation establishes in its Article 63(1) that where the Commission implements the budget under shared management, tasks relating to budget implementation shall be delegated to Member States. According to Article 63(2) of the Financial Regulation, when executing tasks relating to budget implementation, “*Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the financial interests of the Union*” while “*the*

¹³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1). [EUR-Lex - 32018R1046 - EN - EUR-Lex \(europa.eu\)](#)

Commission shall monitor the management and control systems established in Member States.”

According to Article 6 of the CPR, *“Operations supported by the ESI Funds shall comply with applicable Union law and the national law relating to its application (“applicable law”).”*

Article 7 of the CPR stipulates that *“The Member States and the Commission shall take appropriate steps to prevent any discrimination [...]. In particular, accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of programmes.”*

Regarding the organisation of calls for proposals as well as the selection of operations, Article 125(3)(a) of the CPR requires the managing authority to *“draw up and, once approved, apply appropriate selection procedures and criteria that [inter alia] ensure the contribution of operations to the achievement of the specific objectives and results of the relevant priority [and] are non-discriminatory and transparent.”*

The managing authority shall also ensure, according to Article 125(3)(b) of the CPR, that a selected operation falls within the scope of the Funds concerned.

Pursuant to Article 125(4)(a) of the CPR, the managing authority shall, inter alia, verify that the operation complies with applicable law, the operational programme and the conditions for support of the operation¹⁴.

Additionally, in accordance with Article 19 of the CPR, as necessary prerequisites for the effective and efficient use of ESI Funds, Member States are required to fulfill the applicable ex-ante conditionalities¹⁵.

¹⁴See, in the same sense, judgment of the General Court of 4 May 2017, JYSK v Commission, T-403/15, EU:T:2017:300, paragraphs 29 and 31.

¹⁵Thematic ex-ante conditionality No 9.1 on the existence and the implementation of a national strategic policy framework for poverty reduction aiming at the active inclusion of people excluded from the labour market in the light of the Employment Guidelines covering the measures for the shift from institutional to community- based care.

General ex-ante conditionality No 3 on the existence of administrative capacity for the implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in the field of ESI Funds in accordance with Council Decision 2010/48/EC. This ex-ante conditionality was considered to be fulfilled upon of 3 criteria:

- Arrangements in accordance with the institutional and legal framework of Member States for the consultation and involvement of bodies in charge of protection of rights of persons with disabilities or representative organisations of persons with disabilities and other relevant stakeholders throughout the preparation and implementation of programmes;
- Arrangements for training for staff of the authorities involved in the management and control of the ESI Funds in the fields of applicable Union and national disability law and policy, including accessibility and the practical application of the UNCRPD as reflected in Union and national legislation, as appropriate;
- Arrangements to ensure monitoring of the implementation of Article 9 of the UNCRPD [on accessibility] in relation to the ESI Funds throughout the preparation and the implementation of the programmes.

5. Regulation (EU) No 1301/2013 (the ‘ERDF Regulation’)¹⁶

The ERDF Regulation mentions that the transition from institutional to community based-care should be promoted.

In particular, Article 3(1)(d) of the ERDF Regulation on the scope of support from the ERDF states that “*in order to contribute to the investment priorities set out in Article 5*”, the following activities, among others, should be supported: “*investment in social, health, [...] infrastructure*”.

Article 5 of the ERDF Regulation defines 40 investment priorities under 11 thematic objectives set out in the first paragraph of Article 9 of the CPR. Therefore, it follows that Article 3(1)(d) on investments in social and health infrastructure applies to all investment priorities.

Article 5(9)(a) of the ERDF Regulation, in particular, states that the ERDF shall support the investment priority “*promoting social inclusion, combating poverty and any discrimination by investing in health and social infrastructure, [...] promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services.*”

In turn, recital (16) of the ERDF Regulation clarifies that, “*community-based services should cover all forms of in-home, family-based, residential and other community services which support the right of all persons to live in the community, with an equality of choices, and which seek to prevent isolation or segregation from the community*”.

In addition, recital (15) of the ERDF Regulation states that “*in order to promote social inclusion [...] it is necessary to improve access to social, cultural and recreational services, through the provision of small-scale infrastructure, taking into account the specific needs of persons with disabilities and the elderly.*”

III. Analysis of the complaint

1. General considerations

In general, the legal provisions referred to above show what Member States should aim for and promote, i.e. the transition from institutional to community-based services, without undermining their obligation to combat any discrimination as well as to ensure the respect and promotion, in particular, of the rights of persons with disabilities with regard to their independence, social and occupational integration and participation in the life of the community.

However, these provisions do not establish a general and absolute prohibition to support long-stay residential institutions. Furthermore, all these provisions take into account the

¹⁶ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289). [EUR-Lex - 32013R1301 - EN - EUR-Lex \(europa.eu\)](#)

fact that moving away from long-stay residential institutions to community-based services cannot simply take place from one day to the next. Instead, it is a process which requires the development of individualised services, the planned closure of long-stay residential institutions and making general services (education, health, housing) available to persons with disabilities.

Moreover, in line with the significant functions of Member States when implementing the Union budget under shared management, Member States are responsible for the drawing up of the programmes and selecting the projects that will be co-financed by the ESI Funds¹⁷.

It is up to Member States to set up the operations they would like to co-finance in the context of the process to ensure independent living arrangements and de-institutionalisation.

In addition, neither Article 69(3) of the CPR, on the eligibility rules for grants and repayable assistance, nor Article 3(3) of the ERDF Regulation, on the scope of support from the ERDF, exclude the provision of support from the ESI Funds or the concerned specific Funds into long-stay residential institutions.

The above is also supported by General Comment No 5 of the UNCRPD. According to paragraph 51 of General Comment No 5, "*State parties should ensure that public or private funds are not spent on maintaining, renovating, establishing building or creating any form of institution or institutionalization*". However, General Comment No 5 also highlights that the right to access services and facilities is progressively applicable (see para. 39) and requires structural changes (para. 41), as well as to enter into strategic planning (para. 42). In this regard, it expressly recognises a margin of appreciation to State parties in relation to programmatic implementation (para. 42). State parties must adopt a strategy and a concrete plan of action for de-institutionalisation (para. 57 and 58).

Based on all the above, it is clear that there is no general and absolute prohibition for the ESI Funds to support long-stay residential institutions. However, Member States are required to make progress in general on ensuring independent living arrangement and de-institutionalisation and it is up to Member States to set up the operations within the framework of applicable rules.

Furthermore, paragraph 16(c) of the General Comment No 5 of the UNCRPD states "*Neither large-scale institutions with more than a hundred residents nor smaller group homes with five to eight individuals, nor even individual homes can be called independent living arrangements if they have other defining elements of institutions or institutionalisation*". The same can be concluded from the report by the Ad-Hoc Expert Group on the Transition from Institutional to Community-based Care, where the institutions were not defined primarily by their size but by features of "institutional culture", that segregates people (depersonalisation, rigidity of routine, block treatment, social distance, paternalism)¹⁸.

¹⁷See, e.g., para. 81 to 84 of the Opinion of the Advocate General in case C-417/04.

¹⁸Ad-Hoc Expert Group on the Transition from Institutional to Community-based Care was convened by Mr Vladimír Špidla, then Commissioner for Employment, Social Affairs and Equal opportunity:

Thus, it is possible to conclude that the size of a facility is not key for assessing if it is a long-stay residential facility preventing the personal choice and autonomy or a community-based care housing that is providing for independent living. Focus should rather be put on assessing the existence of an institutional character and the lack of independent living in a residential setting.

Independent living (as stated in Article 19 UNCRPD) means that persons with disabilities:

- 1) have the opportunity to choose their place of residence and where and with whom they live;
- 2) have access to a range of in-home, residential and other community support services, including personal assistance; and
- 3) have access to community services and facilities available for the general population on an equal basis and that these are responsive to their needs.

2. Assessment of your allegations

Please note that with regard to **Project No 1**, further examination of this project is necessary and we are currently in the process of collecting further information that is crucial for delivering the assessment of this project. We will reply separately to you with regard to this project once we have completed our analysis.

Accordingly, the analysis hereunder will only concern **Projects No 2, 3, 4, 5, 6, 7 and 8**.

With regard to your specific allegations, it should be firstly recalled that:

Under the Treaties on which the European Union is based, the EU has no general powers to intervene with the Member States in the area of fundamental rights. It can only do so if an issue of European Union law is involved. This is reflected in the scope of application of the Charter, which, according to its Article 51(1), applies to Member States only when they are implementing Union law.

Therefore, in order for Directorate-General for Regional and Urban Policy (hereafter 'DG REGIO') to assess eventual breaches of the Charter, it is fundamental to establish whether the Charter is applicable to the Member State in question according to Article 51(1), namely, to assess whether the Member State is implementing Union law and acting in the scope of it¹⁹.

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=614&furtherNews=yes> ¹⁹ Please see Commission notice C/2016/4384 "Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the European Structural and Investment Funds ('ESI Funds')", *OJ C 269, 23.7.2016, p. 1*, which gives examples on when and how Member State implement Union law with regard to funding coming from the Union budget.

¹⁹ Please see Commission notice C/2016/4384 "Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the European Structural and Investment Funds ('ESI Funds')", *OJ C 269, 23.7.2016, p. 1*, which gives examples on when and how Member State implement Union law with regard to funding coming from the Union budget.

In accordance with the current ESI funds legislative framework and under the principle of shared management, Member States are generally responsible for the design and implementation of national dedicated strategies and operational programmes. The selection of operations to be funded by the ESI funds falls under the competence of Member States, therefore this is not in the Commission's remit.

Supporting the facilities in question through the implementation of an operational programme constitutes implementation of Union law by the Member State since the latter, as indicated, draws up the operational programme as well as select the operations to be co-financed under it.

Therefore, it can be stated that Poland is implementing and acting in the scope of Union law.

As for the UNCRPD, it should be also recalled that, like any international treaty, the primary responsibility to implement the UNCRPD lies with the State Parties. Signing and ratifying the Convention obliges the State parties to ensure that all existing and future legislation, policies and programmes are aligned with its provisions.

Within that framework, General Comments No 5 and No 6 interpret, respectively, Article 19 and Article 5 of the UNCRPD.

They were adopted by the UN Committee on the Rights of Persons with Disabilities, which is a body of independent human rights experts, in order to assist State parties in their implementation of the UNCRPD provisions.

General Comments No 5 and No 6 are not treaty provisions and do not require ratification by State parties. Therefore, they do not create legal obligations for the State parties under the UNCRPD.

However, General Comments adopted by that body do carry policy weight and should be taken into account when it comes to the implementation of the UNCRPD.

In light of the above, DG REGIO has contacted the Polish Managing Authority to ask for additional information and explanations with regard to your allegations. It has examined the documents related to the projects, to establish whether the possible allegations described by you took place when granting the support of ESI Funds to these projects.

Please, find specific information received from the Managing Authority, concerning projects No 2 to 8, in Annex I to this letter.

On the basis of our analysis of the information received from the Managing Authority for **Projects No 2, 3, 4, 5, 6, 7 and 8**, DG REGIO takes note that :

- (a) Poland's de-institutionalisation strategic framework for the period 2014-2020 is included in the National Programme for Combating Poverty and Social Exclusion 2020.

The main objective of this programme is "to permanently reduce the number of people at risk of poverty and social exclusion by 1.5 million people and to increase the social cohesion". This Programme mentions the deinstitutionalisation

of support for people with intellectual disabilities, chronically mentally ill and seniors as one of the biggest challenges. It highlights that further deinstitutionalisation should address such risks as: an increase in the number of homeless people, instability in foster care, shortage of sheltered housing and reluctance of local communities to open new forms of day-care facilities.

Furthermore, it includes development and implementation of training schemes on assistance to elderly people for care workers and others (e.g. family members who care for dependents) and development of training standards for care workers and volunteers in the field of assistance to the elderly.

- (b) The operational programme describes the needs and objectives and how these fit into the de-institutionalisation concept.

The programme states that interventions will be linked to the process of social integration, vocational activation and de-institutionalisation of services (including stationary forms), but in cases where it is more appropriate to use institutional forms (when taking care of a given group of people is not possible in another form due to the state of their health or other important reasons) such support will also be possible.

Creating effective community care will be a parallel element to adjusting social services to the needs of the society.

More concretely, the Programme includes a commitment that development of social and health services for people at risk of poverty and social exclusion, supported by ERDF, will comply with the assumptions of the *European principles of transition from institutional to community care* and with the principles set out in the National Programme for Counteracting Poverty and Social Exclusion 2020.

A reference to both these documents is also included in the national document called *Guidelines on the implementation of projects in the field of social inclusion and combating poverty using the European Social Fund and the European Regional Development Fund for the period 2014-2020*. The Guidelines refer to the *European principles of transition from institutional to community care in the definition of deinstitutionalisation of services* and to the *National Programme for Counteracting Poverty and Social Exclusion 2020*, when defining the scope of actions under Thematic Objective 9. The calls for proposals RPLD.07.03.00-IZ.00-10-001/16 and RPLD.07.03.00-IZ.00-10-001/18 are linked with these Guidelines in the selection criteria, which require that investments are in line with them.

Projects No 2, 3, 4, 5, 6, implemented under priority axis VII- Measure VII.3, and **projects No 7, 8**, implemented under priority axis IV- Measure IV.2, Sub-measure IV.2.2, fall within the scope of the operational programme and ensure the achievement of specific objectives of the relevant priorities.

More specifically, **Projects No 2, 3, 4, 5, 6** contribute to achieving the specific objective of Measure VII.3 – *Social care infrastructure*, under priority axis VII of the OP at hand, namely to increase the availability and quality of social services by reducing poverty and social exclusion. Undertaken projects shall influence the development of care for the elderly and persons with disabilities.

Three thematic objectives are implemented under Priority axis VII - *Infrastructure for social services*, and one of them is TO9 - promoting social inclusion, combating poverty and any discrimination.

The operational programme, under priority Axis VII, contributes to the achievement of the Partnership Agreement's objective of improved social cohesion.

The projects indicated comply with the types of projects eligible for EU co-financing listed in point 9 of the description of Measure VII.3- *Social care infrastructure* included in the Detailed description of priority axis of the regional operational programme and in § 2, of the related Call for proposals' Rules, i.e.:

1. adaptation of social care infrastructure to the needs of the region in terms of providing living services:
 - renovation, construction, reconstruction of social care buildings together with purchase of equipment necessary to achieve objectives of implemented project;
 - adaptation of existing buildings in order to adjust them to providing social care services together with purchase of equipment necessary to achieve objectives of implemented project. (...)

According to the information received from the Managing Authority, the projects comply with the requirements set at the level of the operational programme and the detailed description of the programme as well as comply with the legal obligations at the EU and national level. All of them, according to the Managing authority, fulfil the criterion of equal opportunities and non-discrimination, including accessibility for persons with disabilities. In line with the *Guidelines*, within the projects, the following elements were checked by Managing authority during the projects' selection: number of residents and whether the projects ensure that 1) services are provided in an individualised manner, tailored to the needs and capacities of each resident; 2) organisational requirements do not prevail over the individual needs of residents (residents have free access to the facility's infrastructure, decide on how to spend time, on participation in rehabilitation or social/educational activities), 3) residents have control over their lives and decisions affecting them and 4) residents are not isolated from the community as a whole (contact with the local community, access to infrastructure and services located in the surrounding area are ensured).

The calls for proposals require that the ERDF co-financed projects are complementary with actions undertaken within the European Social Fund (ESF), which has a leading role in this thematic area. In both calls for proposals, complementarity with the ESF was included as an obligatory criterion, whose non-fulfilment meant rejection of the project during assessment.

Projects No 7 and 8 contribute to achieving the specific objective of Measure IV.2 *Thermomodernisation of buildings*, Sub-measure IV.2.2, under priority axis IV of the OP at hand, namely to improve the energy efficiency in the public sector and in the housing sector.

Priority axis IV *Low-carbon economy* is implemented under the Thematic Objective 4 - Supporting the shift to a low-carbon economy in all sectors.

The operational programme, under priority Axis IV, contributes to the achievement of the Partnership Agreement's objective of improved social cohesion.

The projects indicated comply with the types of projects eligible for EU co-financing listed in point 9 of the description of Sub-measure IV.2.2 - *Thermomodernisation of buildings* included in the Detailed description of priority axis of the regional operational programme and in § 2 point 5 of the related Call for proposals' Rules, i.e.:

1. deep energy modernisation of public buildings along with the replacement of the equipment of these facilities with energy-saving ones;
2. deep energy modernisation of municipal residential buildings along with the replacement of the equipment of these facilities with energy-saving ones.

Projects No 7 and 8 are in line with the low-carbon economy plans of the areas concerned and the scope of the projects is based on a specific energy audit. The condition for obtaining support was to demonstrate that the project would contribute to increasing the energy efficiency of each thermally modernised building by at least 25%. Fulfilment of these criteria are among the conditions for receiving a positive assessment of the application and thus for obtaining support.

Therefore, the projects encompass such investments as insulation of external walls and roof, replacement of windows and doors, modernisation of the heating system including replacement of the heat source and connection to the local heating network, renovation of the domestic hot water system, and construction of a solar installation.

(c) The calls for proposals

The projects were selected under three different calls for proposals, namely RPLD.07.03.00-IZ.00-10-001/16 (Projects No (1), 2, 3 and 6), RPLD.07.03.00-IZ.00-10-001/18 (Projects No 4 and 5), RPLD.04.02.02-IZ.00-10-001/15 (Projects No 7 and 8).

It should be primarily noted that the related calls for proposals were organised and designed on the basis of the relevant applicable legal framework, including, inter alia, the CPR, the ERDF Regulation, the Regional Operational Programme of the Lodzkie Voivodship 2014-2020, adopted by the decision of the European Commission of 18 December 2014 and the Detailed description of its priority axes, the Guidelines of the Minister for Investment and Development on the implementation of the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities and the principle of equal opportunities for women and men under EU funds

for 2014-2020²⁰, the Guidelines of the Minister for Investment and Development on the implementation of projects in the field of social inclusion and combating poverty using the European Social Fund and the European Regional Development Fund for the period 2014-2020²¹.

Specifically, call RPLD.07.03.00-IZ.00-10-001/18 also bases its rules on the “European Guidelines for the transition from institutional to community-based care”²² and the “National Programme for Combating Poverty and Social Exclusion 2020. New Dimension of Active Inclusion”²³.

Projects were selected in compliance with the Call for proposals’ Rules of the specific calls and on the basis of the relevant formal and substantive selection criteria annexed to the said rules and approved by the Monitoring Committee for the Łódzkie Regional Operational Programme 2014-2020.

As for selection criteria for projects under **priority axis VII - Measure VII.3**, these include, inter alia:

The project compliance with EU horizontal principles.

As part of the criterion, it was assessed whether the project complied, in particular, with the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities referred to in Article 7 of the CPR, taking into account the Guidelines of the Minister for Investment and Development on the implementation of the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities and the principle of equal opportunities for women and men under EU funds for 2014-2020;

At the same time, the Guidelines themselves base their provisions on the relevant legal framework, including the UNCRPD, the Charter, as well as the Law of 3 December 2010 on the implementation of certain European Union legislation on equal treatment.

The project’s compliance with strategic documents and plans.

As part of the criterion, it was assessed whether the project complied with the strategic plans and documents defined in the ROP LV for the years 2014-2020 and in the Detailed description of priority axes ROP LV for the years 2014-2020;

The project’s compliance with the Guidelines of the Minister for Investment and Development on the implementation of projects in the field of social inclusion and combating poverty using the European Social Fund and the European Regional Development Fund for the period 2014-2020.

²⁰ https://www.funduszeuropejskie.gov.pl/media/54997/Wytyczne_w_zakresie_rownosci_zatwierdzone_050418.pdf

²¹ https://www.funduszeuropejskie.gov.pl/media/77159/Wytyczne_wlaczania_spolecznego_v5.doc

²² [Guidelines-new.indd \(wordpress.com\)](#)

²³ [Krajowy Program Przeciwdziałania Ubóstwu i Wykluczeniu Społecznemu 2020. Nowy wymiar aktywnej integracji - Ministerstwo Rodziny i Polityki Społecznej - Portal Gov.pl \(www.gov.pl\)](#)

As part of this criterion, it was assessed whether the projects complied with the definition of de-institutionalised care set out therein;

ERDF supported project is complementary to ESF intervention.

The project is implemented in close connection with a complementary project co-financed by the ESF or within the framework of the project there are activities taking into account the ESF support (under cross-financing);

The project's compliance with the analysis of the needs of the target group of the project and the demographic trends;

The managing Authority confirmed the assessment of the projects against the principles of the "European Guidelines for the transition from institutional to community-based care" and whether was in line with the directions indicated in the "National Programme for Combating Poverty and Social Exclusion 2020. New Dimension of Active Inclusion".

To verify compliance with the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities, the Project Assessment Committee verified all documentation submitted under the call for proposals by the Applicant.

The assessment of the project's compliance with the Guidelines on the implementation of projects in the field of social inclusion and combating poverty through the European Social Fund and the European Regional Development Fund for the period 2014-2020 was subject to a substantive assessment by independent external experts. The fulfilment of this criterion was one of the conditions for obtaining a positive assessment of the application.

As for the selection criteria for projects under **priority axis IV- Measure IV.2, Sub-measure IV.2.2**, these included, as well and inter alia, their compliance with EU horizontal principles, i.e. with the principles of equal opportunities for women and men, equal opportunities and non-discrimination, including accessibility for persons with disabilities and sustainable development. Moreover, within the criterion of technical/technological feasibility of the project, it was assessed whether the adopted technical/technological solutions were compliant with the principle of equality between women and men and the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities.

As regards the project's compliance with the abovementioned criteria, the Project Assessment Committee verified all the applicant's documentation submitted within the call.

In light of the above, following the input from the Managing Authority for projects No 2 to 8, we did not identify any references, neither in the operational programme nor in the documents related to the assessed projects that could be considered as amounting to a legal violation of the above-mentioned principles of the Charter, neither a legal breach of

the provisions of the Treaties, nor of the UNCRPD, nor of the relevant ESI Regulations above indicated.

With regard to the EU Pillar of Social Rights, it states under its principle 17 on Inclusion of people with disabilities that People with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs. The principle is implemented via the Strategy for the Rights of Persons with Disabilities 2021-2030²⁴ that pays significant attention to independent living. This Strategy notably states that independent living requires a differentiated landscape of quality, accessible, person-centred and affordable, community- and family-based services comprising personal assistance, medical care and interventions by social workers, thereby facilitating everyday activities and providing choice to persons with disabilities and their families.

The Managing Authority (MA) assumes that the social houses financed under the projects will ensure adequate and better living, learning and care conditions for elderly and, more generally, for individuals with disabilities, by creating high-quality care houses and services, ensuring compliance with Poland's de-institutionalisation process and, therefore, with Poland's obligations under the relevant Union law.

Furthermore, it should be noted that the mere fact that a given infrastructure has been financed by the Union does not mean that the Member State implements Union law within the meaning of Article 51 of the Charter also with regard to the establishment using that infrastructure²⁵. The question whether the operation of such an establishment constitutes implementation of Union law within the meaning of that provision would have to be assessed separately and on its own merits, in the light of any normative or functional connection between that operation and provisions of Union law.

Conclusion

In conclusion, following our assessment of the information received from the Managing Authority with regard to projects No 2, 3, 4, 5, 6, 7 and 8, no breach of the applicable Union law was identified for the Commission to pursue.

DG REGIO will therefore close this case in respect to projects No 2 to 8 unless you provide us with additional and precise information on the indicated projects that will establish a breach of EU law, within four weeks of the date of this letter by e-mail return to regio-poland@ec.europa.eu (with the CHAP(2020) 2159 reference indicated).

At the same time, the Commission supports the need to carefully monitor the operations supported under the calls and to ensure that their future development is compliant with

²⁴ Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Union of Equality: Strategy for the rights of persons with disabilities 2021-2030", 3.3.2021, COM(2021)101 final. [EUR-Lex - 52021DC0101 - EN](#)

- [EUR-Lex \(europa.eu\)](#)

²⁵ See, by analogy, case C-1 17/14, *Nisttahuz Podava*, point 42

the UNCRPD. The Commission will therefore undertake a number of follow-up actions for monitoring purposes as stated below.

First of all, the Commission will follow-up on these projects with regards to their impact on the situation of their target groups, in particular whether they do not reinforce the segregation or isolation, discrimination of their target groups, as well as violate their fundamental and human rights.

The Commission will also ask for reports on the implementation of the operations in the monitoring committee and ensure a continuous monitoring in a dialogue with the MA.

The Commission will also recommend to the MA to ask for a regular assessment by an independent human rights body so that any risk of or regression towards an institutionalisation mind-set or functioning would be avoided in the future, in compliance with the UNCRPD.

Furthermore, we would like to bring to your attention that the new Regulation laying down common provisions and financial rules for certain EU Funds for the 2021-2027 period²⁶ includes provisions to ensure the transition from institutional to community- and family-based services under the scope of enabling conditions (Article 15 and Annexes III and IV). The enabling conditions are the necessary prerequisites to ensure the effective and efficient use of Union support granted by the Funds. There are two sets of relevant enabling conditions:

- Horizontal conditions²⁷ that are applicable to all EU funded operations in Cohesion Policy and include criteria to ensure their compliance with the Charter of Fundamental Rights of the EU and the implementation of the UNCRPD; and
- Thematic conditions²⁸, relevant for the shift from institutional to community- and family-based care that will be included in the national or regional strategic policy or legislative framework for social inclusion and poverty reduction as well as in the national or regional strategic policy framework for health and long-term care.

Horizontal conditions include:

- Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the Charter;
- National framework in place to ensure implementation of the UNCRPD that includes objectives with measurable goals, data collection and monitoring mechanisms;

²⁶ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159–706). [EUR-Lex - 32021R1060 - EN - EUR-Lex \(europa.eu\)](#)

²⁷ Annex III to Regulation (EU) No 2021/1060.

²⁸ Annex IV to Regulation (EU) No 2021/1060.

- Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes; as well as
- Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter or the UNCRPD, as well as complaints regarding the Charter or the UNCRPD.

As for the thematic enabling conditions, the frameworks referred to should include measures to shift from institutional to community- and family-based care and to promote related services.

The fulfilment of enabling conditions and their application throughout the new programming period will be closely monitored by the monitoring committees and discussed in review meetings with the Commission services. More concretely, the managing authorities must ensure that selected operations in the field of transition from institutional to community- and family-based services, that fall within the scope of an enabling condition, are consistent with the corresponding strategies and planning documents established for the fulfilment of that enabling condition.

Furthermore, the national implementation reports and concluding observations of the UN Committee will be used as one of the reference documents in the process of the assessment of the fulfilment of the horizontal enabling condition on the UNCRPD for the period 2021-2027.

The Member State shall ensure that the enabling conditions remain fulfilled and respected throughout the programming period. In the event of an enabling condition being no longer fulfilled, the Commission services will start a contradictory procedure, which may lead to financial consequences.

In addition, the partnership with all relevant stakeholders will remain a key principle to design and implement the EU Cohesion Policy. Relevant stakeholders, including bodies responsible for promoting fundamental rights and disability organisations, will need to be involved in the design and implementation of the programmes. Their expertise and input will be essential for the monitoring and implementation of the operations throughout the programming period.

Furthermore, the new ERDF and Cohesion Fund Regulation²⁹ include provisions to ensure that the ERDF supports and promotes transition from institutional to community- and family-based care through supporting facilities that would seek to prevent segregation from the community, would facilitate the integration of people to the society and would seek to ensure independent living conditions.

When negotiating the programmes for the 2021-2027 period, the Commission is putting a strong focus on promoting investments that are in line with de-institutionalisation strategies and remind Member States on the need to ensure compliance with the UNCRPD.

²⁹ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60–93). [EUR-Lex - 32021R1058 - EN - EUR-Lex \(europa.eu\)](#)

It is also important to underline that the Commission has reinforced the EU commitment to ensure that the persons with disabilities can achieve the full participation in the society through the recently adopted ambitious “Strategy for the Rights of Persons with Disabilities 2021-2030”,³⁰ which sets that the Commission will support national, regional and local authorities in their efforts for de-institutionalisation and independent living, including through the 2021-2027 shared management funds. The Strategy also foresees that the Commission will, by 2023, issue guidance recommending to Member States improvements on independent living and inclusion in the community. Moreover, in the Strategy the Commission calls on Member States to:

implement good practices of deinstitutionalisation in the area of mental health and in respect of all persons with disabilities, including children, to strengthen the transition from institutional care to services providing support in the community;

promote and secure financing for accessible and disability-inclusive social housing, including for older persons with disabilities, and address challenges of homeless persons with disabilities.

Finally, on the intention to publish this correspondence. I would like to draw your attention to the fact that in case of publication, the applicable data protection rules, notably Articles 5 and 6 of the General Data Protection Regulation³¹, should be adhered to, including the non-disclosure of personal data without any prior consent of the data subject.

Yours faithfully,

Yours sincerely,

e-signed

Christopher TODD

³⁰ Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Union of Equality: Strategy for the rights of persons with disabilities 2021-2030”, 3.3.2021, COM(2021)101 final. [EUR-Lex - 52021DC0101 - EN - EUR-Lex \(europa.eu\)](#)

³¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88.

Annex I

Project No 2 (<https://mapadotacji.gov.pl/projekty/756729/>)

According to the information provided by the Managing authority, this project consists in reconstructing and extending the building of the main adult social welfare house in the village of Drzewica, in opoczyński district, together with technical infrastructure, land development and the purchase of equipment.

The main objective of the house's activities will be to provide comprehensive care and therapy aimed at maintaining the intellectual and physical fitness of older people for as long as possible, increasing resourcefulness, maintaining their life independence and social inclusion.

The project will provide housing to 77 individuals, who cannot be cared for otherwise than in-patient care 24 hours a day.

The project implements the “European guidelines for the transition from institutional to community-based care”. Moreover, the Social Care House in Drzewica has strengthened its responsive approach to the needs of the population, through the introduction and implementation of the European Charter of the Rights and Responsibilities of the Older people in need of Long-term care and Assistance in accordance with national law.

Residents of the Social Care House in Drzewica have control over their lives and decisions affecting them. Residents will have the possibility to make their own decision on whether they want to live in a single or double room and who they want to share the room with when choosing a double room. At any time during the stay at home, it is possible for residents to change their decision on the choice of the roommate and the type of room. In addition, every resident has the choice of the room equipment. Residents have the possibility of leaving the social care home if they decide so and the state of health allows it.

They also decide on:

- disposal of their own funds, which remain after payment of the subsistence fee, and above all have the right to keep them safely;
- matters relating to health and possible treatments: residents are under the care of the primary care doctor, but they also have the possibility to decide on their own medical advice, examinations, in agreement with the doctor;
- use of meals prepared by the kitchen operating in the Social Care Home in Drzewica or possible self-purchasing in shops located in the municipality of Drzewica;
- participation in occupational therapy: every resident decides independently whether or not to take part in occupational therapy, which is tailored to the individual needs and interests of senior citizens;
- participation in rehabilitation and physiotherapist activities: residents decide themselves to take part in the above-mentioned activities, but once this decision is taken, the forms of activity are selected according to the instructions of the doctor.

Persons with disabilities living in the Social Care House for Adults in Drzewica have wide access to services provided at home, in their place of residence and other community-based services. These include a range of care and health-care services, extensive rehabilitation, fitness as well as other activities, meeting the individual's cultural and religious needs.

Activities are based on the implementation of individualised support plans, set up by the Therapeutic and Care Team, which determine the individual needs as resident of the Home and the scope of the services to be provided, and on activation programmes.

In the team, in accordance with the Regulation on the Social Care House, there is a worker of first contact designated by a resident of the Home, if this choice is possible taking into account his or her state of health. The choice of the employee of the first contact shall be confirmed in writing by the resident. Within six months of the inhabitant's arrival at the home, the Therapeutic and Care Team, through observations and personal interviews with the resident, learns and determines the individual needs of the resident. Residents have the possibility to stay away from home and visit families and friends. The guest room in the home also provides an opportunity to receive visits in a way that does not affect the rights of other residents. People living in the House can freely use the services of a local cinema, restaurants, shops, library, as well as of the Regional Cultural Centre which offers the opportunity to take part in a number of cultural events in the municipality.

Residents also have opportunities for upskilling and further education. The University of the Third Age operates on the ground of the house and is mainly active in the activation of the elderly. Residents also have the right to take up employment if their state of health permits.

As a result of the implementation of the project, the services provided will be extended by providing care or specialist services free of charge to non-residents in the local environment in order to support them in the context of their decision to stay at their place of residence.

These services are provided in an individualised way (adapted to the individual's needs and capabilities, ensuring that organisational requirements do not take precedence over the individual needs of residents) and in a way that enable people to live independently, prevent people from being isolated from their family and local community and, if this is not possible, provide them with living conditions as close as possible to those of their home and family, and enable maintaining family and neighbourhood links.

ESF 2014-2020 involvement in the project

According to the information provided by the Managing authority, within this project, a cross-financing training has been planned and carried out in the following areas: Training course 1: A culture of development of therapeutic organisation and social assistance (planning, programming and meeting needs and respecting the rights of persons with disabilities); Training course 2: Supervisory motivation management – effective role and tasks of the therapeutic team; Stress and burnout; Training course 3: Developing the life, social and motivational skills of people with disabilities – training of intentional activity habits.

Project No 3 (<https://mapadotacji.gov.pl/projekty/775621/>)

According to the information provided by the Managing authority, this project consists in the construction of a Senior's House in the village of Kolumna in the Łaskie district of Łódź province together with the purchase of equipment necessary to achieve the objectives of the project.

The primary objective of the project is to meet the living, care, therapeutic, social and religious needs of the inhabitants at a level that goes beyond the current standards available in the territory. The project takes into account territorial needs and demographic trends resulting from the ageing of the population, supported by a needs analysis. The implementation of the project will enable access to affordable, high-quality social services that meet the needs of their recipients and contribute to reducing and activating the social exclusion of the elderly. The project will improve the development of care for the elderly and elderly with disabilities.

The project creates places for 62 residents men and women, in single and double rooms as well as apartments. This number encompasses permanent as well as temporary residents and is in line with the Guidelines.. The project employs 32 people. According to the managing authority's indications, the care of residents in the House is directly part of the process of de-institutionalisation.

The daily rhythm in the House is personalised and personally adapted to the needs of each of the residents, in every aspect. An individual care, rehabilitation and treatment programme with every resident is carried out by qualified staff, so that resident's stay is as close as possible to that in their home. The rooms are properly furnished and designed (individual bathrooms, tables, chairs, armchairs, televisions in residents' rooms etc.).

Residents have access to a range of services: educational services, development services, health and rehabilitation services, social services. These services comprehend group and individual rehabilitation, motion activities, including outdoor activities, intellectual and creative activities carried out by the occupational therapy, theatre and cinema activities, access to the library, access to electronic means of communication (computer, remote communication programmes with families during the COVID-19 pandemic), individually selected diet, meals prepared at the request of residents, cultural evenings organised on topics that are relevant to residents interests.

The public community services, enumerated in the project description, are accessible to all residents on an equal basis. All residents have permanent and equal access to services offered. At the same time there is a strong focus on individualisation of services, depending on the needs of residents.

Occupational therapy and individual plans are created in line with perception possibilities, interest and professional experience. The same is in case of physical therapy, which is determined individually by a rehabilitation doctor and in accordance with guidelines provided by a physiotherapist.

A more individual care of the residents is guaranteed on the basis of a detailed interview. In addition to the interview, also the Barthel scale is used to measure their ability to function independently, and the individual assessment of their physical condition is carried out.

One carer shall have a maximum of six residents. People with larger deficits, e.g. Alzheimer, are treated more individually.

ESF 2014-2020 involvement in the project

According to the information provided by the Managing authority, the description of the project mentions several projects, which are complementary to the project implemented by the Beneficiary. The territory refers to the extent of the projects' impact, consistent for them and for the Dom Seniora project. The projects are carried out in Łódź Province and this is their impact area. To a narrower extent, the impact of the projects relates to the Łódź district. Projects address the same group of problems related to the social economy, its development, the safeguarding of staff and places of activity and de-institutionalised social care for groups with multiple difficulties.

Project No 4 (<https://mapadotacji.gov.pl/projekty/792257/>)

According to the information provided by the Managing authority, this project consists in the creation of a complex of buildings, combining a facility of up to 30 people with independent housing units in the form of so-called 'group housing'. The complex is located into a local housing estate giving residents' families the possibility to buy apartment in this settlement, in the close neighbourhood of their relatives and using the services of the Romanów Senior Home. This will facilitate social reintegration of the elderly.

The main objective of the project is to develop care for the elderly/people with disabilities by providing high-quality services in the form of a modern and innovative model of senior house fulfilling various functions.

Part of the dwellings of the Senior House have been designed to target elderly people whose state of health enables them to function independently and carry out basic activities. This person will be given full freedom. Four forms of support are provided in the complex:

- Increased 24/hour care - care services for elderly with various disabilities requiring increased 24/hour care (30 residents);
- Short-term care - care services for elderly people who are under family care on a permanent basis and only during the work of carers require day-care for a specified period (10 residents);
- Day-care home - Care services for elderly who are permanently cared for by their family, and only due to the temporary absence of carers (time of leave, delegation, etc.) require care for a limited period of time and care services for seniors after hospitalisation who require temporary care during their recovery, including e.g. dedicated forms of rehabilitation (8 residents); The seniors' house will provide a transport service for such seniors to their home, providing day care with full food and comprehensive assistance, including various therapies, including the use of professional psychologists and therapists.
- Care services for older people who wish to live in conditions as close as possible to housing, but because of, for example, old age, need different forms of care, assistance in dealing with everyday affairs, rehabilitation or

other forms of support (78 residents) — the ineligible part of the project.

The project contributes to independent living, as in the House people will be able to manage their daily lives themselves. The centre will be open-type of place, to give as much freedom as possible to residents, thus encouraging physical and intellectual activity.

Older people will be able to decide themselves on how to spend time. Residents, including persons with disabilities, will be able to choose their place of residence and decide where and with whom to live, on an equal basis with others, and have access to a wide range of support services provided at home or accommodation facilities and other community support services, including personal assistance necessary for living and inclusion in the community in order to prevent social isolation and segregation.

The following services are provided to residents:

- Care/residential services: assistance in basic life activities (including assistance with dressing, washing, bathing and eating), care during illness, assistance with benefiting from health care, hygienic care, the necessary assistance in dealing with personal matters, aid for purchases, including clothing and footwear, contacts with the community, housekeeping, food provisions;

- Educational services: public spaces, including a TV room, a reading room connected with a rich library, meeting rooms, possibility use internet.

Wide range of activation and training activities for older people (i.e. exploiting the potential of senior residents' homes by creating a variety of interest circle, organisation of competitions, games and table games, organising entrances to cinema, theatre, concerts, discussion clubs, music therapy);

- Health services: family doctor, geriatric, psychologist, cardiologist, psychiatrist, neurologist, dentist, and specialists in physiotherapy, occupational care and therapy, rehabilitation activities. A comprehensive, individual activation and care programme is set up for each resident; The facility will have a rehabilitation centre and a doctor's cabinets with specialists typically needed at older age, allowing for professional therapy and improving physical fitness among residents.

- Social services: long-term rentals for seniors who plan to live in the campus on a voluntary basis, assistance with basic life activities. The centre will offer services for dependent persons with the possibility of living in residential units after treatment and rehabilitation.

Each apartment unit, in addition to the day room, will be equipped with its own sanitary node and an furnished kitchenette. Housing units are designed to give people living there a sense of maximum autonomy. Each residents also decides if assistance in cleaning the apartment and/or personal affairs is needed.

ESF 2014-2020 involvement in the project

According to the information provided by the Managing authority, project is complementary to other projects and initiatives implemented by the city of Łódź, including Opiekuńcza Łódź (RPLD.9.2.1-10-A005/17), Rodzina w Centrum (RPLD.9.2.1-10-A014/16), Aktywny Krok (RPLD.9.1.1-10-B025/15), 4. "Independent life – standard-setting and piloting of assisted housing services for people with neurological diseases, including Alzheimer's and Parkinson's disease and the elderly". The project is implemented under the OP Knowledge Education Development (PO WER), no POWR.02.08.00-IP-03-00-001/17 type of operation: "Development of standards and piloting, Measure 2.8 Development of social services provided in the local environment.

Project No 5 (<https://mapadotacji.gov.pl/projekty/792255/>)

According to the information provided by the Managing authority, this project consists in the adaptation and expansion as well as equipment of an existing building in Drzykozy Gmina Daszyna to improve the accessibility and quality of social and care services for the elderly as well as to reduce poverty and social exclusion.

One of the most important social outcomes to be achieved by the project is to improve the health of the elderly residing in the municipality through prevention and rehabilitation as part of care services. An important element of the project is to link the development of the social infrastructure to adequate preparation of care workers and family members for dependent persons (within ESF supported activities).

The project is based on an analysis of the needs of its target group and demographic trends in territorial terms.

The planned Support Centre in Drzykozy will provide permanent residence to 30 persons and daily stay to 50. The main focus of the project is on day care for the elderly.

The creation of new infrastructure and the extension of care provision will generate 70 new jobs.

Residents of the social welfare home will have wide access to a range of community-based education, social and health services. These include social activation through occupational therapy, motor and mental rehabilitation and mental rehabilitation, creative activities involving theatre, music, painting formats, as well as meetings with actors and students of the film school, meetings with professional painters, hygienic care, doctor-supervised care, assistance in the purchases of everyday items (i.e. food, clothing, cleaning products), assistance in the preparation of meals (making meals, dishwashing after meals), ordering medical visits, purchase of medicines, handling of administrative cases, settlement of fixed financial obligations (rental charges, etc.) and to the possible extent, ensuring contact with the community (patient visits to museum, attendance of local meetings, e.g. dozynki, as well as meetings in other centres to prevent social isolation).

Residents are free to choose where to live – they are not obliged to live together; Residents have control over their lives and decisions affecting them; Organisational requirements have a secondary role, giving priority to the individual needs of residents.

The nature of the services provided in the centre, which focuses mainly on the activation and development of older people as well as on their active participation in the life of the local community, will enable elderly people to lead their daily lives. Residents will choose the most interesting activities.

The project will ensure the effectiveness of personalised, comprehensive and long-term support.

The implementation of the proposed project will enable their users and their families to participate in the life of the community on an equal basis with others, including professional, social and economic participation.

The care services offered will be tailored to individual needs and situations and will be defined with the participation of live-in care workers and their actual carers.

ESF 2014-2020 involvement in the project

According to the information provided by the Manging authority, as part of the proposed project, actions were planned to take into account the support from the ESF, via cross-financing, including: training cycle for therapeutic and care staff –modern methods of care for the elderly in the local environment, training cycle for administrative services and support staff for social services in the local environment, training of trainers – occupational therapy staff.

Project No 6 (<https://mapadotacji.gov.pl/projekty/756742/>)

According to the information provided by the Manging authority, this project consists in the construction of a Care-Nursing-Rehabilitation Institute as well as in the purchase of the equipment necessary for the provision of social rehabilitation and care services for the elderly and persons with disabilities.

The main objective of the project is to provide living as well as rehabilitation infrastructure and services for older people in the form of daily care home and permanent residence home, the latter being the ineligible part of the project.

The implementation of the project responds to the region's needs to improve the accessibility and quality of social services for the elderly. The need to build the infrastructure in the region was confirmed by a needs analysis and of the demographic trends from a territorial point of view.

Residents have access to publicly available community-based educational, social and health services. Example of day care services provided in the structure: Music activities, dance activities, rehabilitation activities, including individual, general therapeutic, art activities – handicrafts, assistance and support in everyday activities, including toilet, personal hygiene, assistance in walks, assistance in eating meals, assistance in using

hairdressing services, assistance in the use of specialist doctors' advice, including assistance with transport and medical prescriptions, and assistance with their realisation.

When assessing the individual needs of residents, the starting point is the state of health as well as the cognitive and emotional capacity of each resident.

Residents are free to manage their daily lives and take their independent decisions, and they are supported in their choices and actions.

ESF 2014-2020 involvement in the project

According to the information provided by the Managing authority, a cross-financing was used in the project.

Projects No 7 and 8

[\(https://mapadotacji.gov.pl/projekty/756488/\)](https://mapadotacji.gov.pl/projekty/756488/)

[\(https://mapadotacji.gov.pl/projekty/756533/\)](https://mapadotacji.gov.pl/projekty/756533/)

The projects concerned consist in the thermomodernisation of Social Care Houses in the cities of Tomaszów Mazowieckie and Rabien.

According to the information provided by the Managing authority the projects at hand supports investments in: insulation of external walls and roof, replacement of windows and doors, modernisation of the heating system including installation/replacement of the heat pump and connection to the local heating network, renovation of the domestic hot water system, construction of a solar installation, replacement of lighting with energy-efficiency lighting.

With regard to the organization of care in the Houses:

- all kinds of assistance services – within the meaning of the Social Assistance Act – are provided by the House as a facility of institutional social care, i.e. social work, care and household services; these services improve the efficiency and activation of residents, enabling religious and cultural needs to be met, ensuring the conditions for the development of self-governance of house residents and stimulating the establishment, maintenance and development of contact with the family and the local community, empowering residents to the possible extent as well as helping resident take up work, particularly of a therapeutic nature, ensuring that the rights of home residents are respected;

- the individual needs of residents are assessed on the basis of elaborated and implemented individual support plans for each resident; these plans arise during the work of the therapeutic teams (specialists, first contact worker, resident); implementation takes place with the participation of a resident if his or her state of health and intellectual capacity allows so;

- residents have access to and use of educational, social and health services on their own will; in the case of health services, they use medical services in the place of residence, they are also brought to specialist doctors or specialist treatment facilities,

- residents are present in the Houses on the basis of an expression of will (exceptions for those ordered by a court order); have the right to self-deciding; all residents are familiar with the Rules of Procedure governing residence in the institution, the main focus of which is on personal treatment and partnership on the part of staff; the rules of coexistence provide for and respect the activities of the Residents' Self-Government, represented by the Council of Residents as the spokesperson of the interests of residents.

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