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## The protection provided by the CPRD for persons with schizophrenia in the field of employment – from a Polish perspective

**Abstract:** The rights of persons with schizophrenia are protected by the Convention on the Rights of Persons with Disabilities, not only because schizophrenia fulfills the legal definition of disability resulting from the CRPD, but also because it fits with the definition described in other acts of international law. The Polish legislator also perceives schizophrenia as a disability. The CRPD has many provisions connected with the employment of persons with schizophrenia. The most relevant provisions which have influence on this case are the general principle of nondiscrimination, the right to participate in social-life, the right to rehabilitation, the awareness-raising obligation of the state, equal protection of the benefits of the law, equality in employment and the prohibition of discrimination in trade unions. Poland, as a party to this convention, is obligated to implement its provisions. In fact, Poland has implemented the basic provisions of this treaty, but more specific provisions encounter difficulties, especially in awareness-raising and in professional activation.

**Key words:** schizophrenia, disability, mental illness, rights of persons with disabilities, employment

### 1. Introduction

As a group, people with schizophrenia are not a typical of persons with a disability. Public opinion does not view them as being disabled, rather it sees them as being mentally ill and therefore they tend to be avoided, misunderstood, and criticised. This is especially true in the field of employment where those suffering from schizophrenia are not treated equally<sup>1</sup>.

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1 J. Tesch, Chancen und Probleme der Früherkennung, Behandlung und Rückfallprophylaxe von Menschen mit Schizophrenie unter Berücksichtigung aktueller Forschung. Schlussfolgerungen für die sozialpädagogische Arbeit, Hamburg 2008, p. 60.

In this paper I wish to analyse the legal status of schizophrenia as a disability and the rights of persons affected by the disorder arising from provision of the Convention on the Rights of Persons with Disabilities (CRPD).

## 2. Schizophrenia as disability in the legal sense.

If we are to talk about the protection of people with schizophrenia as being disabled, we need to focus on proving that they are indeed disabled in the legal sense.

It is in fact difficult to point to one, clear, exhaustive legal definition of what constitutes a disabled person. The definitions contained in art. 2 of the CRPD falls short of containing a definition of disability,<sup>2</sup> but in the preamble to the Convention it is offered that disability is strictly connected with interactions between disabled person and the world and is described as “conception”<sup>3</sup>.

The CRPD contains two conditions to include disorder as a disability:

- the long-term character of impairment(s);
- the impairment ought to hinder “full” and “effective” participation in social life “on an equal basis”<sup>4</sup>

The long-term character of schizophrenia is quite clear. It is important to mention that these conditions are inclusive – where an impairment fails to fulfill these two conditions, it doesn't automatically mean that the impairment is not a disability,<sup>5</sup> Schizophrenia causes impairments which impede participation in social life “on an equal basis”. The clearest evidence of this, is the fact that Polish Social Insurance Institution spends around 920 million zlotys annually on people with an incapacity to work connected with schizophrenia<sup>6</sup> and, among those people diagnosed with schizophrenia, only 19% do work<sup>7</sup>. Generally, the symptoms of schizophrenia can be divided into positive and negative with both types bearing the potential to badly influence the social life and careers of those suffering from the disorder. Positive symptoms such as hallucinations, delusions, and false beliefs, typically cause incomprehensible behaviour, that can produce a destructive influence both in

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2 Art. 2 Convention on the Rights of Persons with Disabilities New York, 13 December 2006 United Nations, Treaty Series, vol. 2515, p. 3 available from: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html> in short CRPD.

3 Preamble CRPD.

4 Art. 1 CRPD.

5 V.D. Finna, Article 1 [Purpose] [in:] V.D.Fina, R.Cera, G.Palmisano, (edit.), The United Nations Convention on the Rights of Persons with Disabilities: A Commentary, \Rome 2017 p. 89-101.

6 A. Kiejny, P. Piotrowski, T. Adamowski (edit.) Schizofrenia: sytuacja w Polsce. Perspektywa Społeczna. Sytuacja w Polsce : Report of Jansen Poland, Warsaw 2010, p. 26.

7 *Ibidem*, p. 37.

social life and in the workplace. Negative symptoms such as anhedonia, alogia, and apathy, invariably lead to a lowering of motivation to participate in social interaction and work life. It is also worth mentioning that limitations in the social potential of schizophrenics (largely related to a decreased level of competence and cognition in social life) also impacts on their ability to work.<sup>8</sup> This analysis allows to conclude that in the light of Convention on the Rights of Persons with Disabilities, persons with schizophrenia can, in the legal sense, be perceived as disabled.

This view can perhaps be supported by another definition drawn from the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159). This Convention defines a disabled person as a person whose ability to:

- secure,
- retain,
- advance,
- suitable employment is reduced<sup>9</sup>.

The characteristics of schizophrenics described above allows to say that schizophrenia relates to a reduced capacity to secure, retain, and advance in suitable employment where, in this context, the term “suitable” relates to the person and is understood as meaning an individual possessing an acceptable level of education, professional ability and interpersonal presence, sufficient to secure a place on the job market. Clearly a person with a reduced level of social competence is disadvantaged in this regard which, by itself, serves to indicate that schizophrenics are disabled persons within the meaning of the referenced Convention.

It is also important to note that according to the definition of disability presented by World Health Organization (WHO), schizophrenia falls into the category of being a disability. The WHO standpoint on disability states that disability is strictly connected to a limitation in work and social life<sup>10</sup>.

In like manner, it is interesting to note that the Polish legislator, in quite direct terms, tells us that schizophrenia can be a reason to recognise someone suffering from this disorder as being a person with a different level of disability.<sup>11</sup>

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8 S.M. McGurk, K.T. Mueser, Cognition and work functioning in schizophrenia, [in] : P.D. Harvey Cognitive Impairment in Schizophrenia: Characteristics, Assessment and Treatment, Cambridge 2013, p. 98-104.

9 Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159). Treaty Series, vol. 1401, p. 235 available from: <https://treaties.un.org/doc/Publication/UNTS/Volume%201401/v1401.pdf> (access 29.04.2018).

10 Information on the website of WHO : <http://www.who.int/topics/disabilities/en/> (access 19.04.2018).

11 Consolidated text: Journal of Laws 2011, item 721 as amended.

### 3. Schizophrenia and employment – in light of the Convention on the Rights of Persons with Disabilities

The basic source of law associated with the protection of rights of persons with disabilities is the aforementioned CRPD. This Convention comprehensively details the rights of persons with disabilities but relevant to employment, persons with schizophrenia are not all provisions of this convention.

Before analyzing the particular obligations of states, it's important to outline the legal significance of provisions of the convention, it's *expressis verbis* determined by art. 4 of the CRPD. The provisions of the Convention require implementation, which means that they have no direct effect<sup>12</sup>. Therefore, every obligation of a state party to the CRPD, cannot be considered as grounds for a claim against the state, or against any other body, but in legal practice the Convention should be considered by the courts and administrative authority. It is also an obligation for the legislator to implement appropriate rules.

The first principle of the Convention imposes the general prohibition of discrimination, which is firmly connected with the right to effective legal protection against discrimination. State Parties to the Convention also have an obligation to provide appropriate legislation with clear indication in its provisions that discrimination against persons with a disability is prohibited<sup>13</sup>.

Here it is important to take into consideration that this is general principle which appears to be very broad and seems to be applied only when an act of discrimination is not directly connected with any specific provision of the act – “*lex speciali derogat legi generali*” the definition contained in the CRPD, the principle of non-discrimination speaks about a very broad meaning of discrimination (direct and indirect discrimination)<sup>14</sup> which has many implications for the labour situation of schizophrenics. The principle of non-discrimination is expressed in two articles of the CRPD – art. 3 and art. 5, each taking a different legal character. On the one hand, art. 3 defines the general principle of non-discrimination, while on the other, art. 5 identifies the direct connection between equality and non-discrimination and defines the role of States Parties in respect thereof<sup>15</sup>.

Under the provisions of art. 5 of the CRPD States Parties recognise “that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law” (point 1), and that States Parties

12 V.D.Fina, Article 4 [General Obligations] [in:] : V.D.Fina, R.Cera, G.Palmisano, (edit.), *op. cit.*, p.149.

13 *Ibidem*.

14 D. Ferri, The Conclusion of the UN Convention on the Rights of Persons with Disabilities by the EC/EU: some reflections from a “constitutional” perspective, Centro di documentazione europea – Università di Catania- Online Working Paper 2010 – Serie Speciale/n. 4, Catania 2010.

15 Article 3, V. Finna [in:] : V.D. Fina, R. Cera, G. Palmisano, (edit.) *op. cit.*, p.120-126.

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” (point 2)<sup>16</sup>, which both carry significance in relation to the legal situation of persons with schizophrenia. In many acts of public law (the most important being the Labour Code, but the Civil Service Act can also be cited by way of example) we can find legislation relating to working conditions, terms and conditions of employment and benefits such as the right to annual leave periods, the right to sick leave, etc. These conditions and rights are binding in law and under the provisions of the CRPD disabilities in all its forms including mental illness cannot be used as a reason to limit either their worth or their availability. Neither can the taking of sick leave for example be used as a reason to limit or diminish other leave periods. States Parties have an obligation to provide an effective means to protect these conditions, benefits and the rights attached thereto and particularly so in relation to all disabled people provisioned for under the umbrella of the CRPD.

People suffering with schizophrenia face specific problems relating to this disorder. The nature of the condition is such that it manifests in a wide variety of forms from mild to severe, from unaccountable anxiety to a total withdrawal where a person with the disorder prefers the isolation of their own company to the exclusion of all around them<sup>17</sup>. It can be appreciated therefore that lack of understanding and misplaced attitudes on the part of employers and coworkers can have serious consequences in relation to the stability and wellbeing of a person with schizophrenia and particularly so in cases where symptoms of paranoia exist<sup>18</sup>.

An essential obligation of States Parties connected with the employment of persons with schizophrenia on employment is awareness-raising, not just in the workplace but in society as a whole. Researchers in the field of medicine and social science indicate that the most important barriers faced by persons with mental illness, especially schizophrenia, in terms of employment are the prejudices of managers and co-workers, work-place culture and low expectations leading to self-stigma of these persons<sup>19</sup>. In fact, self-stigma is usually associated with the social environment,<sup>20</sup> which means that the raising of awareness in society is crucial in encouraging people with schizophrenia to actively participate in the labour

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16 Art. 5 CRPD.

17 S. Bevan, J. Gulliford, K. Steadman, T. Taskila R. Thomas and A. Moise, *Working with Schizophrenia: Pathways to Employment, Recovery & Inclusion*, The Work Foundation, Lancaster 2013, p. 49.

18 *Ibidem*, p. 77-81

19 M. Hampson, R. Hicks, B. Watt, *Understanding the Employment Barriers and Support Needs of People Living with Psychosis*, The Qualitative Report, 21(5), Davie 2016, p. 870-886.

20 H. Yoshi, *Self-stigma of Schizophrenia Patients with Work Experiences and Reasons Not to Disclose Their Illness*, *British Journal of Education, Society & Behavioural Science* vol. 5(2), Hoogly 2014, p. 203-204.

market. The provisions of the CRPD impose on States Parties the obligation to fight against the creation of stereotypes, promote knowledge about the work capability of persons with disabilities and take action to strengthen social respect for them in society. Measures suggested to attain these goals in the Convention include social campaigns, educational programmes in schools, and state support initiatives linked with achieving these objectives<sup>21</sup>. It needs to be underlined that the Convention falls short in detail on how or in what form these campaigns, programmes and objectives should be accomplished. It merely outlines the prerequisites and suggests that States Parties should “organize”, “promote”, “encourage” appropriate institutions or offices to support programmes created and run by NGOs and private entities – or so it seems.

The next obligation connected with the employment of persons with schizophrenia, is to provide independent life and inclusion in the community (art. 19 CRPD). In the foreground of this article lies the principle of equality. However, this obligation does not directly express the right to participate in the labour-market. Nevertheless, it is clear that “participation in the community” has to be linked with participation in the labour market. Moreover, it is hard to say how we are to understand “with choices equal to others” in this regard<sup>22</sup>. Also, the CRPD lacks a limitation clause similar to the limitation clause found in the ECHR and other similar conventions. Provisions connected with employment also have no similar clauses. It seems that the answer here is in the wording “appropriate measures”. The discretionary character of this clause serves to indicate that States have a wide range of lawful measures, which leads to the suggestion that they also have the right to restrict access to some professions due to objective reasons with regard to the principle of non-discrimination.

For persons with schizophrenia, work is one of the most important aspects in the processes of rehabilitation and revalidation, and participation in the labour market as one of the surest and quickest ways to regain mental health. Especially in the case of schizophrenia, supported employment programmes are particularly effective.<sup>23</sup> Supported employment programs also known as employee assistance program (EAP) consist of assistance to employees who have personal problems typically connected with some form of mental illness.<sup>24</sup> In reference to this fact, the provision of art. 26 CRPD which addresses rehabilitation should be analysed. Art. 26 *expressis*

21 Art. 8 CRPD.

22 Art. 19 CRPD.

23 E.W. Twamley, D.V. Jeste, A.F. Lehman, Vocational Rehabilitation in Schizophrenia and Other Psychotic Disorders: A Literature Review and Meta-Analysis of Randomized Controlled Trials, *The Journal of Nervous and Mental Disease*: August 2003 – Volume 191 – Issue 8, Philadelphia 2003, p. 515-523.

24 F. Dickam, Ingredients of an Effective Employee Assistance Program [in:] M.A. Richard (edit.) *EMPLOYEE ASSISTANCE PROGRAMS: Wellness/Enhancement Programming* (4th Ed.), Springfield 2009, p. 48-56.

*verbis* indicates employment as one of the fields in which States Parties are obligated to organise rehabilitation programmes: “States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes: (a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths”<sup>25</sup>.

The question here in relation to the foregoing: is does the CRPD promote the support of employment programmes? It seems to the author that in light of the principle of equality, participation in social life and articles connected with health in the CRPD which provide persons with disabilities rights to appropriate support connected with special needs<sup>26</sup>, if it was commonly known that supporting employment programs dedicated to rehabilitate people by their inclusion in work-life, such as the EAP, more countries could efficiently help in socializing people with mental illness.

The Convention also contains provision directly connected with work and employment<sup>27</sup>. Therein we can distinguish that three important principles have been established: the right to equality in employment, the equal protection of work and employment, and the prohibition of enslavement of persons with disability in the workplace.

In relation to the first two principles the CRPD affirms that, “States Parties recognize the right of persons with disabilities to work, on an equal basis with others” and “shall safeguard and promote the realization of the right to work [...] including through legislation (art. 27 1). It also indicates the obligation of states in relation to disability-based discrimination in employment affirming that States Parties shall, “Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment” (art. 27 1(a)). In essence this means that all matters relating to discrimination should be directly and clearly included in the legislation of States Parties. With regard to the equal protection of work and employment the CRPD states that States Parties shall take steps to, “Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work” (art. 27 1(b), and to “Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others” (art. 27 1(c). This seems to indicate that States are obligated to introduce appropriate guarantees to procedures (for example in Poland civil procedure) and appropriate facilitation to courts. In the case of persons with schizophrenia, it means that testimonies of persons with mental illness have to be treated respectfully. It also means that persons with schizophrenia cannot be discriminated against in trade unions.

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25 Art. 26 CRPD.

26 Art. 25 CRPD.

27 Art. 27 CRPD.

It needs to be underlined that in the private sector States are not obligated to apply affirmative action programmes (here the word “may” is used). Nevertheless, if affirmative actions are applied generally to persons with disabilities which seems to accord with the Convention, especially in relation to the principle of equality of opportunity<sup>28</sup> and general principle of non-discrimination, the application of affirmative action to only selected groups of persons with disabilities would break with the Convention. Therefore, this would mean that the rules of the Convention would be breached if persons with schizophrenia were to be left out of affirmative programmes (it having been demonstrated in this paper that schizophrenia is in fact a disability).

To conclude this section, the connection between social protection and the labour situation of persons with schizophrenia needs to be looked at. The CRPD imposes on states the obligation to ensure access for all persons with disabilities to social protection programmes.<sup>29</sup> One of the most important obligations of the states resulting from the CRPD is the obligation to ensure the equal participation of persons with disabilities in social life (also highlighted in this paper). Here it is important to mention that social protection generally can itself be a barrier to participate in social life and employment<sup>30</sup> and this can also breach the CRPD.

#### **4. Situation of protection of persons with schizophrenia as persons with disability rights in employment in Poland**

The CRPD was signed by Poland on 20 March 2007 and ratified on 6 August 2012<sup>31</sup>. That means that the CRPD is now included in national law and Poland has taken upon itself the obligations of the Convention. This section of the paper assesses Poland's performance in respect the obligations arising from the CRPD, particularly in relation to persons with schizophrenia.

First, it is important to indicate that polish law recognised schizophrenia (and other mental disease) as being a disability. Polish law broadly defines disability-based on measures relating to participation in social life<sup>32</sup>. This means that Poland associates the basic obligations arising from the CRPD with persons suffering schizophrenia – it recognises their disability.

28 Art. 3 par.5 CRPD.

29 Art. 28 CRPD.

30 S.P. Harris, R. Owen, K.R. Fischer, Structural and Cultural Rights in Australian Disability Employment Policy, [in:] C.J. Schlund-Vial (edit.) M. Gill (edit): Disability, Human Rights and the Limits of Humanitarianism, Farhnam 2014.

31 Official Website of polish Obdusman: <https://www.rpo.gov.pl/pl/content/konwencja-onz-o-prawach-os%C3%B3b-niepe%C5%82nosprawnych-0> (access 28.04.2018).

32 O. Komorowska, Osoba Niepełnosprawna w Polsce i Niemczech – wybrane aspekty prawne, „Studia Prawno-Ekonomiczne”, vol. LXXXIII, Łódź 2011, p. 311-322.



The general principle of non-discrimination because of disability is implemented as well as provisions connected with the protection of the rights of disabled persons. However, it can be seen that, in practice, the protection of the rights of disabled persons in employment raises some issues connected with its implementation (e.g. the retroactive effect of these provisions) but this is not a problem that relates specifically to Poland, other European countries also have concerns with full application of the rights to persons with disabilities in certain areas<sup>33</sup>.

One problem that is specific to Poland and which impacts implementation of the principle of non-discrimination is that in many fields of employment, persons with schizophrenia are excluded by Polish law. By way of example persons with schizophrenia cannot be employed in the police force, fire department, state security services or border guards regardless of their capability to work in these positions<sup>34</sup>. Persons with schizophrenia are also excluded for employment as teachers and if a teacher already in employment is subsequently diagnosed with schizophrenia (under Polish law schizophrenia is a condition that can be used to qualify a statement of incapacity to work<sup>35</sup>) the contract of employment with that teacher has to be terminated<sup>36</sup>. Professional persons with schizophrenia can also have problem with employment or job retention if they are a barrister<sup>37</sup> or medical doctor<sup>38</sup> which results from general clauses.

It is not the goal of this paper to list all instances where Polish law states that schizophrenia is a reason to prevent or terminate an employment contract or inhibit the issue of a license to practice in a profession, so the author will limit himself to the conclusion that under Polish law there are many instances that can restrict the employment of persons with schizophrenia.

Nevertheless, it is necessary to underline where the limitation of access to a profession is justified. The answer here stems from the wording used in the CRPD, i.e. "equal basis"<sup>39</sup> for all, regardless of their disability, which in connection with the principle of non-discrimination means that the limitation of access to a profession is presupposed to be strictly connected with the individual patient's condition. This results from the fact that, if limitation of access relates specifically to the condition of

33 Paper on website of project „Lodołamacze”: Zakaz dyskryminacji osób niepełnosprawnych w zatrudnieniu : [http://lodołamacze.info.pl/pliki/materialy-poradniki/zakaz\\_dyskryminacji\\_ON.pdf](http://lodołamacze.info.pl/pliki/materialy-poradniki/zakaz_dyskryminacji_ON.pdf) (29.04.2018).

34 Journal of Laws 2018, item 2035 as amended.

35 A. Kiejny, P. Piotrowski, T. Adamowski (edit.) *op.cit* p. 23

36 Art. 23 Journal of Laws 2018 item 967 as amended

37 Wyrok WSA w Warszawie VI SA/Wa 1940/16 <http://orzeczenia.nsa.gov.pl/doc/BDB1B4F868> (12.12.2018)

38 Art.9 Journal of Laws. 2018 item. 617 as amended; see also: K. Żaczekiewicz – Zborska, WSA: zawieszenie lekarza podejrzanego o schizofrenię, <https://www.prawo.pl/prawnicy-sady/wsa-zawieszenie-lekarza-podejrzanego-o-schizofrenie,58167.html> (12.12.2018)

39 Art. 27 CPRD

the individual, we cannot say that the basis of limitation is the “state of disability” (in this case schizophrenia) but rather that the limitation results from the individual’s incapacity to work in the profession.

In relation to the above examples, we can say that any statement made that past or present schizophrenia provides grounds for automatically declaring an incapacity to work in a particular profession (which medical science confirms<sup>40</sup>) is of a discriminatory character.

The above also connects with situations where an individual is excluded from recruitment or when someone is excluded from recruitment because he displays symptoms of schizophrenia during an interview (the Polish Society of Antidiscrimination Law notes a case when after the interviewee freely admitted that he suffers from mental disorder, the interview was ended<sup>41</sup>).

It’s also worth noting, that if a disability occurs as a result employment, the employer is obligated to adapt a working environment that meets the needs of the person so disabled, and if that is impossible to achieve the employer can dismiss that person. Dismissal can only be used as a last resort<sup>42</sup>.

Awareness-raising was mentioned above as one of the most important issues for equal opportunities in employment for persons with schizophrenia. In Poland, programmes have been initiated connected with awareness-raising in this field, but the last such project which could be found came to an end in 2011.<sup>43</sup> According to the findings of the Centre for Public Opinion Research in 2012, many Poles still possess a reluctance to see persons with mental illness in some professions<sup>44</sup>. According to the research findings of CBOS in 2002, social awareness about schizophrenia was low<sup>45</sup>. This means that the further application of awareness-raising programmes connected with schizophrenia is necessary and it would be desirable that Polish authorities bring this into being as soon as possible.

It is difficult to analyse the application of every obligation under the CRPD separately because to-date none have actually been fully applied. This results from the fact that in Poland, a programme specifically dedicated to the problems of

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40 W. Wolfgang Fleischhacker et al., *Schizophrenia—Time to Commit to Policy Change*, *Schizophrenia Bulletin* 2014 vol 40 Oxford p. 165 – 195

41 K. Kędziora, M. Wieczorek, *Komentarz do przepisów antydyskryminacyjnych na podstawie praktyki stosowania wybranych regulacji prawa krajowego* [in:] W. Klaus, *Równi, ale różni, prawo a równe traktowanie cudzoziemców w Polsce*, Warszawa 2013 p. 159 – 160

42 M. Kułak, *Głosa do wyroku SN z 12.4.2012 r., II PK 218/11*, *Kwartalnik Krajowej Szkoły Prokuratury i Sądownictwa* 2015 vol. 1 (16), Kraków p. 86 – 91

43 *Wsparcie osób z zaburzeniami psychicznymi na rynku pracy II – podręcznik dobrych praktyk*, PFRON 2011

44 M. Omyła – Rudzka, *Komunikat z Badań: Stosunek do osób chorych psychicznie BS/147/2012*, Fundacja Centrum Badania Opinii Społecznej, Warszawa 2012.

45 B. Wciórka, J. Wciórka, *Komunikat z Badań: Polacy o schizofrenii (I). Społeczne Rozumienie Słowa Schizofrenia BS/9/2002* Fundacja Centrum Badania Opinii Społecznej, Warszawa 2002.

persons with schizophrenia or other forms of mental disease has yet to be initiated. The National Program for the protection of mental health has been involved in the promotion of employment for persons with schizophrenia (and other mental illness) but to be honest, while this looked good on paper, what is indicated by the Supreme Audit Office<sup>46</sup> and that what is perceived by the medical community<sup>47</sup> tells a different story. The National Programme for the protection of mental health contains elements which can be recognised as the application of obligations resulting from the CRPD. This programme in years 2011 – 2015 was described by the NIK as a failure<sup>48</sup>. A follow-up programme was launched in 2017, along the same lines as its predecessor, and is due for completion in 2022<sup>49</sup>. In the field of employment specifically, the Ministry of Family, Labour and Social Policy also has obligations to fulfill in this regard<sup>50</sup>.

Analysis of the legislative activity of this ministry indicates that until May 2018, the ministry has not undertaken any legislative initiative in connection with these programs<sup>51</sup>.

The above analysis leads to the simple conclusion that Polish legislation applies only the basic obligation connected with the CRPD. In point of fact, there is no reason why Poland should not apply the obligation, it doesn't cost money and all that is required is a simple change to the law. More complicated obligations relevant to the promotion of employment for persons with schizophrenia, support for the employers who engage persons with schizophrenia and obligations connected with employment such as rehabilitation – is a problem for Poland.

Nevertheless, it is important to outline that some methods of support for the employment of persons with schizophrenia exist, we can mention subsidies to employers, the refund of costs relating to employee training and lower PFON payments<sup>52</sup>. We need to remember that support for the employment program in the private sector is optional within states, and that persons with schizophrenia have specific needs and their needs are different from those of other persons with disabilities. This means that if the Polish legislator perceives the needs of specific

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46 Informacja o wynikach kontroli: Realizacja zadań Narodowego Programu Ochrony Zdrowia Psychicznego KZD.430.006.2016 available from: <https://www.nik.gov.pl/plik/id,12692,vp,15090.pdf> (access 28.04.2018) in short: KZD.430.006.2016.

47 A. Cybula-Fujiwara, D. Merecz-Kot, J. Walusiak-Skorupa, A. Marcinkiewicz, M. Wiszniewska, Employees with mental illness – Possibilities and barriers in professional activity, *Med Pr.* 2015; 66(1): 57-69, Łódź 2015.

48 Informacja o wynikach kontroli.... *op. cit.*

49 Consolidated text Journal of Laws 2017 item 258 as amended.

50 *Ibidem.*

51 This resulted from list of legislative initiatives on website of Government Center of Legislation <https://legislacja.rcl.gov.pl/>.

52 E. Trzcińska, Osoby z chorobami psychicznymi na rynku pracy, „Zeszyty Naukowe. Zbliżenia Cywilizacyjne”, no. XIII (1)/2017, Włocławek 2017, p. 100.

groups of persons with disabilities, e.g. blind persons, but fails, or does not want, to perceive the specific needs of persons with schizophrenia, this can be interpreted as a form of discrimination in relation to other groups of persons with disability.

## 5. Conclusion and postulates

The first conclusion to be drawn here is that it has been proven beyond reasonable doubt that persons with schizophrenia are indeed persons with disabilities in the legal sense. This results not only from the provisions of the CRPD but also from other acts of an international order and Polish law.

The CRPD contains many provisions both relevant and applicable to persons with schizophrenia in the field of employment. The most important provisions are: the provisions connected directly with employment, the provisions connected with the general principle of non-discrimination, the provisions expressing the right to equal participation in social life, and the provisions expressing the right to health and the right to rehabilitation.

Measures introduced by the Polish legislator to ensure the equality of schizophrenia sufferers in the labour market seem to be insufficient. Poland has attempted to improve the situation for persons with the disorder, but it needs to be said that they require more attention to be paid to their employment needs by the Polish government.

In particular, a greater role has to be played by the National Programme for Mental Health Protection in this regard. Realisation of this programme would certainly improve the participation<sup>53</sup> of this group in the labour market which would be a step forward in realising not only the provisions of the CRPD but also its underlying objectives.

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Convention on the Rights of Persons with Disabilities New York, 13 December 2006 United Nations, Treaty Series, vol. 2515.

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53 A. Cybula-Fujiwara, D. Merez-Kot, J. Walusiak-Skorupa, A. Marcinkiewicz, M. Wiszniewska, *op. cit.*

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