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## **A person with disabilities on the market of banking services**

### **Abstract**

The main purpose of the reflections offered in the article is to present the actions taken by banks to prevent financial and banking exclusion of persons with disabilities. This work describes and characterizes various types of disabilities depending on the limitations they impose in the relationship between a customer with a disability and the bank. Numerous improvements introduced by banks are presented and discussed, both those that must be implemented, i.e. dictated by legislative requirements, and those undertaken on banks' initiative. This study also discusses guidelines and recommendations of the Polish Banks Association, the application of which is aimed at eliminating restrictions to free access of customers with special needs (here: disabilities) to banks' product offer or information about it. Achieving the set goal required the following research methods: scientific observation based on a review of available legal acts, literature, studies and source materials from the financial market, along with their analysis and conclusions.

**Keywords:** persons with disabilities, financial exclusion, bank

## Introduction

Poland's accession to the European Union required harmonization of the Polish law (including the banking law) with the EU law, that is adjustment of the domestic banking sector to standards in place in the EU that pertain to broadly understood operation of banks as public trust institutions. This process is still on-going and evolving because the introduced changes are a response to constantly changing social and economic environment in which the banking sector is an essential component.

This harmonization concerns many different aspects among which are those that help ensure or (and) improve the broadly understood security or efficiency of operation of the entire banking sector and those that concern numerous new offers, products and services created by banks and secure distribution channels and procedures. The first aspect is crucial for effective operation of the economy in which banks are a certain "bloodstream." The second, in turn, arises in response to the needs of different groups of customers, which is essential for the development and operation of the banking institutions themselves who aim to implement specific goals, that is maximising profit, market share or market value.

The implementation of said goals becomes possible where banks' product offer is abundant, directed to different groups of customers and, importantly, universally available.

One of the groups of banks' customers are persons with various disabilities and from their point of view it is important that in the customer-bank relationship they have free access to a bank as an institution – a building and the possibility to purchase, securely and freely (that is without restrictions), products and services offered by the bank. For this to be possible banks must make sure that the commercial offer and access channels to it are adjusted, also to the needs of persons with various disabilities.

Focus on accessibility is an answer to the Act on ensuring accessibility to persons with special needs passed on 19 July 2019 (hereinafter Accessibility Act)<sup>1</sup> and a relatively recent Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, known as the European Accessibility Act (hereinafter also EAA Directive),<sup>2</sup> whose transposition to the Polish national legislation took place on 28 June 2022 and which will enter into force on 28 June 2025.

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1 Consolidated text. Dz. U. (Journal of Laws) of 2022 item 2240.

2 OJ L 151, 7.6.2019, p. 70–115.

Taking action intended to ensure and enhance accessibility and thus to improve the quality of banking services offered to customers with special needs, that is customers – persons with disabilities, is dictated by the law. Apart from the requirements imposed on banks, these institutions take action on their own account for the benefit of persons with disabilities, which are in line with recommendations included in the work published by the Polish Banks Association: *Good practices in providing banking services to persons with disabilities*.<sup>3</sup> It aimed to create guidelines for bank employees to reduce barriers in access to banking services identified by circles of persons with disabilities.

### Disability in legislation

Many persons with disabilities in Europe, including in Poland, do not have the same life opportunities as other people. Restriction of opportunities may refer to, e.g. generally understood financial services as not all institutions, including banks and their infrastructure, products services or information, are fully accessible to persons with disabilities or comprehensible, and thus these persons may be treated wrongly or unfairly.

The European Union and its Member States, including Poland, have committed to improve the social and economic situation of persons with disabilities and are doing so relying on the EAA Directive.

The premise to improve the situation of persons with disabilities came with the UN Convention on the Rights of Persons with disabilities adopted by the General Assembly on 13 December 2006<sup>4</sup> (hereinafter Convention), becoming world first legally binding international instrument to specify minimum standards of rights of persons with disabilities and the first convention relating to human rights to which the EU is a party. For the EU, the Convention entered into force on 22 January 2011 and has been signed and ratified by all Member States. The Polish government signed it on 20 March 2007 and ratified it on 6 September 2012.

The Convention aims to protect and ensure full and equal enjoyment of human rights and fundamental freedoms by person with disabilities on an equal basis with

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3 Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki obsługi osób z niepełnosprawnościami przez banki III edycja*, Warsaw 2017, [https://zbp.pl/getmedia/23e8b14e-11cc-42f4-9c3c-c6a679f8d29b/ZBP\\_Dobre\\_praktyki\\_171228.pdf](https://zbp.pl/getmedia/23e8b14e-11cc-42f4-9c3c-c6a679f8d29b/ZBP_Dobre_praktyki_171228.pdf) (access: 07.07. 2023).

4 Dz.U. (Journal of Laws) no. 2012 item 1169. See Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities, OJ L 23, 27.1.2010, p. 35.

all other citizens. By ratifying the provisions of the Convention Poland committed to implement standards of procedure included in it to safeguard realization of rights of person with disabilities.

Pursuant to Article 1 of the Convention, the concept of persons with disabilities is defined as persons “who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

Participation in the life of the community means, i.a., free access to all services provided by different kinds of public and non-public institutions and also economic operators, including banks. Architectural and urban planning-related barriers that persons with disabilities encounter in access to banks are the main, noticeable, but not the only, obstacles that make it difficult for them to handle matters important to them. An equally serious obstacle is being unable to enjoy services provided by these institutions because they are not adjusted enough to the disability of the person trying to access them, whereby if these barriers exist it is difficult to talk about full participation of these persons in community life.

Removal of these barriers is immensely important since disability is one of the many social and demographic features that predestines one for social exclusion understood as a lack or restriction of the possibility of participation in, influencing and using basic public institutions and markets, including financial markets, which should be accessible to all.<sup>5</sup>

Banks are institutions that operate in the financial market and that provide financial services. Therefore, hindered access to them for persons with disabilities, understood as them being unable to enjoy banks' financial offer fully and without disruptions, allows a conclusion that it is a case of financial exclusion of such persons.

When defining financial exclusion, authors very often focus on difficulties in enjoying financial services that relate to certain social groups. These groups are most often said to include persons with low incomes, who are in an adverse social situation, including persons with disabilities, who have problems accessing these services. A definition that treats financial exclusion as being unable to access the

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<sup>5</sup> See more in S. Golinowska, *Narodowa Strategia Integracji Społecznej dla Polski (NSIS)*, Warsaw 2003, pp. 21, 22, 61, <https://archiwum.mriips.gov.pl/gfx/mpips/userfiles/File/mps/NSIS.pdf> (access: 15.05.2023).

financial system (albeit sporadically or occasionally) by certain social groups is an example here.<sup>6</sup>

In its report *Financial Services Provision And Prevention Of Financial Exclusion*, the European Commission defines financial exclusion as “a process whereby people encounter difficulties accessing and/or using financial services and products in the mainstream market that are appropriate to their needs and enable them to lead a normal social life in the society in which they belong.”<sup>7</sup>

Financial exclusion may also be described as a reverse of financial integration (financial inclusion), which was defined by the Center for Financial Inclusion at Accion as a state in which all people have access to a full suite of quality financial services, provided at affordable prices, in a convenient manner, and with dignity for the clients.<sup>8</sup>

Because banks in Poland continue to introduce new innovative solutions in their product offer or channels they use to distribute them, the banking sector must take action to ensure accessibility and to enhance and improve the quality of the banking services also to customers with special needs, that is customers who are persons with disabilities, which will counteract their social exclusion.

The Polish state’s response to counteracting financial exclusion was the Governmental Accessibility Plus Programme 2018–2025 adopted on 17 July 2018. Its introduction was preceded<sup>9</sup> by monitoring of actions of central administration for

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6 More in: S. Carbo, E. Gardener, P. Molyneux, *Financial Exclusion*, London 2005, p. 4, as quoted in: M. Solarz, *Wykluczenie finansowe – zarys problematyki*, “Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu” 2010, No. 127, p. 151, [https://www.dbc.wroc.pl/Content/120726/Solarz\\_Wykluczenie\\_finansowe\\_zarys\\_problemyki.pdf](https://www.dbc.wroc.pl/Content/120726/Solarz_Wykluczenie_finansowe_zarys_problemyki.pdf).

7 European Commission, *Financial Services Provision and Prevention of Financial Exclusion*, March 2008, p. 9, <https://www.fi-compass.eu/sites/default/files/publications/financial-services-provision-and-prevention-of-financial-exclusion.pdf> (access: 10.07.2023).

8 AS quoted in: M. Czarnecka, *Wykluczenie finansowe i integracja finansowa – aspekty terminologiczne*, “Kwartalnik Kolegium Ekonomiczno-Społecznego Studia i Prace” 2018, p. 67, <http://bazekon.icm.edu.pl/bazekon/element/bwmeta1.element.ekon-element-000171523439> (access: 11.07.2023).

9 The monitoring was carried out in 51 public institutions in terms of, e.g. architectural adjustment of buildings, adjusting forms of information to the needs of persons with disabilities, improving awareness of rights and dignity of persons with disabilities, competences of the staff of these institutions and fulfilling the obligations under the Convention. See more in A. Gawska, *Konwencja? Sprawdzam! Raport zbiorczy z monitoringu działań jednostek administracji centralnej na rzecz wdrażania Konwencji ONZ o prawach osób z niepełnosprawnościami*, Warsaw 2019, p. 12, <https://drive.google.com/file/d/1Bqs6j1O2f3x5Hms9ckA8OMGtfm1QeVkc/view> (access: 8.08.2023). The Supreme Audit Office also points to the existence in public facilities of barriers, not functional solutions or solutions that take into consideration only one type of disability – mobility-related disability: See the Supreme Audit Office, *Dostępność przestrzeni publicznej dla osób starszych*

implementing the Convention. The monitoring received 450 comments from 57 entities after which, on 19 July 2019, the Act on ensuring accessibility to persons with special needs was passed. It was the first act translated into sign language.<sup>10</sup>

The objective of the Act is to improve the conditions of life and functioning of persons with special needs, that is those citizens whom Article 2 of the Accessibility Act defines as persons who due to their external or internal characteristics, or due to their circumstances, are forced to take additional actions or to apply additional measures to overcome a barrier to participate in various spheres of life on equal terms with others. It obliges the public sector to ensure at least minimum accessibility that guarantees accessibility to a given public entity (Article 3 Accessibility Act), and the public entity must ensure this accessibility by application of universal design of new solutions or reasonable accommodation in removing existing barriers (Article 4 Accessibility Act). The minimum requirements mean that public institutions ensure the following: architectural accessibility, digital accessibility and information and communication accessibility (Article 6 Accessibility Act).

As follows from the above, the Act lays down measures to ensure accessibility to persons with special needs and related obligations of public entities (Article 1(1) Accessibility Act), though only narrowly does the act apply to non-public entities, including economic operators (also banks) (Article 4(3) and (4) and Article 5 and certain amending acts). The legislator intentionally decided to ignore the obligation under the Convention to enforce accessibility from private entities, pointing out in the explanatory memorandum<sup>11</sup> that this will allow avoiding unnecessary legal complications and administrative costs which would entail having to introduce changes due to the future implementation of the EAA Directive, which was transferred to the Polish legal order on 28 June 2022 and whose provisions are to come into effect three years later, that is from 28 June 2025.<sup>12</sup>

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*i niepełnosprawnych*, Warsaw 2018, pp. 10 and 20, [https://www.nik.gov.pl/kontrola/wyniki-kontroli-nik/pobierz,lpo~p\\_17\\_094\\_201801160956351516096595~01,typ,kk.pdf](https://www.nik.gov.pl/kontrola/wyniki-kontroli-nik/pobierz,lpo~p_17_094_201801160956351516096595~01,typ,kk.pdf) (access: 5.07.2023).

10 K. Roszewska, in: R. Mędrzycki, M. Szyrski, A. Waszkielewicz, M. Wysocki, J. Zadrożny, K. Roszewska, *Ustawa o zapewnianiu dostępności osobom ze szczególnymi potrzebami. Komentarz*, LEX/el. 2021, art. 1. <https://sip.lex.pl/#/commentary/587869950/667390/roszewska-katarzyna-red-ustawa-o-zapewnianiu-dostepnosc-osobom-ze-szczegolnymi-potrzebami-komentarz?cm=RELATIONS> (access: 04.02.2024).

11 See more in Explanatory memorandum to the draft act on ensuring accessibility to persons with special needs, Document no. 3579 of the Sejm of the Republic of Poland of the VII term, Warsaw, 27 June 2019, p. 42, <https://orka.sejm.gov.pl/Druki8ka.nsf/0/E4DFEF6411601F9DC-125842C00341368/%24File/3579.pdf>.

12 K. Roszewska, in: R. Mędrzycki, M. Szyrski, A. Waszkielewicz, M. Wysocki, J. Zadrożny, K. Roszewska, *Ustawa o ...*

The obligations specified in the EAA Directive, save for reservations (see in particular Article 4(1) in connection with Article 14(6) of the EAA Directive), should apply equally to economic operators from the public and private sectors (recital 57 of the EAA Directive). The EAA Directive points out that accessibility should be achieved by the systematic removal and prevention of barriers, preferably through a “universal design” which will contribute to ensuring access for persons with disabilities on an equal basis with others.<sup>13</sup>

Pursuant to Article 46 of the Accessibility Act, the Banking Law of 29 August 1997<sup>14</sup> was amended. The amendment involved introduction to Article 109 of content concerning persons with special needs (subsection 3 and 4), which stipulates that banks are obliged to present to a person with special needs general terms of the contract and regulations in so-called accessible – convenient form within 7 days from receiving a notice that this is required. Accessible – convenient forms include:

- audio recording,
- video recording of the content in sign language,
- print out in Braille’s,
- print out with font size comfortable for reading.

Apart from these activities that serve to improve accessibility of products and services offered by banks and which the legislator obliged banks to take up, banks themselves take initiative in this regard. The Working group for handling persons with disabilities has operated by the Polish Banks Association since 2011. The Group relies on great support from the circles that represent persons with disabilities and on the interest and enthusiasm of bankers to take up actions to increase accessibility of banking services. This led to the publication of the Polish Banks Association’s work: *Good practices in providing banking services to persons with disabilities*, whose aim was to create a set of guidelines to reduce barriers in access to banking services identified by the circles of persons with disabilities. According to what the Polish Banks Association claims, this document is updated and revised

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13 Although entry into force of the EAA Directive is stipulated for 28 June 2025, the interim period may still, as a rule, last up to 2 June 2030, during which a service provider may still provide services using products that they legally used to provide similar services before that date, while service contracts executed before 28 June 2025 may still be effective unchanged until their expiry, though not longer than for five years from this date. In some cases, Member States may decide to apply certain obligations starting from a later date or establish a longer interim period for service providers to adjust (Article 31 and 32 EAA Directive). *Ibidem*.

14 Consolidated text, Dz. U. (Journal of Laws) of 2023 item 2488.

regularly in consultation with banks and the circles of persons with disabilities, thus we have seen three editions so far.<sup>15</sup>

The *Good practices* guide includes both general clues and detailed descriptions concerning, e.g.:<sup>16</sup>

- basic types of disability,
- provision of services to persons with individual disabilities in the bank branch or questions concerning legal acts or documents related to these services and information on how to recognize customers with particular disabilities and how to communicate with them effectively,
- provision of services to persons with particular disabilities outside the bank branch, especially in the case of persons with mobility-related disabilities and most of all persons holding a certificate of severe disability,
- creating bank documents (cards, bank correspondence, electronic documents),
- the question of appearance of specially trained assistant dogs and guide dogs that accompany customers during visits at a branch,
- service access channels, e.g. Contact Centre at a branch (terms of service and arranging the consultant's workplace), helpline, transaction service, video calls, chats, provision of information through regular mail, e-mail or text messages,
- providing the customer with the possibility to use a self-service device such as an ATM independently, without physical contact with bank staff,
- providing the customer with the possibility to use independently so called VTMs (*Video Teller Machines*), which offer a wide array of possible operations, including (depending on the device) the possibility to perform banking actions, to change instructions for accounts or even to sign banking contracts. Some of such services are carried out by means of automatic scripts while for the rest the customer must use the VTM to connect with the helpline or the bank's chat,
- guidelines on the need to adjust the bank's internet service and its elements to the needs of persons with disabilities, based on research and recommendations, Polish and international alike, on design, implementation and operation of internet banking,
- mobile banking – concerning particular mobile solutions, that is contact of a person with disabilities with the bank by a device that allows installation of a mobile app created by the bank (smart phone, cell phone, another device with an advanced operating system),

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15 See more in Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki* ....

16 Ibidem, pp. 5–6.



- application of biometrics in banking and its impact on providing services to customers with disabilities (finger vein biometrics, hand biometrics, fingerprint biometrics, voice biometrics, hand signature biometrics, face biometrics, or iris/eye biometrics).

As results from the above, this publication includes solutions – good market practices, that may serve as inspiration for banks in creating and implementing solutions for customers with disabilities.<sup>17</sup>

### A person with special needs as a bank customer

There are approximately 87 million people with some form of disability in Europe. The 2014 research carried out by Statistics Poland as part the European Health Interview Survey (EHIS) – European State of Health in the EU – Poland – revealed that close to 4.7 million people (which accounts for 15% of the population) were persons with disabilities aged 15 or older, 77% of whom held a disability certificate. Of them, 28% had a severe disability, 42% had a moderate disability and only 25% had a mild disability.<sup>18</sup>

The data above concerns persons who were legally disabled, whereas depending on the adopted restrictions the number of biologically disabled<sup>19</sup> persons in 2014 was between 4.9 and 7.7 million.<sup>20</sup>

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<sup>17</sup> Ibidem, p. 43.

<sup>18</sup> European Commission. Employment, Social Affairs and Inclusion, *Persons with disabilities*, <https://ec.europa.eu/social/main.jsp?langId=pl&catId=1137> (access: 13.10.2023).

<sup>19</sup> There are two types of disability in this context: legal and biological. Legal disability is certified in compliance with the law, according to a specific certification system. There are five certificate-issuing systems and in each of them decisions are issued under different criteria. Biological disability is a broader term where qualification is done through a subjective declaration about having limitations in carrying out specific tasks independently. Therefore, legally disabled persons are those who hold a relevant valid certificate issued by a competent authority. On the other hand, persons who are only biologically disabled are those who do not hold a certificate but are (feel they are) fully or severely limited in their ability to perform basic tasks adequate to their age. These definitions are borrowed from the report on the research carried out in 2019 by Fundacja NEURON+ STOP BARIEROM, *Skrócony raport z badania. Desk Research usług finansowych dla osób z niepełnosprawnością*, Warsaw 2019, <https://stopbarierom.pl/wp-content/themes/stopbarierom/assets/documents/raporty/uslugi-finansowe-skrocony.pdf> (access: 9.05.2023), and a theme study posted on the website of the Chancellery of the Senate, Analyses, Documentation and Correspondence Office – Sz. Woronowicz, *Niepełnosprawność, wybrane zagadnienia społeczne i prawne*, Warsaw 2014, p. 13, [https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/126/plik/ot-632\\_internet.pdf](https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/126/plik/ot-632_internet.pdf) (access: 15.05.2023).

<sup>20</sup> According to the European Health Interview Survey – EHIS in 2014 there were 7.7 million (7,689,800 to be precise) biologically disabled persons in Poland, that is persons who declared

As results from the above, it is a substantial percentage given data on the number of customers helped by Polish banks, that is the total of 49.6 million, of whom 46 million are personal banking customers.<sup>21</sup>

Although financial services are offered by numerous private institutions, services provided by banks are the most popular as society sees them as public trust institutions. Access to a bank includes guaranteed access to a number of financial services, such as savings accounts, loans, insurance, payments, financial advice or economic activity-related services. However, a person must have a bank account to be guaranteed access to all other banking services. Without access to such services persons who do not have a bank account are at risk of banking exclusion. This type of exclusion is most noticeable in the context of financial exclusion.<sup>22</sup>

(Banking) exclusion in this aspect involves lack of access to a specific type of institutions that offer a basic form of a bank accounts, lack of access to a bank account and lack of access to services related with a bank account. Having a bank account allows its holder to:

- receive regular electronic transfers such as pay, pension or social benefits, including various social assistance credits,
- pay for goods and services cashlessly, e.g. making online purchases,
- pay bills electronically,
- make transfers or payment orders,
- keep money secure until drawn<sup>23</sup>.

Banks take up a number of actions in terms of quality improvement. The activities to improve the quality of services provided to persons with disabilities are a challenge for banks. The number of needs of these customers is still increasing and they are different for different groups. For this reason, banks regularly introduce

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limited ability to perform activities that people usually perform (pursuant to the uniform EU definition applied in the research, both severe and less severe limitations that cause inability to perform these activities for at least the last 6 months were taken into consideration). Among them there were 2,464,800 persons with severe ability limitations and 5,225,000 persons with less severe limitations. See more in Office for the Government Representative for Matters of Persons with Disabilities, *Dane demograficzne*, 23.01.2019, <https://niepelnosprawni.gov.pl/index.php?c=page&id=78> (access: 9.05. 2023).

21 It is possible as some of these people have accounts in more than one bank. This is why we have a dozen million or so more bank accounts than customers in Poland. Foreigners also have their share as they may also apply for a personal bank account in Poland. See more in W. Boczoń, *Raport: Liczba klientów w bankach – I kw. 2022*, 27.05.2022, Puls Biznesu, <https://www.pb.pl/raport-prnews-pl-liczba-klientow-w-bankach-i-kw-2022-1162118> (access: 9.05. 2023).

22 As quoted in: M. Czarnecka, *Wykluczenie finansowe ...*, p. 72.

23 *Ibidem*, pp. 72–73.

facilitations thanks to which persons with disabilities may use bank branches and their services. These facilitations mainly include removal of architectural barriers, priority treatment, consultants who use sign language, comfortable waiting areas and a network of voice-enabled cash machines.<sup>24</sup>

From the perspective of banking services, categories of disability mainly include persons with hearing or vision impairment, mobility issues or intellectual impairments, which are a result of impairments or dysfunctions of certain organs. Their existence becomes an obstacle and thus a limitation in performing activities the way persons without disabilities do. However, the existence of these limitations does not mean that these persons cannot participate in areas that are essential from the point of view of community life, including enjoyment of banking services. It is possible to be an active bank customer regardless of the type of disability as long as there are adequate provisions in place.<sup>25</sup>

There are different types of disability, depending on the limitations that implicate them.<sup>26</sup> One of them is **sensory disability**, which means impairment of one or more senses. Its main effect is reduction in ability to gain information from one's environment. There are two kinds of disability in this category.

The first is a **hearing impairment** involving a loss or diminished functionality of the auditory system, which leads to difficulties in access to speech and languages. This, in turn, entails difficulties in communicating with the environment, which also generates obstacles. These persons are referred to as deaf, persons with hearing impairments, or mute.

Pursuant to the recommendation of the Polish Banks Association, bank staff are required to apply adequate communication methods for customers with hearing impairments. Special focus needs to be given at that to providing information in a manner that is fully understandable for the customer, establishing an appropriate communication method and ensuring that the customer has the possibility to give feedback and ask questions. Therefore, utterances directed to such customers must be carefully articulated and if that is not enough they must be provided in writing. If this is not sufficient either, then the most optimal form of contact is through a sign language interpreter. A video interpreter service is an essential facilitation

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24 Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, p. 7.

25 See more in Fundacja NEURON+ STOP BARIEROM, *Skrócony raport ...*

26 Z. Woźniak, *Niepełnosprawność i niepełnosprawni w polityce społecznej, Społeczny kontekst medycznego problemu*, Warsaw 2008, pp. 55–56; M. Borkowska, *Niepełnosprawność – definicja, podział na grupy*, in: M. Borkowska (ed.), *Dziecko niepełnosprawne ruchowo. Usprawnianie ruchowe*, Warsaw 1997, pp. 12–18.

in such cases and often the only possibility to enjoy bank services. Having a sign language interpreter on site may also be necessary (complicated bank contracts).<sup>27</sup>

At the moment, customers with hearing impairments are not given the opportunity to declare their wish to communicate with the bank staff using sign language. This situation is difficult to change because, i.a., the presence of the Polish Sign Language (PSL) in Polish legislation is negligent. The only legal act in force that includes regulations on sign language is the Act of 19 August 2011 on sign language and other means of communication (hereinafter SLA), which points out the possibilities of application of sign language in situations where a person with disabilities intends to make a declaration of intent. Institutions listed in the SLA do not include banks, which means that the Act does not apply to them and which must be interpreted to mean that banks are not legally obliged to comply with this law. This act refers to a specific group of public administration institutions, including especially entities that provide health- or security-related services, which banks do not fall under.<sup>28</sup>

This is why all translations of banking contracts or instructions into the Polish Sign Language are for information purposes only. In order to purchase a service or product offered by a bank or resign from it, the customer must sign a document formulated in one of the traditional national languages accepted by a given bank.

Another disability that a bank customer might have is a **visual impairment**, which means a loss or deterioration of vision. It is through vision that 80% of information from the environment is perceived, which is why this limitation causes severe changes in the life of a blind person or a person with poor vision, who thus may have difficulty moving about (infrastructural barriers) or communicating (communication barriers).<sup>29</sup>

When it comes to satisfaction of the needs of customers with visual impairments, that is persons with low vision, banks implement good practices by having at least a dozen or so different magnifying glasses in each branch or at least one

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27 Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, pp. 15–17.

28 Act of 19 August 2011 on sign language and other means of communication (Dz. U. (Journal of Laws) of 2011, No. 209, item 1243) imposed an obligation on public administration authorities, operators that provide medical and paramedic services and selected uniformed services to ensure that persons with hearing impairments, among others, have the possibility to enjoy the help of a chosen sign language interpreter or interpreter-guide. At this stage, the Act is not directed to banks, but it may be assumed that there will be analogical regulations in the future that will expand the scope of entities obliged.

29 E. Sanchez, *Rodzaje niepełnosprawności i ich charakterystyka*, Krok do zdrowia, 09.08.2020, <https://krokdozdrowia.com/rodzaje-niepelnosprawnosci-i-ich-charakterystyka/> (access: 19.11.2023).

electronic magnifier. The latter is the size of a large smart phone that enables a visually impaired customer to read documents given to them correctly by, e.g., changing the font or setting adequate contrast for the text and many other elements that greatly contribute to better perception of the content read by a person with low vision. Another equally important aspect is for the bank employee to be able to send a contract for signature to a visually impaired customer electronically. Thanks to this, a customer with low vision or a blind customer is able to read the contract on their own device on which they receive the email with the contract from the bank employee attaches.<sup>30</sup>

When it comes to blind persons, it is crucial to note that not all of them can use Braille. Therefore, documents are mostly shared electronically. Such files may be read by the screen reader, that is a special programme that reads the content displayed on computer and mobile device screens.<sup>31</sup>

Special notice must be given to the 2010 removal of Article 80 from the Act of 23 April 1964 the Civil Code (CC), which stipulated that “if a person who cannot read is to make a declaration of intent in writing, then such declaration shall be made in the form of a notarial deed”.<sup>32</sup> After many years of efforts of the circles acting for the benefit of persons with disabilities, Article 80 CC was repealed, which means that a blind person may execute an agreement (make a declaration of intent) in the same manner and the same form as a seeing person. Thus, placing additional requirements on blind persons must, as a rule, be recognized as contrary to the law in force. At the moment, it is in the banks’ interest when taking a declaration of intent from a person who cannot read to take into account risks following from the absence of Article 80 CC and to carry out, on their own account, a thorough and effective analysis of problems in creating internal procedures.<sup>33</sup>

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30 Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, p. 21.

31 *Ibidem*, p. 22.

32 Article repealed by the Act of 8 January 2010 on amending the act Civil Code, which entered into force on 16 April 2010 (Dz. U. (Journal of Laws) No. 40 item 222).

33 Explanatory memorandum to the draft act on emending the act Civil Code, Document of the Sejm of the Republic of Poland of the 6th term, Warsaw, 16 July 200, pp. 1 ff. (See also Explanatory memorandum to the draft act on emending the act Civil Code, Document of the Sejm of the Republic of Poland of the 4th term, Warsaw, 26 April 2005, pp. 1 ff.); Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, p. 50; M. Kowalewska, *Składanie oświadczeń woli w formie szczególnej przez osoby niemogące czytać (po nowelizacji k.c.)*, “Państwo i Prawo” 2011, No. 7–8, p. 80 ff. See also: H. Nowara–Bacz, *Podpis analfabety*, in: P. Kostański, P. Podrecki, T. Targosz (eds.), *Experientia docet. Księga jubileuszowa ofiarowana Pani Profesor Elżbiecie Traple*, Warsaw 2017, pp. 1009 ff.

Another disability that a bank customer might have is a **motor disability**, physical or mobility-related, that is an impairment that involves complete or partial reduction in mobility of one or more body parts. This causes difficulty in performing activities that require motor skills.<sup>34</sup>

This is a group of persons who have problems moving about and who may use specialist orthopaedic equipment for that purpose, such as a wheelchair, crutches or a cane. These may also be persons whose conditions do not affect strictly their motor system but their respiratory or cardiovascular system and due to related ailments they may not be able to walk for long distances or walk fast. This may cause difficulty in accessing a bank branch or moving around it or generate visible discomfort manifested by restlessness when waiting to be served while standing upright (for persons who use crutches). This type of disability includes persons who experience this incapability only temporarily, such as persons with broken limbs. Given their disability, both these groups may encounter infrastructural barriers.<sup>35</sup>

In the case of bank customers with reduced mobility, communication should proceed in a natural manner, as is the case of any other customer. Still though, bank branches/outlets should be adequately adapted so that this person may enter them and move freely using a wheelchair, a cane or crutches, etc. Relevant legislative acts include such detailed guidelines. However, it is natural that the conditions of the premises of bank branches/outlets do not always allow for the introduction of all facilitations for persons with disabilities (for example those that are not accommodated under construction law).<sup>36</sup>

To meet the needs of customers who have difficulty in getting to a bank branch due to their disability, banks offer non-standard solutions – serving these persons outside the bank branch. Such services may be carried out as a response to a request from a customer with mobility impairments or to a request filed by their family. “Cases of disability that qualify a given person to be eligible to be served outside the bank mainly include conditions that make these persons permanently immobile

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34 E. Sanchez, *Rodzaje niepełnosprawności ....*

35 Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ....*, p. 21; Fundacja NEURON+ STOP BARIEROM, *Skrócony raport ....*

36 Regulation of the Minister of Infrastructure of 12 April 2002 on technical requirements that buildings should meet and their location (consolidated text, Dz. U. (Journal of Laws) of 2022 item 1225); Act of 27 March 2003 on spatial planning and development (consolidated text, Dz. U. (Journal of Laws) of 2023 item 997 as amended); Act of 7 July 1994 – Construction Law (consolidated text, Dz. U. (Journal of Laws) of 2023 item 682 as amended).

(“bedbound”) as a result of complete or partial paralysis of upper or lower limbs, while at the same time being fully capable cognitively.”<sup>37</sup>

Both a person with disabilities and their family members/loved ones who are interested in being served outside the bank branch may file such a request through a selected bank branch or other available communication channels offered by banks that allow the applicant to send relevant information. Below are cases that justify sending an employee outside the bank branch to visit a customer with a motor disability who is interested in being served outside the bank premises:<sup>38</sup>

- signing the first contract (e.g. bank account contract, credit account contract),
- signing the first contract along with the power of attorney,
- giving the power of attorney,
- making a written instruction upon death,
- signing a contract for a preferential credit for the purchase of rehabilitation equipment.

Banks may also have customers who cannot write. This is where the regulation of Article 79 CC comes into play. It stipulates that “a person who cannot write but who can read may make a declaration of intent in writing either by setting his fingerprint in ink on the document and by the side of the fingerprint another person writes his first and last name and sets his signature, or by another person setting his signature instead of the person making the declaration and this signature being certified by a notary or mayor or president of a city (wójt), head of province (starosta) or Marshall of a voivodship with a note that it was done on the request of a person who cannot write but who can read.”

**Intellectual disability** is a crucial kind of disability from the point of view of using bank services. It occurs when a given person has difficulties or limitations in their cognitive abilities. It mainly covers processing of information, perception, memory, attention, problem solving, decision making, etc.

Very often persons with such kinds of disability have various difficulties in their everyday life, work and community, determined by the severity of their impairment (**mild, moderate, serious or severe**). This lowering of the ability of intellectual functioning is manifested as a deficit in adaptation behaviours (in particular independence and liability), as a result of which these persons encounter communication, interpersonal or legal barriers.

When it comes to serving bank customers, due to the existence of different degrees of intellectual disabilities, the mere qualification of the person with

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<sup>37</sup> See: Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, pp. 39–40.

<sup>38</sup> *Ibidem*, p. 54.



disabilities may only turn out possible in direct conversation in which simple single sentences should be used and repetitions if necessary, adjusting the pace of speech and vocabulary to individual needs of a person with an intellectual disability. When an instruction is made by a person with intellectual disabilities, it is important that the bank employee be sure that this person takes an independent decision and has not been forced by third persons to perform some activity. Equally important, a bank employee must establish whether the customer with an intellectual disability with whom they are talking has not been partially or fully incapacitated and thus whether they have limited capacity to perform acts in law.<sup>39</sup>

Customers with intellectual disabilities may request additional explanations of the complicated content of documents or procedures. In such a case, a bank employee should exercise patience and understanding and enhanced caution, especially then the customer is making a risky financial decision. The bank staff must then make sure a few times that the financial decision is well thought-through. Undoubtedly, presenting information to customers in the form of text that is easy to read and understand would undoubtedly facilitate serving customers with intellectual disabilities.<sup>40</sup>

## Conclusions

Depending to the adopted restrictions, there are between 4.9 to 7.7 million people in Poland who have some form of disability. These numbers refer to persons aged 15 and older. Due to their impairments, they are a group with limited access to various kinds of goods, products or services, including banking services, which are today an elementary part of everyday life of any citizen (paying bills, rent, paying for shopping, etc.) and professional life (e.g. one's own economic activity).<sup>41</sup>

Because customers with disabilities make up a great share of customers served by Polish banks, the banking sector is facing an important challenge and banks have stepped forward to meet it. The challenge involves making sure that barriers that restrict access of person with disabilities to banks and their services are removed, which is supposed to counteract their financial (banking) exclusion.

Banks' actions in this regard, consistently dictated by legislative requirements, are demonstrated by removing all kinds of architectural barriers in access to bank branches, introducing facilitations in access to information in electronic form or

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39 Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, p. 32.

40 See more in *ibidem*, p. 41.

41 See more in Fundacja NEURON+ STOP BARIEROM, *Skrócony raport ...*



other forms alternative to printed documents, aiming for full accessibility of internet and mobile transaction services and removing barriers in free and independent operating of cash machines.

Apart from technical and technological barriers described above, removal of which is imposed on banks by the legislator, there are also mental barriers. The Polish Banks Association is actively participating in removing these barriers. With great support from circles that represent person with disabilities it published: *Good practices in providing banking services to persons with disabilities*. Recommendations included in it refer to solutions and good market practices, being a source of knowledge to bank employees and inspiration in creating and implementing solutions that are convenient for customers with disabilities.<sup>42</sup>

The solutions quoted in this publication are substantially contributing to increasing awareness among staff who handle matters of persons with disabilities and thus improve the quality of such services. Their implementation means that injustice is not an obstacle in regular dealings with banks and drawing attention to such services will help improve accessibility of banking services, which will enhance social (banking) inclusion and persons with disabilities will be able to go about their daily lives without experiencing financial exclusion.

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<sup>42</sup> Związek Banków Polskich and Narodowy Bank Polski, *Dobre praktyki ...*, p. 32.

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## Osoba z niepełnosprawnościami na rynku usług bankowych

### Streszczenie

Głównym celem podjętych w artykule rozważań jest zaprezentowanie działań, jakie podejmuje banki w celu poprawy dostępności do usług bankowych osobom z niepełnosprawnościami.

W niniejszej pracy zaprezentowano i scharakteryzowano różne typy niepełnosprawności w zależności od ograniczeń, jakie je implikują w relacji klient z niepełnosprawnością a bank. Zaprezentowano i omówiono rozliczne usprawnienia, które wprowadzają banki, zarówno te konieczne do zastosowania tj. podyktowane wymogami legislacyjnymi, jak również te podejmowane z inicjatywy banków, jako wytyczne – rekomendacje Związku Banków Polskich, których zastosowanie ma na celu wyeliminowanie ograniczeń w swobodnym dostępie klienta ze szczególnymi potrzebami – niepełnosprawnościami do oferty produktowej banku czy informacji o niej.

Realizacja postawionego celu wymagała użycia metody obserwacji naukowej opartej na analizie dostępnych aktów prawnych, literatury, opracowań i materiałów źródłowych z rynku finansowego.

**Słowa kluczowe:** osoba z niepełnosprawnościami, dostępność do usług bankowych, bank

#### CYTOWANIE

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