



# The Unconditional right to emergency shelter in the light of homeless services reform in Poland

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The 2015 amendment to the Social Assistance Act<sup>1</sup> (the key Polish legislation act regulating the role of public authorities and NGOs financed from public sources in the area of supporting the homeless) has introduced a new legal framework for sheltering homeless people in Poland that has a significant impact on the whole homeless support system in the country. The key introduced changes were<sup>2</sup>:

- shelter services standardisation (mandatory since 2021),
- introducing definitions of different kinds of shelter services following the principles of the staircase model,
- introducing an “open door” policy in emergency shelters,
- forcing closer cooperation in commissioning services by municipalities to NGOs, with a strict supervision of both sides by regional authorities (including steep administrative fines for non-compliance with the new regulations).

In this article, the “open door” policy in emergency shelters will be examined closely in order to answer the question of whether the new regulations truly introduce an unconditional right to shelter in Poland.

Poland has observed a steady decrease of the size of homelessness in the recent years according to the biannual headcounts commissioned by the Ministry of Family, Labour and Social Policy: 36,161 in 2015<sup>3</sup>, 33,408 in 2017<sup>4</sup> and 30,330 in 2019<sup>5</sup>. However, reports from the headcounts show other alarming factors, like growing length of homelessness episodes (5+ years in homelessness: 2013<sup>6</sup> – 43.0%, 2015 – n/a, 2017 – 49.0%, 2019 – 54.6%) and aging of the homeless population (60+ years: 2013 – 21.7%, 2015 – n/a, 2017 – 28.5%, 2019 – 33.0%). These factors, combined with positive macroeconomic indicators (in particular unemployment, which has decreased by nearly two thirds since a peak in 2013) and new social transfers implemented gradually since 2015, mean, in the opinion common among social assistance professionals, that homelessness in Poland is nowadays experienced mainly by people who are the most

difficult to reintegrate in the staircase, employment-led model – elderly, disabled, with severe addictions and mental health problems. Observations in shelters operated by non-governmental members of Polish National Federation for Solving the Problem of Homelessness seem to prove these opinions.

Therefore, it is reasonable to ask whether the direction of legislative changes is appropriate or whether they should not take better account of housing-led solutions which give the “most vulnerable” groups a more decent chance of permanent reintegration and independence. However, Poland remains a strongly “shelter-oriented” country, therefore, regardless of these vital questions, it should be recognised that the access facilitation to emergency shelters included in the legislative amendments is a necessary solution when it comes to the protection of the health and life of homeless people who do not use institutional support on a regular basis (especially taking into account the harsh winters in the country).

Before further analysis of the “open door” policy in emergency shelters, it is necessary to describe how the legislative changes define an emergency shelter and other types of shelters in Poland:

- hostels – 24-hour shelter facilities with intensive services focused on reintegration (in 2018 a sub-kind of hostel service was introduced – hostels with care services, designed for people who are not fully self-reliant due to their age, health or disability, with a considerably higher living and service standard);
- overnight shelters – emergency services available only during the night with very little focus on reintegration, designed for occasional users;
- warming-up stations – supplementary winter emergency services with seats only, focused mostly on preventing hypothermia among homeless people sleeping rough;
- other specialised services (for mothers with children, crisis intervention, domestic violence victims) – available also for people who do not fulfil the Polish definition of homelessness (which more or less covers ETHOS 1, 2, 3.1, 4 and 11).

1 Social Assistance Act of 12.04.2004 (Dz.U. 2004 Nr 64 poz. 593). <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20040640593/U/D20040593Lj.pdf> (Polish only)

2 For a comprehensive information on the introduced changes, please refer to “Has the homelessness services standardisation in Poland facilitated the access to shelter?” in Homelessness in Europe Magazine, Spring 2018, p. 4-6

3 “The report on actions for homeless people in regions in 2014 and the results of the National survey of the quantity of homeless people performed on 21/22 January 2015”, Ministry of Family, Labour and Social Policy, <https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/Sprawozdanie%20z%20realizacji%20dzialan%20na%20rzecz%20ludzi%20bezdolnych%202014.pdf> (Polish only)

4 “The report on actions for homeless people in regions in 2016 and the results of the National survey of the quantity of homeless people performed on 8/9 February 2017”, Ministry of Family, Labour and Social Policy, <https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/Sprawozdanie%20z%20realizacji%20dzialan%20na%20rzecz%20ludzi%20bezdolnych%20za%202016.pdf> (Polish only)

5 “The results of National survey of the quantity of homeless people – 2019 edition” (preliminary information), Ministry of Family, Labour and Social Policy, <https://www.gov.pl/web/rodzina/wyniki-ogolnopolskiego-badania-liczby-osob-bezdolnych-edycja-2019> (Polish only)

6 “The report on actions for homeless people in regions in 2012 and the results of the National survey of the quantity of homeless people performed 7/8 January 2013”, Ministry of Family, Labour and Social Policy, [https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/001%20Sprawozdanie%20z%20realizacji%20na%20rzecz%20bezdolnych\\_2012\\_plus%20aneks\\_ok.pdf](https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/001%20Sprawozdanie%20z%20realizacji%20na%20rzecz%20bezdolnych_2012_plus%20aneks_ok.pdf) (Polish only)



The majority of these institutions are operated by NGOs (yet the majority of the NGO services are commissioned by municipalities). The detailed structure of shelter services is presented in a table below.

## STRUCTURE OF SHELTER SERVICES IN POLAND IN 2016

PROVIDERS	WARMING-UP STATIONS		OVERNIGHT SHELTERS		HOSTELS		OTHER SPECIALISED SERVICES	
	FACILITIES	SEATS	FACILITIES	BEDS	FACILITIES	BEDS	FACILITIES	BEDS
MUNICIPALITIES	25	499	46	1,322	45	1,874	188	2,204
NGOS	28	713	70	1,999	270	13,352	86	1,626
<b>TOTAL</b>	<b>53</b>	<b>1,212</b>	<b>116</b>	<b>3,321</b>	<b>315</b>	<b>15,226</b>	<b>274</b>	<b>3,830</b>

Source: "The report on actions for homeless people in regions in 2016 and the results of the National survey of the quantity of homeless people performed on 8/9 February 2017", Ministry of Family, Labour and Social Policy, <https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/19462/1/1/Sprawozdanie%20z%20realizacji%20dzialan%20na%20rzecz%20ludzi%20bezdomnych%20za%202016.pdf> (Polish only)

The concept of the unconditional right to emergency shelter is expressed in the article 48a section 8 of the amended Social Assistance Act with the following provisions: "Assistance granted in the form of a temporary shelter in a warming-up station or an overnight shelter requires neither a social interview procedure, nor an administrative decision, and expenses incurred for the assistance provided are not refundable". In the guidelines<sup>7</sup> issued in 2017, the Ministry of Family, Labour and Social Policy stated explicitly that the resignation from the procedure of social interview and administrative decision is aimed at maximum facilitation of access to emergency shelter, while non-reimbursement of incurred costs (in combination with resignation from the administrative procedure) means that the requirement of local connection does not apply in emergency shelter anymore. It should therefore imply the introduction of an unconditional right to shelter in Poland. On the other hand, the access to hostels and specialised services now requires by law a complicated administrative procedure including a social interview, a local connection or an agreement with the municipality of the last registration, an administrative decision and signing a social contract – before the amendment was introduced most of these measures were used by municipalities optionally (but in both hostels and overnight shelters) with most focus on local connection.

These regulations bring a clear division between emergency services available to anyone in need and reintegration services, that are available to people already in emergency services who decide to start their reintegration process. The problem is however, that these regulations assume that each of ca. 2,500 municipalities in Poland has a functioning staircase model consisting of at least an overnight shelter and a hostel, which, as shown in the table above, is very far from reality. In reality, emergency shelters are a minority (only ca. 19% of the available capacity) and are present mostly in the largest cities, while smaller municipalities usually only provide a hostel service or no service at all. It means that in many municipalities, a hostel is also an emergency service, but with compulsory administrative access procedures

described in the Social Assistance Act which seriously obstruct interventional support. And even large cities (with an exceptionally visible example of Warsaw) struggle with limited emergency shelter services availability, which in the light of new regulations again means that emergency access is sought in the hostels and the administrative requirements become a major obstacle in prompt intervention.

On the other hand, while the unconditional access to the warming-up stations was always considered natural (due to their absolutely emergency nature and very low standards), most of the overnight shelters used to have some form of access criteria before the amendment to the Social Assistance Act was introduced. Therefore, for the purposes of this article, Polish National Federation for Solving the Problem of Homelessness has conducted an impromptu online survey asking about the functioning of overnight shelters and their access criteria. The survey conducted in May 2019 involved 49 overnight shelters (approx. 42% of the overnight shelters available in 2016). When asked about the access criteria, none of the surveyed overnight shelters indicated social interview or administrative decision (as this would be a direct violation of the provisions of the Social Assistance Act), however only 5 of them declared that there are absolutely no admission conditions. The majority (31) of the overnight shelters required a meeting with their staff at admission, which in most cases is probably just a technical step with no consequences on accessing the service. Yet, in many cases more worrying criteria were indicated – including a referral or other document issued by a local municipal social assistance centre (e.g. "acknowledgement of homelessness") which is clearly loopholing the prohibition of administrative decision (16 cases), meeting with a municipal social worker before admission (12) – loopholing the banned social interview procedure, and several other conditions that included: staying in another form of shelter before admission, health and disability requirements (one respondent required a written doctor's health diagnosis!), local connection requirements and sobriety. One respondent declared that they will not admit a client if they refuse a shower.

7 "The guidelines on assistance to homeless people", Ministry of Family, Labour and Social Policy, Warsaw 2017 (Polish only)



“In many municipalities, a hostel is also an emergency service, but with compulsory administrative access procedures [...] which seriously obstruct interventional support. And even large cities [...] struggle with limited emergency shelter services availability, which in the light of new regulations again means that emergency access is sought in the hostels and the administrative requirements become a major obstacle in prompt intervention.”

Another question considered groups excluded from admission to overnight shelters and these were:

- People with minors in their custody (26 answers)
- People with certain disabilities – mostly wheelchair users (19)
- People who do not look homeless or declare they have some place to dwell (18)
- People who were removed in the past due to their behaviour violating internal regulations of a given institution – i.e. “punitive” temporary ban (18)
- People with mental disorders (13)
- People without required paperwork (9)
- People with last address of registration in another municipality (6)
- People without ID (4)

The two most common answers can be explained by (respectively) Polish minor protection regulations that would put children living in the streets directly into foster care (so emergency procedures for people sleeping rough with children are almost never happening, and there are other pathways and specialised services for minors with or without guardians fleeing home from a domestic violence perpetrator or in other crisis situation) and by architectural limitations of the homeless institutions not allowing people on wheelchairs (which of course is a very serious problem, but, contrary to other answers, is not a deliberate access limitation in the policy of the service provider). The other exclusions however, stand in clear violation of the unconditional right to shelter idea. Only 7 respondents declared they provide service to anyone in need of shelter.

Another major issue is the alcohol ban imposed by the amendment to the Social Assistance Act. Article 48a sect. 6 stipulates that there are no intoxicated individuals allowed in hostels and overnight shelters. Therefore, only the warming-up stations (which are open usually only in winter and their total capacity is very limited) are available to this group. The ban may be lifted, even in hostels, in case of “exceptional cases” (widely interpreted as severe winter conditions) but firstly, there are no procedures described for lifting the ban which means taking such a decision is a sole risk of the operator of the institution (and such situations are dreaded because of the spectre of administrative fines) and secondly – some shelters declare, not completely without reason, they never lift the ban because it would have a negative impact on other residents who remain in abstinence. When asked about the procedures of admission for intoxicated homeless

people, the majority of the surveyed overnight shelters (25) answered that they never lift the ban. Other answers were: lifting the ban only in certain weather conditions (20), admitting only people with a low level of intoxication (9), an individual decision in every case (8), admission but without entrance to a dormitory until the client is sober – meaning spending the night on a chair, in conditions alike to a warming-up station (7). None of the surveyed overnight shelters allows unrestricted access to intoxicated individuals. Most of the respondents stated that there are other options for the intoxicated clients in their municipality (sobering-up station<sup>8</sup> – 23 answers, other homeless facility open all year – 9 answers, other homeless facility open only in winter – 20 answers), however 5 respondents indicated that intoxicated individuals are transported to another municipality, and there were another 19 answers indicating hospitals (emergency rooms) or even police custody (some of them overlapping with answers indicating homeless institutions, which can be interpreted as insufficient capacity of homeless institutions services for intoxicated individuals). Since the survey was answered solely by overnight shelters and these are usually found in large cities, it may be also assumed that these numbers are biased and the actual percentage of municipalities (small towns and rural municipalities mostly) practicing transporting intoxicated individuals to other municipalities or putting them in emergency rooms or under police custody is considerably higher.

There also is an issue of homeless people who are not fully self-reliant and in need of emergency shelter. Article 48a sect. 5 of Social Assistance Act forbade admission into all homeless institutions of people who due to their age, health or disability were not fully self-reliant<sup>9</sup>. After considerable pressure from the NGO community and unprecedented media coverage, a new kind of institution was defined in 2018 for this kind of clients – a hostel with care services. Whereas allowing these clients to use homeless support system again was a success, it has to be indicated that the number of such institutions grows very slowly (it is estimated that there are currently not more than 20-25 of them in Poland). And, to make matters worse, access to these institutions is restricted similarly to usual homeless hostels. Therefore, there are no emergency institutions for this kind of clients. While the government claimed that in intervention cases such clients may be admitted to other kinds of institutions for a short period of time, again the risk is solely on the provider, which means that most of the previously existing services remain closed to the people who are not self-reliant.

8 Sobering-up station (or a drunk tank) is a facility designated for alcohol intoxicated individuals who pose a threat to themselves or others (interpreted also as staying outside in harsh weather conditions). Clients are usually brought there unwillingly by police force and held until sober with some basic medical supervision. Usually, a meeting with an addiction therapist is required on release. The cost of being held in a sobering-up station is considerably high and widely regarded a punitive measure. In some municipalities sobering-up stations were turned into social services specialising in intoxicated homeless people with access at will and low or no charge.

9 The problem was widely described in “Has the homelessness services standardisation in Poland facilitated the access to shelter?” in Homelessness in Europe Magazine, Spring 2018, p. 4-6



Finally, there are still issues related to pressure, coming from municipalities, concerning the constriction of unconditional access to emergency shelters. The new legislation forces the municipalities with overnight shelters to host homeless people from any municipality without receiving any refund. Since the case was opposite for the last 30 years, the largest municipalities, which are basically homeless hubs, are strongly opposed to it. An online survey conducted by the Federation in 2016 has shown that out of 28 surveyed overnight shelters, 11 were in a threat of closure or transformation into a 24hrs hostels with access restrictions. In the 2019 survey 1 respondent declared that their overnight shelter was closed due to the changes since 2015, 4 overnight shelters were turned into a hostel with access conditions, 1 declared their number of beds halved, 1 declared their opening hours shortened and 6 declared they feel threatened with closure or turning into a hostel. Additionally, even though the guidelines issued by the Ministry of Family, Labour and Social Policy explicitly state that the overnight shelters should be financed by municipalities by paying a fixed amount for readiness to admit a certain number of homeless people accordingly to the capacity of the institution, 15 respondents stated that they are still being paid for each client separately, which implies some kind of access control to their institutions. Therefore it may be assumed that at least part of the described access limitations and attempts to loophole the regulations are caused by pressures from municipalities commissioning the services.

In conclusion, it has to be said that Poland is a step closer to an unconditional right to emergency shelter.

Yet, for reasons presented in this article, the access to emergency shelters is still limited in some locations in varying degrees. Some of these limitations are probably a reflection of the transition process and unwillingness to adhere to the new regulations (arguably both on the municipal and non-governmental side) and lack of understanding of the idea of the unconditional right to shelter. On the other hand, there are some issues of a systemic nature that still need to be overcome, like the low supply of emergency services (particularly in smaller municipalities, but not only there) and access to shelter for the intoxicated clients and those who are not fully self-reliant. Especially the alcohol ban seems to be problematic, since there is no public acceptance for the idea of "wet-shelters" in Poland (and at the moment it seems impossible to launch such service because of the law in force). Also, the new provisions are clearly flawed with over-bureaucratisation and put a lot of risk on the service providers who for this reason may not be willing to offer services to certain groups of clients. As with many other aspects of the reform of homeless services in Poland, one may assume that the future of the unconditional right to shelter is uncertain and we have to wait some more time to see clear results in this area. In the meantime it is obvious that education on the idea and need of the unconditional right to shelter as a human right is vital. Finally, as with many other aspects of the reform of homeless services in Poland, it is clear that omitting housing-led (and housing first) solutions, which could answer some (if not most) of the described problems and obstacles, was a serious mistake and needs to be dealt with immediately.