

## STUDENTS IN A HEALTH CRISIS: OBSERVATIONS ON THE PREVENTION OF STIGMATISATION AND EXCLUSION IN POLISH HIGHER EDUCATION INSTITUTIONS

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**Abstract** This study addresses the challenges experienced by students in a health crisis due to stigmatisation and exclusion. The authors of the study, being members of the management personnel of the faculty/institute of law of two different higher education institutions, often witness problems encountered by students on a daily basis. These problems, which affect the course of study and finding one's way in the academic environment, are not solely linked to didactics or social issues but also encompass health aspects, including issues related to disability and being transgender. For a long time now, we have been observing an increase in the number of students with various types of health problems, which we might interpret as a sign of our times. We are also seeing problems that have become visible only recently (such as the aspect of being transgender, which is a source of feelings of stigmatisation and exclusion). It is becoming necessary for the authorities of higher education institutions to implement multifaceted measures to counteract the phenomenon of stigmatisation and exclusion and provide a sense of security to members of the academic community. The activities and responsibilities set out by the legal system should constitute a certain minimum, which depends on the genuine needs of students.

**Keywords**student well-being,  
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## 1 Introduction

The right to education is a fundamental human right that the Constitution of the Republic of Poland<sup>1</sup> defines in Article 70, emphasising the principle of universal access to education for Polish citizens. As the Judgment of the Constitutional Tribunal of January 16, 2007 emphasises, this universality does not mean that everyone will be granted access to every level of education regardless of their skills and knowledge (talent). ‘Compensatory activities undertaken by public authorities should focus on inequalities and barriers, including financial barriers... The purpose and essence of this right is to provide the individual with real opportunities to access education at different levels, including higher education. Therefore, the right aims to ensure equal opportunities rather than provide universal access to education results’.<sup>2</sup> Article 26 of the UN’s Universal Declaration of Human Rights<sup>3</sup> also demonstrates such an approach to the universal right to education, stating that higher education should be equally accessible to everyone on the basis of actual merit. Achieving equality is possible while respecting other paradigms, including those of accessibility and respecting the heterogeneity of the academic community. The degree of the academic community’s sensitivity is known to affect students’ adaptation and self-acceptance levels. For people with disabilities and other health issues, including mental health problems, the positive attitude of the environment and the support shown are important factors that facilitate their resilience. Other necessary aspects include openness to the needs of those at risk of exclusion and a focus on legal and technical solutions aimed at eliminating barriers to education and learning. This openness must not be solely declaratory.

The study refers to the sociologically and legally significant problem of the crisis of physical and mental health (primary or secondary to physical health) of students. These issues have so far been marginalised both in the normative sphere (the legislator overlooked the needs of people in or at risk of a health crisis) and in the social sphere (due to the fear of stigmatisation, people in crisis remained alone with their dysfunctions), which undoubtedly multiplied health problems. It is also significant that the number of students affected by health problems is increasing.

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<sup>1</sup> Journal of Laws No. 78, item 483, as amended.

<sup>2</sup> U 5/06, OTK Series A 2007, No. 1, item 3.

<sup>3</sup> Universal Declaration of Human Rights, December 10, 1948.

## 2 Concepts of Stigmatisation and Exclusion

To begin, we should clarify the two terms featured in the title of this article: stigmatisation and exclusion. Stigmatisation is ‘giving negative labels, depreciating people, and assigning values and roles based on incomplete and unverified information while succumbing to stereotypes and phobias resulting from an encounter with an unfamiliar phenomenon’ (Kieniewicz, 2008, p. 157; Wada et al., 2019; Shahwan et al., 2020, p. 562). This concept is featured in the Universal Declaration on Bioethics and Human Rights, which was adopted by the General Conference of UNSECO on October 19, 2005. Article 11 of this Declaration states that ‘no individual or group should be discriminated against or stigmatised on any grounds, in violation of human dignity, human rights, and fundamental freedoms.’ It must be acknowledged that the concept of stigmatisation can be subjective and related to psychological experiences. However, in many instances, it can be objective and related, for instance, to the matter of transgender identity (*ut infra*). The nature of the second concept (exclusion) is undoubtedly objective, ascertainable, and measurable. (Social) exclusion refers to the marginalisation of certain individuals or groups of individuals from social life. Among others, the concept is connected to unequal access to rights and institutions determining the expected order of social functions and roles (Babińska-Górecka, 2009, p. 507). Definitions of social exclusion focus on specific dimensions of the phenomenon, such as institutional and legal restrictions, the dominant risk (risk of exclusion), such as poverty or lack of qualifications, groups of people already affected by social exclusion (homeless, addicts), or areas with restricted access (in relation to consumption, information, or culture) (Wieczorek, 2013, p. 28). Certain authors consider discrimination and social exclusion as identical concepts, while others regard social marginalisation and social exclusion as consequences of discriminatory actions (Winiarska & Klaus, 2011, p. 25). In the latter case, the basis for exclusion is a situation of differentiation and inequality, which is a negation of the principle of equality and pluralism (Winiarska and Klaus, 2011, p. 26; Niu et al., 2022, p. 1–10). Therefore, in this sense, exclusion is the result of discrimination – the literature features the concept of ‘legal exclusion,’ which is accepted as partly the same as social exclusion and is the result of long-term legal and factual discrimination by society. One of its constituent parts is non-participation in public or political life (including electoral life), which causes politicians and the drafted laws to ignore certain social groups, their needs, and their views (Winiarska & Klaus, 2011, p. 31). Exclusion in the above sense can extend to

students. For various reasons, they are unable or unwilling to participate in ‘ordinary’ student life. Such students do not actively participate in the academic community – they fail to play a role in student government elections, do not run for student governments, fail to participate in the work of various committees, and do not become involved in the cultural life of the institution. Such behaviours result in their isolation, exclusion (sometimes self-exclusion), social reprobation, and even stigmatisation. One reason for not participating in an ‘ordinary’ student life is diverse health issues, both physical and mental.

Stigmatisation and exclusion are negative phenomena that also occur in all higher education institutions (HEIs) and affect academic community members, including students (McGrew et al., 1993, p. 339–352; Havrylova, 2022, p. 1132–1143). It is important for these institutions – as autonomous entities – to take steps to ensure the right to education without restricting their activities solely to this aspect (Mampaey, 2017). HEIs should aim to provide students with the feeling of satisfaction and contentment, or in other words, a state of well-being.

### 3 The Road to Well-Being in Times of Crises

Well-being, understood as a subjective sense of contentment and life satisfaction, is a term gaining in prevalence (Adams et al., 2000, p. 165–73; Gieck & Olsen, 2007, p. 29–36). There are two main approaches to well-being in psychology: hedonic well-being and eudemonic well-being (Douwes et al., 2023, p. 2). The term is very capacious and includes physical, health-related, financial, livelihood, spiritual, and psychological aspects. Well-being is a multifaceted construct comprising specific basic needs that must be satisfied. Multi-level understanding of well-being signals the importance of the interrelations between a person and the academic environment ‘also reflected in student emphasis in balancing multiple aspects of their lives as what constitutes well-being’ (Douwes et al., 2023, p. 11). The notion has become a quality ‘that guarantees a happy, effective, and creative life’ (Giedrojć, 2020, p. 13), replacing the concept of health. It is sometimes used interchangeably with the phrase ‘quality of life.’ For this reason, the scope of ‘well-being’ has become ambiguous (Morrow & Mayall, 2009, p. 221). The various methods of defining student well-being complicate the assessment of the concept and the development of auxiliary solutions. At the same time, ‘the present deterioration of mental health in society was largely fuelled by the initial disturbance arising from the global

pandemic, general lockdown and financial crisis bound with it' (Kawalec et al., 2023, p. 153; Rudling et al., 2023). As a result, the discourse (Claeys, 2020, p. 256–262; Lee et al., 2007) includes the concept of crisis, which is defined 'as an event that significantly interferes with an individual's ability to meet needs, disrupts typical problem-solving skills, and incites a state of disorganisation for the individual' (Couch, 2020, p. 8). The literature points to the misuse of the word 'crisis,' which has become a hyperbole, an exaggeration (King & Wright, 2022; Lakens, 2020). On the other hand, the generation born in the 1990s and early 2000s is known as the 'crystal' or 'snowflake' generation (Murrey, 2018, p. 44–47; Zavodna, 2022, p. 9–24; Janceki, 2023), denoting young people who are hypersensitive and susceptible to criticism and stress.

The two phenomena of well-being and crisis are closely correlated – on the one hand, there is a need to achieve well-being, and on the other hand, there is the issue of preventing, diagnosing, and supporting individuals in crisis as a way to achieve the state of well-being. The aforementioned social phenomena are highly noticeable in academic circles, which are diverse for reasons of gender, health, and economics. At the same time, 'students see their peers experiencing various dysfunctions. They learn to be sensitive to the needs of others, to be tolerant of people who are different because of their level of ability, culture, outlook, background, and values' (Pauluk, 2018, p. 86; Antonucci, 2016, p. 75–106). Nonetheless, these differences resonate with increasingly frequent instances of crisis signalling, which should provide the impetus to activate appropriate mechanisms, procedures, or measures to overcome these crises. Therefore, the selection of appropriate instruments is of great significance. This process is dependent on knowledge, the ability to describe the experiences of the student, the sensitivity of the environment, and the existence of solutions needed for solving difficult situations and providing the necessary support. The broadly defined *savoir-vivre* of those accompanying students in crisis is also essential. We should consider it bad practice to play down the students' problems, give life advice, console them while highlighting the crisis situation, or press the students for details of their situation.

'As a matter of fact, young people benefit from welfare state systems in a number of policies, such as housing, education, ...' (Antonucci, 2016, p. 51–64). These solutions are non-specific in nature, while students find the options given by HEIs to be particularly important. For example, 'higher education institutions should develop

targeted programmes to address students' mental health needs and promote protective behaviour' (Zhai & Carney, 2024, p. 2). However, these problems should not be a substitute for the assistance supplied by specialised treatment providers. Higher education facilities should undoubtedly play a subsidiary role because 'these expanded networks can offer a range of support, from academic assistance to emotional and psychological support, thereby enhancing the overall social support system available to the student' (Zhai & Carney, 2024, p. 3). We should emphasise that 'various approaches and services targeting the well-being and mental health of students exist, with evidence indicating that an integral approach that focuses on academic integration, social integration, and skill-training programmes can enhance student well-being' (Douwes et al., 2023, p. 3; Hossain et al., 2023, p. 447–483). The support offered by higher education institutions to students in crisis can take the form of informative, institutional, workshop-based, and material assistance. A separate issue is the effectiveness of the support, which depends on the subjective perception of access to the support offered, as well as the adjustment of the support in terms of its intensity and form to the genuine needs of the students.

#### 4 Students in a Health Crisis

In the most general terms, a health crisis means a loss of health, which the World Health Organization defined in 1948 as 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity' (Korzeniowska, 1988, p. 465–470; Slopecka, 2012, p. 85–88; Callahan, 1973, p. 77–97; Sartorius, 2006, p. 662–664). We should mention that scholars sometimes criticise this definition for merging health with happiness (Leonardi, 2018, p. 735–748). Its proponents, on the other hand, treat this definition as complete (Schramme, 2023, p. 212) and inclusive of all its constituents. If we use this definition as the starting point, we should assume *a contrario* that negatively affected psychophysical and social well-being means the lack of health or loss of health. Critical events representing a potential source of health crises include those that: 'carry a threat to health and life, constitute a powerful, trauma-inducing experience, are unpredictable, startling, cause uncertainty, helplessness, and lack of a sense of control, and close off prospects for the future' (Kubacka-Jasiecka, 2010, p. 23).

The health needs of students (also doctoral students), including those related to disability, overlap to some extent with the needs and challenges faced by all members of the academia, including lecturers and other employees, in terms of architectural and sensory obstacles, as well as barriers linked to information and communications technology (ICT). The Act of July 19, 2019, which provides accessibility to people with special needs, defines<sup>4</sup> the relevant obligations of Polish state higher education institutions. Due to their characteristics or circumstances, people with special needs must take additional measures to overcome barriers that prevent or hinder their participation in various spheres of life on an equal footing with others. The Act specifies minimum requirements to ensure architectural, digital, and ICT accessibility (Article 6). The implementation and assurance of these requirements benefit the entire academic community.

The need for support in conducting scientific and educational activities is also a topic of the Strategy for the Rights of Persons with Disabilities 2021–2030, launched by the European Commission in March 2021 and subsequently adopted in Poland under Resolution no. 27 of the Council of Ministers of February 16, 2021. The main objective of the Strategy is to include people with various types of disabilities in social and professional life, thus guaranteeing them the rights set out in the UN's Convention on the Rights of Persons with Disabilities<sup>5</sup>. The implementation of the activities scheduled under the individual priority areas of the Strategy will establish a framework for a comprehensive national policy addressed to people with disabilities to ensure their full participation in all spheres of life, including education, allowing these individuals to function in society on equal terms with others. The education system plays a crucial role in the social activation of people with disabilities and in preparing them for future employment and independent living. Therefore, despite their various functional limitations, people with disabilities must be provided with the opportunity to develop their potential, to be active, and to participate in education together with individuals without disabilities (the principles of inclusive education as referred to in Article 24 of the Convention), as well as options to continue their education at further levels while benefiting from lifelong learning opportunities. The participation of people with disabilities in higher education and scientific research is one of the measures awaiting implementation. The measure

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<sup>4</sup> Consolidated text, Journal of Laws of 2022, item 2240, as amended.

<sup>5</sup> Ratified by Poland on September 6, 2012.

aims to ensure full participation in the admission and the education process, including postgraduate studies, and the implementation of scientific and didactic activities and academic advancement, as well as full participation in the life of the academic community. This task is the responsibility of the minister in charge of higher education, and there are plans to complete it by 2030.

The above-mentioned Strategy under Priority III: Education discusses meeting the conditions for full participation in higher education and scientific research. The National Centre for Research and Development (NCBR) and the Ministry of Funds and Regional Policy have been designated as cooperating entities. In the above context, information about the three editions of the ‘Accessible University’ competition organised by the NCBR in 2019–2021, financed by the Operational Programme Knowledge Education Development (POWER), seems important. According to information received from NCBR on July 27, 2023, 202 state and private higher education institutions have implemented projects as part of the aforementioned competition, obtaining total funding of over PLN 685 million.

Despite the efforts made and the legal regulations introduced, people with disabilities (students, doctoral students, academic lecturers, and other members of staff) continue to face architectural and communication barriers that can make it very difficult or even impossible for these individuals to use the necessary resources and perform their professional activities. Higher education institutions are very often located in old and listed buildings that do not allow for specific accessibility needs. An additional difficulty is access to disability-specific materials. Considering the research conducted by the Polish Commissioner for Human Rights (Trociuk, 2015), certain universities block these activities, citing copyright protection. A specific type of permitted use of works for the benefit of persons with disabilities is set out in Article 33<sup>1</sup> of the Act on Copyright and Related Rights of February 4, 1994. The provision listed in section 1 of this article states that: ‘it is permitted to use the already distributed works for the benefit of persons with disabilities if that use relates directly to their impairment, is not of a profit-making nature, and is undertaken to an extent which results from the nature of the impairment.’

The area of higher education is specific primarily because this sector realises the constitutional right to education (*ut supra*). Moreover, the area’s specific nature is linked to the fact that higher education institutions are autonomous, which means



that many activities aimed at helping people in a health crisis (including people with disabilities) should be implemented by these individual institutions. The autonomy of HEIs is specified in Article 70(5) of the Constitution of the Republic of Poland and in Article 9(2) of the Act of July 20, 2018 – Law on Higher Education and Science (PSWN). According to Article 9(5) of PSWN, public authorities may make decisions concerning HEIs only in the cases provided for by legislation. This constitutional division of competencies, additionally validated by legislation, is understood in the academic community as the rector's acceptance of the liability for the institution, the staff, students, and doctoral students, and for ensuring the observance of the law, including regarding safe and hygienic work and educational conditions. Consequently, there are no legal obstacles in the Polish system to activities involving the adaptation of internal solutions to a wider extent than that defined by the applicable legal system.

The problem of students in a health crisis has also been recognised in the literature. The literature dedicated to students with disabilities is particularly extensive. Scholars emphasise that: 'Disabled students remain systematically disadvantaged compared to their non-disabled peers. It is, therefore, essential that educational practitioners and policymakers appreciate the complexity of the disabled student experience' (Brewer, 2023, p. 1). Students in a health crisis form two groups: those who have rapidly lost their health, with all the associated consequences, including psychological (which may either demotivate or highly motivate them) and students who already have a disability at the start of their studies. The illness and its consequences affect the way the person projects their future, with students, in particular, seeing lowered self-esteem and failing to believe in the implementation of their life plans. Increasing numbers of students function with multiple disabilities, and their character is often hidden: 'More students with disabilities are accessing the tertiary sector with many disabilities not easily observed (or hidden) because there are no physical indicators. These "hidden" disabilities affect a variety of cognitive processes and may be developmental or acquired' (Couzens, 2015, p. 24). Systemic solutions also have a dualistic character and, in addition to statutory and regulatory (internal) solutions, there are those of a general (universal, applicable *ex lege*) and individual nature (granted at the student's request). All these solutions can be both non-material and material.

The first group includes the universal health insurance coverage of students under the Act of August 27, 2004, on Healthcare Services Financed from Public Funds<sup>6</sup> (Article 3(2)(1)), as the Polish public healthcare policy is founded on the principle of the system's universality. Therefore, students are entitled to free medical care. However, this requires notification by a family member (only up to the age of 26) or by the institution (only at the student's request). This does not apply if the student is employed under a contract of employment or in receipt of a disability benefit while studying. In the event of graduation or removal from the list of students, the right to healthcare services expires after four months (Article 67(5)(2) of the Act of August 27, 2004, on Healthcare Services Financed from Public Funds).

The second group of solutions aimed at preventing discrimination and the exclusion of students affected by a health crisis allows for the individualisation of the safeguarding of their needs. We should highlight that the number of students with disabilities in Poland has been increasing in recent years. In the academic year of 2020/21, 19.6 thousand people with disabilities (1.6 per cent of the total number of students) were educated in HEIs, and 5.2 thousand people graduated (1.8 per cent of the total number of graduates; this figure was constant over the three years under analysis). In the academic year of 2021/22, 19.9 thousand people with disabilities (1.7 per cent of the total number of students) were educated at HEIs, while in the academic year of 2022/23, 20.9 thousand people with a disability certificate (1.7 per cent of the total number of students) were educated at HEIs (data provided by the Polish Central Statistical Office (GUS)<sup>7</sup>). These figures imply the need to create appropriate conditions for students with disabilities and to adopt solutions to enable their participation in academic education. Many people with disabilities experience temporary or permanent difficulties in their relations with the academic community, while the stereotypical attitudes towards people with disabilities are difficult to eradicate, with a change in society's perception required in the first place (Kutek-Sladek, 2021, p. 243). We should remember that problems experienced by students with disabilities are incredibly diverse and often individual in nature. They include, first and foremost, those of a functional nature, such as architectural barriers (inaccessibility or restricted access to circulation routes, stairs, small lifts, narrow

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<sup>6</sup> Consolidated text, Journal of Laws of 2024, item 146, as amended.

<sup>7</sup> Polish Central Statistical Office, *Osoby niepełnosprawne w 2020 r.*

[https://stat.gov.pl/files/gfx/portalinformacyjny/pl/de/faultaktualnosci/5487/26/2/1/osoby\\_niepelnosprawne\\_w\\_2020\\_r.pdf](https://stat.gov.pl/files/gfx/portalinformacyjny/pl/de/faultaktualnosci/5487/26/2/1/osoby_niepelnosprawne_w_2020_r.pdf) (March 16, 2024).

doors, passageways, heavy doors, especially those fitted with a door close, revolving doors, slippery floors, hard-to-reach buttons), ICT accessibility barriers (lack of audio induction loops and other hearing assistive devices, failure to provide information on the website about the scope of the institution's activities in the form of an electronic file containing machine-readable text, recordings of content in Polish sign language and information provided in the form of an easy-to-read text, lack of remote online access to an interpreting service via websites and applications), as well as problems of an educational and economic nature. Students with neurological problems face additional obstacles, such as the inability to take notes independently, limitations in passing exams in foreign languages, or participating in internship programmes. Nevertheless, 'in addition to the difficulties of tailoring support to the needs of a student with a disability, there is also the problem of passivity and dependency' (Kutek-Sladek, 2021, p. 250). In some instances, the nature of the support may make the student dependent on further assistance from the outset. Consequently, instead of increasing the level of responsibility for one's own life, 'assistance may even transform into a permanent chain of claims against an institution or into institutional violence' (Kutek-Sladek, 2021, p. 250).

It remains within the remit of higher education institutions to help people with disabilities to both undertake and continue their education. Assistance of this type is all the more important as the frequency of health problems among students is on the rise, and lack of social support is a recognised cause of health issues. The literature points to mental health: 'Prevalence of mental health problems in university students is increasing and attributable to academic, financial, and social stressors. Lack of social support is a known determinant of mental health problems' (Alsubaie et al., 2019, p. 484). Therefore, the provision of support to such students is necessary. This requires HEI authorities to implement diverse measures: from structural solutions, so that 'relevant HEI employees, especially employees of offices for students with disabilities, are well prepared in terms of needs of persons with a given disability and have at least general psychological training' (Kutek-Sladek, 2021, p. 250) to systemic solutions consisting, for example, of the possibility to apply for an individual course of studies (Article 11(3) of the Regulations of Wyższa Szkoła Biznesu – National Louis University in Nowy Sącz of June 19, 2019), individual organisation of studies (Article 26 of the Regulations of the University of Warsaw of June 19, 2019) or individual programme of studies (Article 19 of the Regulations of the University of Wrocław of April 21, 2021), individual adjustment of studies

(Article 16 of the Regulations of the University of Silesia of April 25, 2023), and adaptation of the study process (Regulation no. 150 of the rector of the Jagiellonian University of December 22, 2020). We should highlight the attention given by HEI authorities to the reasonableness of granting support to persons with disabilities, while the practice of granting adjustments to students without assessing their real needs should be considered inappropriate. As part of the adjustments, students can request a personal assistant, a sign language interpreter, a change of the examination form from oral to written or vice versa, an extension of the examination time and submission of coursework, enlarged fonts on test and exam papers, the possibility of completing answer sheets in Braille, the adaptation of educational materials to a preferred digital format, the ability to borrow dictaphones and magnifying glasses, the ability to take advantage of additional assistive devices, such as computers, specialised computers, tablets, sound software, Braille devices, alternative keyboards, and training in spatial orientation in the premises of the higher education institution and its immediate surroundings. Moreover, HEIs should ensure that classes are held in rooms that have been suitably adapted, while classes themselves should be planned in such a way as to minimise the need to move between classes, and a short break should be provided during classes so that students can change their body position. When providing the necessary adjustments, HEIs should adhere to general principles such as dignity, autonomy, subjectivity, partnership, the principle of equality, including equal opportunities and responsibilities, the principle of support individualisation, the principle of privacy protection, the principle of developing the potential of a person with special needs, the principle of adjustment reasonableness, the principle of maintaining the academic standard, the principle of ensuring a course of study that is the closest possible to the regular course of study, the principle of universal design, the right to continuity and quality of support during the educational process, as well as the conduct of academic activities and employment (Perdeus-Bialek & Nowak-Adamczyk, 2013, p. 12–15).

In order to implement these assumptions, HEIs open special units, which are called offices for persons with disabilities (University of Warsaw), support centres for people with disabilities (University of Occupational Safety Management in Katowice), equality, accessibility and support centres (University of Zielona Góra), support and accessibility centres (Wrocław University of Environmental and Life Sciences), support departments for people with special needs (University of Białystok), and accessibility centres (Jagiellonian University). The designated

organisational units are responsible for creating conditions for equal educational opportunities for people with disabilities and increasing the accessibility of facilities for people with special needs. The entity in charge of representing the interests of people with special needs before HEI bodies, the academic community, and external entities is often the rector's representative for students and doctoral students with special educational needs, who takes steps to ensure that the idea of an HEI that is accessible, welcoming and open to people with disabilities is achieved. In practice, such units employ specialists who are prepared to work with people with different types and degrees of disability, which positively impacts their authority in the academic community.

Article 86 of the Polish Law on Higher Education and Science of July 20, 2018<sup>8</sup> (PSWN) defines grants and other allowances, such as the grant for persons with disabilities that is not dependent on the students' financial situation. This grant is awarded based on a request and not automatically on submitting a disability certificate indicating the degree of disability (mild, moderate, severe). The rules for awarding grants and the negative prerequisites are set out in PSWN and in HEI regulations for student allowances, while the amount varies from one facility to another and may (but not necessarily) vary depending on the degree of disability. The grant for students with disabilities is a vital element of social solidarity in the sphere of education and learning. At the same time, we should highlight that the Polish legal system does not offer a benefit that is periodically paid by the higher education institution to persons who are ill but do not have a specific degree of disability. However, a hardship allowance in the form of a one-off payment (Article 86(1)(3) of PSWN) can be awarded to students who temporarily find themselves in a difficult situation, including in the event of a sudden deterioration of health. This payment is made on an ad hoc basis and is linked to fortuitous events, which do not include the costs of long-term treatment generated by an incurable illness.

Students in a health crisis may exercise the right to leave of absence (Article 85(1)(3) of PSWN) according to the rules set out in the regulations governing the course of study. Such leave is granted at the request of the student after consultation with a doctor. A leave of absence from classes may not include the period prior to submitting the application except for a documented illness. Students may also

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<sup>8</sup> Consolidated text, Journal of Laws of 2023, item 742, as amended.

submit an application after the end of the teaching cycle if they demonstrate that the circumstances on which the application was based prevented it from being submitted earlier. Students are entitled to a medical leave of absence for the duration of an illness, treatment, or rehabilitation that temporarily excludes or considerably hinders the continuation of studies. The medical leave of absence does not count towards the total leave period. Furthermore, students retain their student status during their leave, which means that in some higher education institutions and in justified cases, students may – with the consent of the institution’s authorities and under the conditions accordingly specified – participate in the verification of the learning outcomes specified in the study programme during their period of leave. In the application for the leave of absence, students declare whether they intend to exercise this right, and they may also indicate the modules they intend to take during their leave.

Polish higher education institutions are paying increasing attention to health education, which, on the one hand, is a response to research on student health behaviour (Kropornicka, 2015, p. 58–64; Galuszka, 2021, p. 139–149; Cierniak et al., p. 2019, p. 257–261; Palacz, 2014, p. 301–306) and on the other is a reaction to emerging problems among students. HEIs organise lectures, workshops, and campaigns to promote a healthy lifestyle and health-benefiting habits that improve quality of life. Moreover, study programmes increasingly provide optional course modules focused on health issues, such as health education and health promotion, health and personal development, or lifestyle and human health (University of Silesia in Katowice), which are available to all students at a particular institution.

We should emphasise that the problem of students in a health crisis, including students with disabilities, requires action prescribed by law, including international law. Legal provisions specify a certain minimum regarding this type of action. HEIs may also implement other activities that contribute to the well-being of students that are not provided for by law. These may be activities aimed at balancing the scales for people in a health crisis, including students with disabilities. An example of measures that are not defined by law is the establishment of a specialised unit for students with disabilities, as we discussed previously. Another good practice in terms of equalising opportunities for people with disabilities (Trociuk, 2015, p. 51–53) is setting up associations of students with disabilities or other organisational forms dedicated to students with special needs. Members of these associations can

formulate their stance, which helps others to meet their needs and facilitates access to the various bodies elected at the institution (student government, senate, or faculty councils). In accordance with the provisions of the UN's Convention on the Rights of Persons with Disabilities, public institutions (or those implementing public tasks) should consult individuals with disabilities and engage with them directly or through their representative organisations when making decisions on matters affecting such individuals. Good practices include various types of agreements made between HEIs, such as the creation of a shared database of digitised books and textbooks accessible to blind and partially sighted students. Such measures prevent the duplication of the same activities by various institutions and help them spend money sensibly. Collaboration between higher education institutions also affects the removal of other barriers. The joint organisation of physical education classes helps smaller institutions, in particular, to provide an attractive selection of activities for students with disabilities (for example, through intercollegiate wheelchair basketball teams). HEIs support each other through the provision of accommodation in student dormitories specially adapted for this student group. Moreover, they represent the students' interests jointly before the city authorities. Local arrangements are sometimes formed around the exchange of services (Trociuk, 2015, p. 52). HEIs often subcontract some of their tasks to foundations or associations specialising in assisting people with disabilities. Within this framework, students attend physical education classes, language courses, or career counselling, which is particularly important in the context of the special needs of people with disabilities and their activation in the labour market. Another good practice is the implementation of internal programmes to certify HEIs as places that are accessible to students with disabilities. A prerequisite for obtaining the certificate might be the removal of architectural and communication barriers, training of academic and administrative staff in the area of cooperation with students with disabilities, or the appointment of a staff member responsible for supporting this group of students in a specific department. Training addressed to academic staff on methods of working with students with disabilities is also a vital initiative. The mental barrier and the limited knowledge of the needs and capabilities of people with disabilities are among the biggest obstacles to their education. Training of this type focuses on the specific nature of the different types of disability, the difficulties students face, as well as their needs and problems. Consequently, lecturers become aware of the behaviours and forms of teaching materials that are inaccessible and that are adapted to the needs of particular groups of students. Another important aspect is not using

stigmatising language when communicating with those in a health crisis. For example, instead of saying a ‘disabled person,’ we should use the phrase ‘person with a disability.’ The change in the term allows a perspective that places emphasis on the person rather than the disability.

#### 4 Transgender Students

First and foremost, we should emphasise that transgender is not a disease or a mental disorder but a form of gender identity. However, the lack of self-acceptance and not being provided with acceptance by one’s environment can give rise to anxiety, discomfort, concern, and even – secondarily – psychological problems; hence, we should discuss the issue of transgender/transsexual students separately (McBride & Neary, 2021, p. 1090–1107; Sinclair-Palm & Gilbert, 2018, p. 321–327; Miller, Mayo, & Lugg, 2018, p. 345–359; Yau, 2013, p. 443–461), nevertheless in the context of well-being.

The term ‘transsexualism’ was introduced into English in 1949 by David O. Cauldwell (Ekins & King, 2001, p. 21). Transsexualism defines a condition of incompatibility between the biological body and the so-called social and legal gender and the psychological sense of gender. Transsexual people believe that they belong to the biologically opposite sex and do not feel that they are representatives of their biological sex. A biological male affected by transsexualism feels female, and his psyche and entire emotional sphere conform to female behavioural patterns (Dulko, 2006, p. 93).

As reported in the literature (Osajda, 2009, p. 35), the first case of transsexualism recorded by the Council of Europe was *X v. Germany* (Application No. 6699/74), which failed to reach the European Court of Human Rights (ECHR) due to a settlement made between the petitioner and the state (Osajda, 2009, p. 35).

In *Rees v. United Kingdom*<sup>9</sup>, the ECHR noted that a comparison of the legal systems of different states – parties to the 1950 Convention – led to the conclusion that the admissibility of altering the content of a transsexual person’s birth certificate was regulated differently and that there was no common approach to this issue. The

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<sup>9</sup> Application No. 9532/81, October 17, 1986.



Court indicated that a comprehensive normative act regulating the effects of gender reassignment would be necessary but that the Convention could not compel a state to issue such an act and regulate the permissibility of gender reassignment. Such a comprehensive piece of legislation should cover various spheres of life, including education (also higher education). The literature emphasises that the ECHR left a gateway for a possible change of its views in the future. Stating that it should be left to Member States to determine the extent to which the needs of transgender people are met, the Court added ‘for the time being’ (Domański, 2010, p. 145). The ECHR added: ‘The need for appropriate legal measures should therefore be kept under review having regard particularly to scientific and societal developments’ (Domański, 2010, p. 145). This is one example of the ECHR’s jurisprudence, which confirms that the Court, when ruling on a case, considers the changing conditions of social life and the requirements of today.

Other judgments concerning the United Kingdom (in addition to the *Rees case*, we should mention the *Cossey case* of September 27, 1990, and the *Sheffield and Horsham case* of July 30, 1998) continued to recognise that the state is not obliged to reflect gender reassignment in civil registry records. In the *Cossey case*, the Court found that there had been no significant scientific development since the *Rees case* was heard and that surgical gender reassignment procedures do not result in the acquisition of all the biological characteristics of the new sex.

We should emphasise that the current public discourse no longer uses the term ‘sex change.’ Instead, the following terms are used: ‘sexual reassignment surgery,’ ‘gender reassignment surgery,’ ‘gender confirmation surgery,’ and ‘gender-affirming surgery.’ Poland has no separate regulations for transsexual (transgender) people. Therefore, there is a lack of legal solutions to regulate the ‘transition’ of a person from one gender to another. As might be expected, there are also no regulations regarding transgender people in higher education. During its seventh term, the Polish Sejm put forward a bill on gender reassignment (Sejm paper no. 1469). The explanatory statement to the bill indicated that its aim was to change the approach to understanding the gender criterion in Polish law by considering not only the biological characteristics of individuals but also – to an equal extent – their social role. The drafters of the bill stated that its aim was a change in the understanding of the gender criterion in Polish law. The bill was to consider not only biological characteristics (human body in terms of biology and morphology) but also a person’s

psyche and social role to an equal extent. In October 2015, the President of the Republic of Poland vetoed the bill, and it was returned to the Sejm for review. However, it was not voted on again, and due to the expiry of the Sejm's term, the act did not enter into force in accordance with the principle of discontinuity.

We should stress that transgender people are often victims of crimes motivated by prejudice. The Polish Commissioner for Human Rights underlined that Polish criminal law does not provide transgender people with suitable protection and also stated that a firm response of the state to instances of this type of violence would allow for the implementation of international standards for the protection of the rights and freedoms of hate crime victims. Transgender people also face problems linked to employment, being unable to obtain employment certificates issued before their gender reassignment and reissued with their new personal data (Report of the Commissioner for Human Rights, 2016<sup>10</sup>). The public's attitude to the problems of transgender people is evident in this area. There is very little public knowledge on the subject, and stereotypes about this social group remain a significant problem, having a particular effect on minors. Such stereotypes are often the cause of violence against transgender people, fuelling the perpetrators' prejudices. Events of this type have an impact on mental health and can develop into depression.

The problems of transgender people in the higher education system are also apparent (Czerwiec & Leżucha, 2021, p. 187–208). Polish law stipulates that the recognition of gender identity and the correction of data in the identity card can only occur after the person concerned has undergone lengthy psychological counselling and hormonal therapy and after a legal process has been set in motion, which involves the need to sue one's own parents. In practice, this means that a person starting their studies is usually identified and registered in the electronic student support system (such as 'Virtual University') – for formal reasons – based on data (name, gender) that they no longer use on a day-to-day basis.

Certain higher education institutions allow transgender students to change their email addresses and data on electronic platforms (for example, MS Teams or Zoom) to match their gender identity. The case of students who request an amendment of

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<sup>10</sup> The European Parliament, Report of the Commissioner for Human Rights 2016 [https://www.europarl.europa.eu/doceo/document/A-8-2017-0365\\_PL.html](https://www.europarl.europa.eu/doceo/document/A-8-2017-0365_PL.html) (March 7, 2024).

their confidential personal data should be handled in compliance with security standards and the appropriate respect and discretion, as any individual case related to the physical and mental health of students.

Transgender students may also feel stigmatised in physical education classes, which are compulsory during full-time studies, which might be due to gender dysphoria or a transition in process. Therefore, an individual approach and consideration of an alternative method for completing the course are necessary for such students.

Other measures to ensure well-being include those undertaken by universities to support non-binary and transgender students by creating special organisational units such as the Department of Security, Safety, and Equal Treatment at Jagiellonian University, which employs people with suitable training in equal treatment and transgender issues. It is also a good practice to ensure a separate gender-neutral toilet, although those using it may feel uncomfortable as a result of widespread stereotypes and the fear of stigmatisation. Therefore, the location of gender-neutral toilets is a crucial matter. Furthermore, in order to meet the needs of transgender people, HEIs are introducing gender-neutral language and glossaries of neutral and non-binary language (so-called inclusive dictionaries) in official documents and information. They are also developing handbooks for administrative staff with the aim of creating a transgender-friendly academic environment (for instance, Adam Mickiewicz University in Poznań) and ensuring the well-being of transgender people.

## **5 Conclusion**

A higher education institution is a meeting place for a wide variety of people, with some of them affected by different types of crises. The role of HEIs is not only to create solutions that demonstrate openness to diversity but also to implement and apply these measures. A strong academic community is dependent on the respect for the rights of all its members and the prudent behaviour of the HEI authorities in offering a range of solutions to help meet the expectations of the community and also in terms of creating suitable conditions for everyone to ensure accessibility. For this reason, HEIs' activities should be multi-tiered, ranging from the formation of appropriate attitudes, which foster integration and increased awareness, through training and workshops aimed at students, student governments, as well as research, teaching, and administrative staff, the creation of an appropriate legal environment

in the form of internal policies or strategies, to the creation of organisational units/centres that will become venues for solving the problems of individuals in crisis. The academic environment should ensure that all members of the community participate in its life in addition to promoting and perpetuating desirable actions and behaviours by fostering social inclusion and respect for diversity, making the academic community a ‘cradle of tolerance.’ In doing so, HEIs should not limit themselves to the ‘minimum measures’ provided for by law and should implement a range of solutions to ensure accessibility and a sense of well-being. Furthermore, HEIs should make use of the support provided by social organisations as well as other bodies that are competent in dealing with people in a health crisis or those experiencing a condition that may contribute to a crisis (for instance, being transgender). One such body is the Commissioner for Human Rights, who undertakes research and analytical activities and can also intervene in the individual cases of students who are in need of support.

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### **Povzetek v slovenskem jeziku**

Zadevna študija obravnava izzive, s katerimi se srečujejo študenti v zdravstveni krizi zaradi stigmatizacije in izključenosti. Avtorji študije, ki so člani vodstvenega osebja fakultete oziroma pravnega inštituta dveh različnih visokošolskih zavodov, so pogosto priča težavam, s katerimi se vsakodnevno srečujejo študenti. Težave, ki vplivajo na potek študija in iskanje poti v akademskem okolju, niso povezane le z didaktičnimi ali socialnimi vprašanji, temveč vključujejo tudi zdravstvene vidike, vključno z vprašanji, povezanimi z invalidnostjo in transspolnostjo. Že dlje časa opazamo naraščanje števila študentov z najrazličnejšimi vrstami zdravstvenih težav, kar bi lahko razumeli kot znamenje današnjega časa. Prav tako pa zaznavamo težave, ki so postale vidne šele pred kratkim (kot na primer vidik transspolnosti, ki predstavlja vir občutkov stigmatizacije in izključenosti). Zato postaja nujno, da organi visokošolskih ustanov pričnejo izvajati večplastne ukrepe za preprečevanje stigmatizacije in izključenosti ter zagotavljanje občutka varnosti članom akademske skupnosti. Dejavnosti in odgovornosti, ki jih določa pravni sistem, bi morale predstavljati določen minimum, ki pa je odvisen od resničnih potreb študentov.

