
PROTECTION AGAINST ENERGY EXCLUSION AS A SOCIAL WELFARE TASK

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KEYWORDS

Social welfare, energy crisis, energy poverty, energy exclusion, fuel purchase allowance, household heating allowance, coal allowance

ABSTRACT

Many households in Poland are currently experiencing a situation in which they must choose between drastic energy savings, resulting in a noticeable lack of heat comfort, and spending on energy costs at the expense of other basic needs, such as food or medications. This phenomenon has negative consequences, from a deteriorating state of health, especially among children and older people, to ‘saving themselves’ by burning coal dust or waste, which, in turn, increases emissions and leads to pollution of the air. It also causes energy exclusion in many cases, which can cause breaches of human dignity. The question therefore arises: how does social welfare deal with energy exclusion on legal and social grounds with regard to satisfying the energy needs of citizens and what are the role and tasks of social welfare in conditions of an energy crisis? The answers to these questions are accompanied by an analysis of the concepts of energy poverty and energy exclusion, as well as a discussion and assessment of selected forms of social welfare in counteracting the energy exclusion of citizens.

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I. INTRODUCTION

The energy crisis is significantly exacerbating problem arising from the acceleration of climate change. As the International Energy Agency (IEA) emphasizes, energy markets started to tighten in 2021 because of a number of factors, including the exceptionally rapid economic recovery from the COVID-19 pandemic. However, this condition has evolved dramatically into a full-blown global energy crisis since the Russian invasion of Ukraine in February 2022. The current energy situation in Europe and worldwide has been referred to by the IEA as ‘the first truly global energy crisis, the effects of which will be felt for many years to come’.¹ In an era of high energy prices, the problem of energy exclusion is affecting a growing proportion of the population—not only in Poland, but also in Europe and worldwide.² According to statistics, approximately 36 million people in the European Union (EU) were unable to heat their homes sufficiently in 2020, whereas it is estimated that energy poverty in Poland affected more than 10 per cent of households in 2022.³ These statistics are encouraging the EU to accept that member states should ensure that vulnerable consumers, who are affected by energy poverty, receive the necessary supplies through social policies or measures other than public intervention of setting electricity prices.⁴ Member states, including Poland, are taking appropriate measures to implement these EU decisions.

The assurance of heat and electricity in the home is one of the basic human needs to guarantee proper living conditions. In many cases, energy exclusion can cause breaches of human dignity. Poor people often use the alternatives available to them, which not only involve a significant amount of energy, but also pollute the air and have a negative impact on the health of such people. Concern for human dignity and well-being should aim to ensure adequate social and living conditions that do not breach human dignity. Therefore, it is important that, in the

¹ International Energy Agency, *Global Energy Crisis* <<https://www.iea.org/topics/global-energy-crisis>> accessed 3 March 2023

² Mariusz Szyrski, *Rola samorządu terytorialnego w rozwoju odnawialnych źródeł energii (OZE). Analiza administracyjnoprawna* (Wolters Kluwer 2019), LEX/el.

³ Data available on the website of the Ministry of Climate and the Environment <<https://www.gov.pl/web/klimat/badania-statystyczne>> accessed 5 March 2023. Szymon Machniewski, *Czym jest ubóstwo energetyczne i jak z nim walczyć?* <<https://www.money.pl/gospodarka/czym-jest-ubostwo-energetyczne-i-jak-z-nim-walczy-c-6838764508687008a.html>> accessed 10 March 2023

⁴ See Article 5 (3) 1 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast) (OJ L 158, 14.6.2019 125)

light of the Constitution of the Republic of Poland of 2 April 1997,⁵ it is reasonable to accept legal instruments in ordinary legislation that are targeted at human dignity and its protection against energy exclusion.⁶ In the legislation, a list of such forms of assistance is primarily contained in the Social Welfare Act of 12 March 2004.⁷ The question therefore arises: how does social welfare deal with energy exclusion on legal and social grounds with regard to satisfying the energy needs of citizens and what are the role and tasks of social welfare in conditions of an energy crisis? In the light of Article 3, para 1 SWA, the objective of social welfare is to satisfy the essential needs of an individual or family and to enable them to live in conditions reflecting human dignity. Many of the provisions of the SWA refer to the notion of human dignity, including Article 45, para 3 SWA, which provides that social work should use methods and techniques guaranteeing respect for a person's dignity and their right to self-determination, and Article 55 SWA, which provides that the scope and level of services provided by social welfare homes should take into account the dignity, freedom, intimacy, and sense of security of the resident of such a home.⁸

In addition to the SWA, national law also includes other acts of the rank of a statute, which regulate various forms of social support during the energy crisis. These regulations are treated as legal acts regarding social welfare *sensu largo*, in contrast to the SWA, which is referred to as the legal regulation of social welfare *sensu stricto*. Social welfare *sensu largo* can be distinguished from social welfare *sensu stricto* by the fact that its benefits do not refer to the principle of subsidiarity, which is especially important from the point of view of the SWA in the context of the development of the beneficiary's ability to overcome life's crises on his own, and that the acts of law in this area do not always fully encompass the issue of social welfare.⁹ Currently, in this age of energy crisis, new forms of social welfare *sensu largo* are being introduced to protect citizens from energy exclusion. Such acts of law include the Act on the Anti-Crisis Shield of 17

⁵ Constitution of the Republic of Poland of 2 April 1997 (Konstytucja Rzeczypospolitej Polskiej z 2.04.1997 r., Dziennik Ustaw – Journal of Laws of the Republic of Poland No. 78, item 483, as amended).

⁶ Ruling of the Constitution Tribunal of the Republic of Poland of 22 May 2013 (P 46/11)

⁷ The Polish Social Welfare Act of 12 March 2004 (Ustawa z 12.03.2004 r. o pomocy społecznej, Dziennik Ustaw – Journal of Laws of the Republic of Poland of 2023, item 901), hereinafter: SWA.

⁸ Anetta Breczko, Alina Miruć, 'Pojęcie "pomocy społecznej" w kontekście godności i autonomii osoby bezdomnej (aspekty filozoficzne i prawne)' (2017) 2 *Ekonomia Społeczna* 33.

⁹ Stanisław Nitecki, *Prawo do pomocy społecznej w polskim systemie prawnym* (Wolters Kluwer 2010) 97.

December 2021,¹⁰ the Act on the Coal Allowance of 5 August 2022¹¹ and the Act on Special Solutions regarding certain heat sources in connection with the situation on the fuel market of 15 September 2022.¹²

II. FUEL POVERTY AND THE PHENOMENON OF ENERGY EXCLUSION

The above discussion requires clarification of the concepts of fuel poverty and energy exclusion in legal and social terms. However, before discussing the concept of energy poverty, it is worth taking a closer look at the concept of poverty itself, which is one of the more difficult problems of the contemporary world.¹³ According to Blicharz, it is a complex and multidimensional phenomenon, so there is no point in looking for a single universal definition of poverty.¹⁴ Poverty means the inability to satisfy the basic needs of human life and a state in which the standard of living drops below the socially accepted minimum. It is a state in which the actual means and capabilities of people interested in receiving assistance grossly deviate from the average way of meeting subsistence, environmental, and cultural needs.¹⁵ National law does not contain a legal definition of poverty, although it appears as one of the premises for granting social welfare benefits and, furthermore, the notion of a poor person can be found in the preamble to the Act on Assistance to People Entitled to Alimony of 7 September 2007.¹⁶ In order to check the level of poverty, bodies of public administration providing social welfare use measures such as income criteria, which are currently specified in the Regulation of the Council of Ministers of 14

¹⁰ The Act on the Anti-Crisis Shield of 17 December 2021 (Ustawa z 17.12.2021 r. o dodatku osłonowym, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 169).

¹¹ The Act on the Coal Allowance of 5 August 2022 (Ustawa z 5.08.2022 r. o dodatku węglowym, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 1630), hereinafter: ACA.

¹² The Act on Special Solutions Regarding Certain Heat Sources in Connection with the Situation on the Fuel Market of 15 September 2022 (Ustawa z 15.09.2022 r. o szczególnych rozwiązaniach w zakresie niektórych źródeł ciepła w związku z sytuacją na rynku paliw, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 1772), hereinafter: ASRHC.

¹³ Izabela Kumor, 'Ubóstwo: ujęcie teoretyczne' (2011) 1 Edukacja Humanistyczna 103.

¹⁴ Jolanta Blicharz, 'Kilka kwestii na temat ubóstwa wśród kobiet w Polsce' in Jolanta Blicharz, Lidia Klat-Wertelecka, Edyta Rutkowska-Tomaszewska (eds), *Ubóstwo w Polsce* (E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa. Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego 2014) 42.

¹⁵ Wojciech Maciejko, *Instytucje pomocy społecznej* (LexisNexis 2009) 125.

¹⁶ The Act on Assistance to People Entitled to Alimony of 7 September 2007 (Ustawa z 7.09.2007 r. o pomocy osobom uprawnionym do alimentów, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 1993).

July 2021 on verified income criteria and amounts of monetary benefits from social welfare.¹⁷

Energy poverty arises when a significant proportion of income needs to be spent on heating and electricity bills. In extreme cases, it involves the inability to pay these bills, which can result in energy exclusion.¹⁸ Energy poverty has a legal definition in national law and is contained in Article 5bg, para 1 of the Energy Law of 10 April 1997.¹⁹ According to this definition, energy poverty is a situation in which a household run by one or several people jointly in an independent flat or a house in which commercial activity is not conducted, cannot secure sufficient heat, cold, and electricity to power appliances and for lighting if the household jointly satisfies the following conditions: (1) it has a low income; (2) it has a high level of expenditure on energy; (3) it is living in a flat or building with low energy efficiency.²⁰

Energy exclusion is not the same as poverty, although poverty is the factor that most often excludes an individual from participating in social life. Energy exclusion, in particular, arises from energy poverty as one of its causes.²¹ Social exclusion is a broader concept than poverty, and therefore exclusion and poverty are not synonymous. Poverty in the material sense tends to be a unidimensional category, while social exclusion is a category showing problems in several dimensions, indicating a process of both deprivation and a lack of participation in specific dimensions of social life. Exclusion refers to a different set of factors than just poverty, income inequality, deprivation or, for instance, unemployment.²² It causes those affected by it to live in underheated, under-illuminated, and often damp homes, making them particularly vulnerable to respiratory diseases, allergies, cardiovascular disorders, and deteriorating mental well-being.

¹⁷ Regulation of the Council of Ministers of 14 July 2021 on verified income criteria and amounts of monetary benefits from social welfare (Rozporządzenie Rady Ministrów z 14.07.2021 r. w sprawie zweryfikowanych kryteriów dochodowych oraz kwot świadczeń pieniężnych z pomocy społecznej, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2021, item 1296).

¹⁸ Maciej Lis, Agata Miazga, Katarzyna Sałach, Aleksander Szpor, Konstancja Świącicka, *Ubóstwo energetyczne w Polsce: diagnoza i rekomendacje* (Instytut Badań Strukturalnych 2016) 2.

¹⁹ The Energy Law 10 April 1997 (Ustawa z 10.04.1997 r. – Prawo energetyczne, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2022, item 1385, as amended), hereinafter: EL.

²⁰ The definition of energy poverty was introduced into the EL in Article 9 of the Act on the Anti-Crisis Shield of 17 December 2021 (Ustawa z 17.12.2021 r. o dodatku osłonowym, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 759).

²¹ Stanisława Golinowska, Piotr Broda-Wysocki, 'Ubóstwo i wykluczenie społeczne' in Stanisława Golinowska (ed), *Ubóstwo i wykluczenie społeczne. Badania. Metody. Wyniki* (IPPIS 2005) 42.

²² Stanisława Golinowska, Piotr Broda-Wysocki (n 23) 33–34.

III. THE HOUSEHOLD AS AN ENTITY PROTECTED AGAINST ENERGY EXCLUSION

In social welfare, it is the poor household that is protected against energy exclusion. The definition of a household is contained in Article 3, item 5 of the Act on the National Population and Housing Census of 2002 of 2 December 1999, according to which it is a group of people living together and supporting each other. However, single people supporting themselves constitute single-person households. Households are distinguished from the population living in accommodation (excluding collective accommodation). Households are distinguished into single-person households and multiperson households (two or more people), as well as family and non-family households.²³ In the context of interpreting the concept of a multiperson household, it is worth recalling the view expressed by the Supreme Administrative Court in its ruling of 8 February 2017, according to which

The circumstance of keeping a joint household consists of various elements, such as the payment of housing costs and charges, care provided during sickness, the performance of ordinary activities related to running the household and the management of joint income for satisfying living needs. Cohabitation is a prerequisite for a family to be considered as living together if there is also an element of joint management. It is based on sharing the dwelling in such a way that the resident's vital activities are concentrated there. Meanwhile, joint housekeeping is based on the division of tasks related to the appropriate running of the household.²⁴

In turn, poor households/people are those whose needs are satisfied to a lesser extent than those of the rest of the members of the given society.²⁵ In the SWA, the concept of a household has been related to the income criterion, which, if satisfied, means that a person or family will be able to effectively apply for the benefits regulated by that Act. The concept of a household appears several times in the provisions of the SWA, e.g., in Article 6, item 7. The concept of a household as an entity that is entitled to a heating benefit appears in Article 24, para 2 ASHRC, as well as in Article 2, para 2 ACA with respect to the coal allowance. In national law, a household may be granted the status of a vulnerable entity, which is understood as anyone who is subject to protection in the relationship

²³ The Act on the National Population and Housing Census in 2002 of 2 December 1999 (Ustawa z 2.12.1999 r. o narodowym spisie powszechnym ludności i mieszkań w 2002 r., Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2000, No. 1, item 1 as amended). The Act is no longer in force.

²⁴ Ruling of the Supreme Administrative Court of 8 February 2007 (I OSK 1483/16).

²⁵ Central Statistical Office of the Republic of Poland, *Quality of Life. Social Capital, Poverty and Social Exclusion in Poland* (Central Statistical Office 2013) 36.

with the energy vendors (in Poland, these are, in particular, people with disabilities, the elderly, or people with low incomes). According to Article 3, item 13c EL, a vulnerable electricity customer is a person who has been granted a benefit in the form of a housing allowance,²⁶ who is a party to a comprehensive agreement or an agreement for the sale of electricity concluded with an electricity company, and who lives at the place to which electricity is supplied.

IV. SOCIAL WELFARE BENEFITS WITH REGARD TO PROTECTION AGAINST ENERGY EXCLUSION

As stated above, social welfare, in particular, should counteract individual and family poverty and, consequently, social exclusion.²⁷ Households in a state of energy poverty can apply for various forms of social welfare, such as a special purpose allowance for the purchase of fuel, a heating allowance, a coal allowance, a gas allowance, an electricity allowance, or a housing allowance. When discussing the nature and conditions of acquiring the specified forms of social support, reference should be made to individual acts of law regarding their issues. In the analysis, the legal regulation contained in the SWA will be discussed first. Article 2, para 1 of this Act provides that ‘Social welfare is an institution of the State’s social policy which is intended to enable people and families to overcome difficult situations in life, which they are unable to overcome using their own rights, resources and capabilities’. In turn, the said Article 3, para 1 SWA states that ‘Social Welfare supports people and families in their efforts to satisfy their essential needs and enables them to live in conditions reflecting human dignity’. Undoubtedly, the cited norms indicate the difficulties faced by households affected by energy poverty. However, energy poverty has so far not been included in the list of premises for providing the social welfare support referred to in Article 7 SWA.²⁸ The main form of support from the SWA with regard to the subject in question is a special purpose benefit intended to cover the costs of fuel, minor repairs, and renovations in the flat. As Article 39, para 1 SWA stipulates, a specific purpose benefit may be awarded to satisfy a basic living need, while the

²⁶ See Article 2, para 1 of the Act on the Housing Allowances of 21 June 2001 (Ustawa z 21.06.2001 r. o dodatkach mieszkaniowych, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 1335).

²⁷ Katarzyna Małyś-Sulińska, Anna Kawecka, ‘Zasiłek celowy na zaspokojenie niezbędnej potrzeby bytowej jako forma pomocy społecznej przeciwdziałająca wykluczeniu społecznemu’ (2020) 1 *Ekonomia Społeczna* 36.

²⁸ Rafał Boguszewski, Tomasz Herudziński, *Ubóstwo energetyczne w Polsce* <https://www.cire.pl/pliki/2/2018/ubostwo_energetyczne_w_polsce_raport_03_09_2018.pdf> accessed 3 March 2023

legislator has made its award conditional on satisfying an income criterion. Granting special-purpose benefits is one of the municipality's own tasks, by which it is required to satisfy the most urgent and necessary needs of its inhabitants. The ability to satisfy these needs is also determined by the municipality's financial resources.²⁹ Covering the costs of heating, including the purchase of fuel, was added to the examples of needs for which a special-purpose benefit may be awarded, as a result of the amendment of the SWA of 15 April 2021.³⁰ In this way, various possibilities of heating accommodation have been highlighted, not only through fuel in the traditional sense, but also other forms that suit the current antismog policy. However, covering the costs of heating does not mean that the social welfare body pays the bills for the use of the dwelling for the recipient, or pays his debts from this.³¹

When assessing this form of social support in the context of counteracting energy exclusion through social welfare, it should be emphasized that the legislator refrained from specifying the amount of the special-purpose benefit in detail, but purely gave an example in Article 39, para 2 SWA of a list of needs which should be satisfied first as being elementary, basic existential needs.³² Making the ability to obtain a special-purpose allowance for the purchase of fuel conditional on meeting an income criterion, as referred to in Article 8 SWA, means that this form of assistance is provided to people meeting a strictly legally defined income criterion, which means that energy-poor households with incomes that are slightly above this criterion are excluded from the group of its actual beneficiaries.³³ This means that the special-purpose benefit is not a sufficient instrument of support for counteracting energy exclusion. It is not a form of social welfare directly targeted at solving the problem of energy exclusion; it was not introduced into the legislation on social welfare in connection with the ongoing energy crisis and it does not enable the progress of its reduction through social welfare to be controlled.³⁴

²⁹ Mariusz Kotulski, 'Regulacje ustawy o pomocy społecznej w świetle orzecznictwa sądów administracyjnych (wybrane zagadnienia)' (2004) 4 CASUS 26.

³⁰ The Act on the Amendment of the Act on Social Welfare and the Act on the Amendment of the Act on Social Welfare and the Act on the Protection of Mental Health of 15 April 2021 (Ustawa z 15.04.2021 r. o zmianie ustawy o pomocy społecznej oraz ustawy o zmianie ustawy o pomocy społecznej oraz ustawy o ochronie zdrowia psychicznego, Dziennik Ustaw, Journal of Laws of the Republic of Poland, item 803).

³¹ Iwona Sierpowska, *Pomoc społeczna: Komentarz* (Wolters Kluwer 2014) 199.

³² Ruling of the Voivodship Administrative Court in Kraków of 5 December 2022 (III SA/Kr 741/22).

³³ Jan Rutkowski, Katarzyna Sałach, Aleksander Szpor, Konstancja Ziółkowska, *Jak ograniczyć skalę ubóstwa w Polsce?* <https://ibs.org.pl/app/uploads/2018/01/IBS_Policy_Paper_01_2018_pl.pdf> accessed 3 March 2023

³⁴ Boguszewski, Herudziński (n 30).

The forms of social support that have been set up as a direct consequence of the ongoing energy crisis need to be discussed in order to fully answer the question of how the institution of social welfare deals with energy exclusion on legal and social grounds in satisfying the energy needs of citizens. Given the framework of this article, the following section will present a discussion of the forms of social support constituting the household heating allowance and coal allowance.

The household heating allowance will be discussed first. This is a monetary social welfare benefit *sensu largo*, which is a form of one-off support for households, the main source of heating of which is a solid fuel boiler, fireplace, freestanding stove, air heater, cooker, tiled cooker fuelled by wood pellets, wood chunks or another type of biomass, a gas boiler fuelled by liquefied petroleum gas (LPG), and an oil boiler, which is registered in or reported to the Central Register of Building Emissions. The legal regulation on this allowance can be found in the ASHRC. The application for the household allowance needed to be submitted by 30 November 2022 and, in addition, the support provided under this form of assistance is periodic, encompassing the heating period from October 2022 to 30 April 2023. The amount of the household heating allowance depends on the main source of heat for the household and is, respectively, PLN 3,000, PLN 1,000, PLN 500 or PLN 2,000.³⁵

Households that have an accepted application for the payment of the coal allowance referred to in Article 2, para 1 ACA are not entitled to this form of aid. Therefore, if someone has been refused a coal allowance, he may apply for a household allowance. A person in a household for which solid fuel has been purchased, at a price and from an entrepreneur referred to in Article 2, para 1 ASHRC, is also not entitled to a household allowance. The application for the payment of the household allowance is submitted to the municipal hall of the municipality where the applicant's place of residence is located. The award of the household allowance does not require an administrative decision. However, the refusal, cancellation of and the decision regarding an allowance that was unduly received do require an administrative decision. If the applicant receives an entitlement to the allowance, he is notified of its award by email at the email address specified by the applicant if this was indicated in the application for the allowance. This means that the heating allowance is not awarded by an administrative decision, but by a material and technical action³⁶ constituting a non-authoritative form of action by the public administration, which is typical of social welfare.

³⁵ See Article 24, item 11 ASHRC.

³⁶ Maciej Błazewski, 'Czynności materialno-techniczne' in Jolanta Blicharz, Piotr Lisowski (eds), *Prawo administracyjne: Zagadnienia ogólne i ustrojowe* (Wolters Kluwer 2022) 320.

Importantly, this form of social welfare is available to: (1) people with Polish citizenship residing and staying in the Republic of Poland; (2) specific categories of foreigners residing and staying in the Republic of Poland, e.g. on the basis of a permanent residence permit, a residence permit for a long-term resident of the EU, a temporary residence permit granted in connection with the circumstance referred to in Article 159, para 1, item 1, point c or d or Article 186, para 1, item 3 of the Act on Foreigners of 12 December 2013;³⁷ (3) nationals of EU member states; member states of the European Free Trade Association (EFTA); parties to the Agreement on the European Economic Area or the Swiss Confederation residing and staying in the Republic of Poland, as well as their family members in the meaning of Article 2, item 4 of the Act on the entry into, residence in, and exit from the territory of the Republic of Poland of nationals of the EU member states and their family members of 14 July 2006,³⁸ who have the right of residence or the right of permanent residence in the Republic of Poland. Therefore, other than Polish citizens, only specific categories of foreigners are entitled to the heating allowance. In a way, Ukrainian citizens residing in Poland, who came to Poland because of the outbreak of the war in Ukraine, do not have the automatic right to this benefit, because their stay in Poland is based on the provisions of the Act on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country of 12 March 2022.³⁹ This issue is of particular practical importance because many Ukrainian citizens who have appeared in Poland in connection with Russia's aggression against their country are staying in Poland. These people are at risk of energy exclusion to an equal, if not greater extent than the people who are entitled to a heating allowance under the provisions of the Act under review.

The coal allowance is a one-off monetary social welfare benefit *sensu largo* of PLN 3,000, which is intended to compensate for the increase in coal prices and to protect the poorest citizens from energy poverty. Support in the form of a coal allowance is dedicated to single- or multiperson households and is granted—after meeting certain conditions—not only to Polish citizens, but also to the groups of foreigners specified in Article 2, para 7, items 2 and 3 ACA. Kawecka emphasizes

³⁷ The Act on Foreigners of 12 December 2013 (Ustawa z 12.12.2013 r. o cudzoziemcach, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 519, as amended).

³⁸ The Act on the Entry into, Residence in and Exit from the Territory of the Republic of Poland of Nationals of the European Union Member States and Their Family Members of 14 July 2006 (Ustawa z 14.07.2006 r. o wjeździe na terytorium Rzeczypospolitej Polskiej, pobycie oraz wyjeździe z tego terytorium obywateli państw członkowskich Unii Europejskiej i członków ich rodzin, Dziennik Ustaw, Official Journal of Laws of the Republic of Poland of 2021, item 1697).

³⁹ The Act on Assistance to Citizens of Ukraine in Connection with the Armed Conflict in Their Country of 12 March 2022 (Ustawa z 12.03.2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa, Dziennik Ustaw, Journal of Laws of the Republic of Poland of 2023, item 103, as amended).

that this form of social support is intended to support households, the main source of heating of which is a solid fuel boiler, fireplace, freestanding stove, air heater, cooker or a tiled cooker fuelled by solid fuels, which is registered in or reported to the Central Register of Building Emissions.⁴⁰ In comparison with the previously discussed forms of social welfare, it should be noted that the award of the coal allowance was not made contingent on satisfying an income criterion. Its payment was defined as the implementation of a government administration task, the performance of which was commissioned to the municipalities. As in the case of the heating allowance, the coal allowance is also awarded by the executive body of the municipality where the person applying for the coal allowance has his place of residence.⁴¹ This solution means that people interested in obtaining this form of aid can apply for it to the bodies of public administration closest to their place of residence. However, it also means municipalities are required to perform increasingly more new social tasks in conditions of the limited organizational and staffing capacity of the municipalities. It is also worth noting at this point that, with regard to the form of the decision on the right to the coal allowance, the legislator proposed a solution that was similar to that of the heating allowance, stating in Article 2, para 16 ACA that the award of the coal allowance does not require an administrative decision. This benefit is also paid during the heating period specified in the Act.

V. CONCLUSIONS

This analysis of selected social welfare benefits for counteracting energy exclusion leads to the reflection that social welfare is currently primarily dominated by forms of assistance intended to help energy-poor households during the heating season specified in the act of law normalizing the given form of assistance. The mechanisms that existed until recently to support people suffering from energy poverty (e.g., special-purpose allowance for the purchase of fuel) were supplemented during the period of rising electricity and gas prices by new forms of social support for citizens (e.g., the benefits discussed in the article, such as the heating allowance and the coal allowance). However, in addition to financial assistance within the framework of social welfare for energy-poor households, the development of non-financial forms of such assistance, which would also be targeted at this group of households, is also important. It should be accepted that

⁴⁰ Anna Kawecka, *Dodatek węglowy – nowe zadanie dla OPS* <<https://sip.lex.pl/#!/publication/470185216/kawecka-anna-dodatek-weglowy-nowe-zadanie-dla-ops?keyword=Anna%20Kawecka&cm=SREST>> accessed 17 March 2023

⁴¹ See Articles 2 *et seq.* ACA.

effective counteraction of energy exclusion by the public administration should reflect each type of reason triggering this phenomenon. This requires not only the supplementation of the income of poor households to cover energy expenses on an ongoing basis through social welfare, but also the improvement of the energy efficiency of buildings and educational measures on energy management at the place of residence. This results in the need for coordinated social policy action on the part of the public authorities.

It also arises from the considerations presented that it is imperative to counteract energy exclusion and assist energy-poor households because of the need to protect human dignity, which is one of the most important duties of the public authorities in the light of Article 30 of the Polish Constitution. According to the Commission (EU) Recommendation of 14 October 2020,

Tackling energy poverty [...] has the potential to bring multiple benefits, including lower spending on health, reduced air pollution (by replacing heating sources that are not fit for purpose), improved comfort and wellbeing, and improved household budgets. Taken together, these benefits would directly boost economic growth and prosperity in the European Union.⁴²

Therefore, the observation that the energy crisis results in the need for a redefinition of public social welfare tasks and the ways in which they are implemented⁴³ towards effectively protecting individuals against energy exclusion remains correct.

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⁴² Commission Recommendation (EU) 2020/1563 of 20.10.2020 on energy poverty (OJ. EU.L.2020.357.35 of 27 October 2020).

⁴³ See Dawid Sześciło, 'Administracja dobrobytu: Ewolucja zakresu i form wykonywania funkcji świadczącej' in Dawid Sześciło (ed), *Administracja i zarządzanie publiczne: Nauka o współczesnej administracji* (Stowarzyszenie Absolwentów Wydziału Prawa i Administracji Uniwersytetu Warszawskiego 2014) 112–133.

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