

---

## Mediation Availability for Persons with Certain Types of Disability: Case Study Covering Wielkopolska

---

Submitted 29/10/21, 1st revision 15/11/21, 2nd revision 30/11/21, accepted 10/12/21

Adriana Mikucka<sup>1</sup>, Adam Sinecki<sup>2</sup>, Arkadiusz Kalemba<sup>3</sup>

**Abstract:**

**Purpose:** The basic purpose of the research was to check whether persons from Wielkopolska province with locomotor system or vision disabilities have access to mediation. If negative, to find the reasons.

**Design/Methodology/Approach:** This article presents the qualitative-quantitative studies applied. The research tool were supervised telephone surveys containing answers and utterances concerning opinions on the availability of mediation for persons with locomotor system and vision disabilities, and on any existing barriers within this scope.

**Findings:** The lack of sufficient knowledge of mediation and the existing urban and architectural barriers cause that mediation is not readily available and is not used by persons with locomotor and sight disabilities in Wielkopolska.

**Practical Implications:** The findings may be used in further studies on disabled persons' access to mediation in Poland. The results may be particularly useful for mediators, and organisations dealing with mediation, in developing standards of mediation with the participation of disabled persons.

**Originality/Value:** This is the initial effort in studying the matter of disabled persons' access to mediation in Poland.

**Keywords:** Mediation, motor disability, vision disability, universal designing, liquidation of architectural barriers.

**JEL classification:** M2, J14.

**Paper Type:** Research paper.

---

<sup>1</sup>Poznan Bar Association of Attorneys-at-Law, Poznan, Poland,  
adriana.mikucka@poznan.oirp.pl;

<sup>2</sup>Faculty of Architecture, Poznan University of Technology, Poznan, Poland,  
adam.sinecki@put.poznan.pl;

<sup>3</sup>Faculty of Engineering Management, Poznan University of Technology, Poznan, Poland,  
arkadiusz.kalemba@put.poznan.pl;

## **1. Introduction**

It is a common belief in Polish society that, as long as possible, one should avoid a court dispute (Skąpska, 1989). However, this belief is not supported by practical use of methods associated with out-of-court resolution of conflicts and disputes. In the area of the increasingly common pursuing the idea of creating conditions for the disabled to fully participate in all aspects of social life, the participation of those persons in the out-of-court methods of resolving conflicts is still not defined. We do not have sufficient knowledge of the causes of this phenomenon.

The alternative methods of disputes resolution (including mediation), and liquidation of architectural barriers for the disabled were widely discussed in literature (Butlewski, 2012) however, in the source literature it is hard to find investigation concerning the actual access of the disabled persons (especially those with motor and vision disabilities) to mediation. Formalised procedures and good practice, as regards the participation of such persons in the proceedings with a mediator, are also scarce. This research paper is an attempt to find answers to the questions asked above, with the study of selected cases of persons with locomotor system and vision disabilities from Wielkopolska – the direct participants of the above-mentioned processes and phenomena.

## **2. Literature Review**

The belief that “disputable matters should be resolved outside courts, by direct contacts between the involved parties” is quite common in Polish society. (Skąpska, 1989; Moore, 2016; Dębska, 2021; Cebula, 2012). Mediation is one of the so-called alternative methods of conflicts and disputes settlement (Morek, 2018; Kula, 2015), or as other people put it, one of the methods of disputes management (Moore, 2016; Stępień, 2017). Literature widely emphasizes the advantages of mediation and the areas where it is more beneficial than a classic court dispute. So, it seems that mediation is a desired, readily available, and commonly used form of conflict settlement which, however, is not confirmed by the source literature and previous research. Special regard is given to the groups of the society which, for various reasons and in different manner, are excluded from different spheres of social life, with access to mediation included.

Due to the dynamics of society ageing in highly developed lands, 21st century shall, to great extent, belong to the society that will require much assistance in moving not only in the architectural environment, but which also be incomprehensible for younger generation, e.g., because of technical alienation of the elderly (Butlewski, 2018). According to M. Butlewski, this society ageing dynamics is one of the major threats of 21st century (Butlewski, 2018; 2017A). Butlewski further writes that society ageing causes more diversified needs of various recipients, which means that goods and services designing should be addressed to diversified recipients, including the elderly and the disabled. Considering the general concept of this paper and the purpose of the research, this paper does not discuss the goods and services designing for the elderly in more detail. The authors focus on the matter of mediation accessibility for the disabled, also limited to certain types of disability (within the locomotor system or vision).

According to [europarl.europa.eu](http://europarl.europa.eu), it is estimated that there are 87 million people with disabilities in the European Union. According to the European Parliament data, the ratio of employment of people with disabilities (aged 20-64) is 50.8%, compared with 75% for people without disabilities, and 28.4% of the disabled in EU are endangered with poverty or social exclusion, compared with 17.8% of the total population (The European Parliament, 2020).

A definition of disability in Polish legal system has been contained in the act of 27 August 1997 on professional and social rehabilitation and employment of the disabled (Journal of Laws of 1997 No. 123, item 776, as amended). It says that persons with disability are the persons whose physical, psychical, or mental condition permanently or temporary hinders, restricts, or prevents them from fulfilling their social roles, especially the ability to perform professional work, if they obtained a proper certificate. Whereas the World Health Organisation (WHO) introduced three terms of disability concerning human health, which are:

- impairment – any impairment of fitness or irregularity in the construction or functioning of the body, psychological, psychophysical, or anatomical;
- disability – any restriction or inability (resulting from the impairment) to lead an active live in the manner or scope which are considered to be typical for humans;
- limitation in holding social functions (handicap) – infirmity of the person resulting from an impairment or disability, limiting, or preventing full execution of the social role corresponding to the age, gender and compliant with social and cultural conditions (MKF, NiZ, 2001).

Persons with motor disability constitute a very diversified group, both as regards the causes and effects of the disability. Within this group we can find persons with minor deficits who can walk on their own and function independently in everyday life, and completely incapacitated persons who cannot exist on their own and are dependent on the support of other people (Wolski, 2013; Bugajska *et al.*, 2019). Disability within the visual organ is determined on the basis of the assessment of visual acuity and the field of vision. With this research it is possible to distinguish persons with complete sight damage (blind and visually impaired persons) and the most numerous group - persons with partial sight damage (Bugajska *et al.*, 2019). The problem of the disabled persons' access to and participation in mediation in Poland has not been subject to detailed research yet. Czajczyc and Zienkiewicz have written an interesting paper concerning this issue (Czajczyc and Zienkiewicz, 2012), in which they discussed communication in mediation of people with impaired hearing. Although many years have passed since that publication, no in-depth study of similar scope has been carried out so far.

To meet the expectations of built environment adjustment to the disabled, several ideas have been developed which are often considered to be equivalent: Universal Design (UD), Inclusive Design (ID), and Design for All (DfA). The first one originates from 1980s from the United States of America; the second term was first used in England by Roger Coleman, in 1994: “The design of mainstream products and/or services that are accessible to, and usable by, as many people as reasonably possible [...] without the need for special adaptation or specialised design”. Design for all was defined as “design for

human diversity, social inclusion and equality” in Stockholm in the declaration of the European Institute for Design and Disability in 2004. Despite some differences, all those methods have a common goal: to improve the quality of life of each person by their social activation. A tool to achieve that goal is designing (Lagatta, 2014; Gawron, 2017).

Paul Jones notes that UD popularity is due to the fact that the idea is suitable for many design initiatives. He also refers to the need to change architectural designing into more participative one, including the “excluded” (the elderly and disabled) in the space development process (Jones, 2014).

The above ideas are also meet with criticism and the opinion that “UD is utopian, and that it is impossible to really design for everyone, so designers can only strive to limit the damage” (De Cauwer, 2009).

Another important aspect associated with UD is the adjustment of the existing structures to the needs of the disabled. This problem is addressed by many associations of people with disabilities which, within their operations, provide comprehensive education as regards the adjustment of buildings and public space to the needs of the disabled, and liquidation of architectural barriers. Those associations publish various handbooks and brochures. An interesting example can be “Switch” the latest publication of Integracja Foundation, prepared in cooperation with one of Polish construction companies which promotes universal design to increase the accessibility of public spaces and workplaces (Kowalski, 2010).

It is worth mentioning the research conducted at Wroclaw University of Environmental and Life Science and concerning determination of the actual demand for liquidation of architectural barriers. The research has shown that a considerably larger group of people aged 55 and more suffer from mobility restrictions than it results from disability certificates. The authors of the paper also demonstrate that, due to the increased number of people in post-productive age, the entire systemic change shall be an important element of the improved comfort of life of older people (Kurtyka-Marcak, 2019). Therefore, a considerably larger number of public space users require assistance in using it.

Built environment should consider not only the physical, but also the psychological and emotional needs of users, which have equally strong or even stronger influence on human behaviours: *Empirical observations clearly indicate that approach behaviour may be induced and controlled by manipulating the time and spatial elements of the physical environment* (Bańka, 2016). Depending on the designed or existing features and parameters, spaces may be marked positively (social space - “socially attractive”) or negatively - social escapism (anti-social). In the first one, users are willing to stay and perform various activities (e.g., a café or a city square), the other one causes them to feel aversion, anxiety, fear and maintaining a distance from other people (railway waiting rooms, underground passages etc.) (Bańka, 2002).

Studies of architectural space (external and internal) perception have been the topic of environmental psychology research for several dozen years (Craig, 1973; Gifford, 2014).

Based on the study results, there are suggested changes in public spaces or interiors of public utility or residential facilities. Properly shaped space may affect the well-being, health, and stress level of its users. The selection of appropriate colour, material, and texture may contribute to the increased or decreased effectiveness of office workers, reduced aggressiveness of inmates in prison cells, or recovery process speed. Some feeling of pleasure may be achieved by introducing known and liked elements, such as greenery, flowers, arranged order, or liquid forms, with simultaneous avoiding strong contrasts (Diec, 2010).

An interesting problem addressed in the studies is the matter of choice between contemporary and historical architecture. Although according to respondents the contemporary buildings are more attractive, historical architecture was more trusted, due to its beauty, kindness, and human scale. With the rhythm of columns or pilasters and façade ornaments, historical buildings leave the observers with the feeling of legibility, coherence, and harmony. (Askari, Dola, and Soltani, 2014). However, it is worth mentioning that other research name physical and technical condition of buildings as an important aspect of the assessment of the architecture in which they are staying.

There is plenty of research on the correlation between architecture (and urban development), and interior architecture and perception psychology. Most of them focus on public spaces, habitat, or work environment (office space). This is due to the fact that those are the spaces where people spend most of the time. There are relatively few publications which discuss the specific mediation space. Or even more, the place for conducting mediation adjusted to the needs of the disabled. It might be due to several reasons: the situation happens very rarely, the spaces for mediation are usually adapted from conference or office rooms of law offices.

### **3. Material and Methods**

The study covered 40 people, where half of them were people with motor disability (moving on their own, on crutches, or on a wheelchair), the other half included persons with complete (a blind or visually impaired person) or partial sight damage. The subjects were aged between 21 and 70, education level, primary, secondary, and higher. All respondents live in Wielkopolska, half of them are women. The research problem was the availability of mediation as one of the alternative methods of dispute resolution for persons with motor or vision disabilities, and actual participation of the disabled in this form of amicable conflict resolution.

The research falls within the qualitative-quantitative strategy, and the method of data collection was a partly coordinated individual narrative interview. The subjects were searched for with the use of snowball sampling method (Babbie, 2004; Naderifar, 2017). The selection criteria included the possession of motor or vision disability certificate and living in Wielkopolska.

The utterances of all 40 respondents were analysed. The utterances covered both the description of the actual and hypothetical situations (What should be the conditions of mediation, to make it available for the respondent? Which barriers should be removed

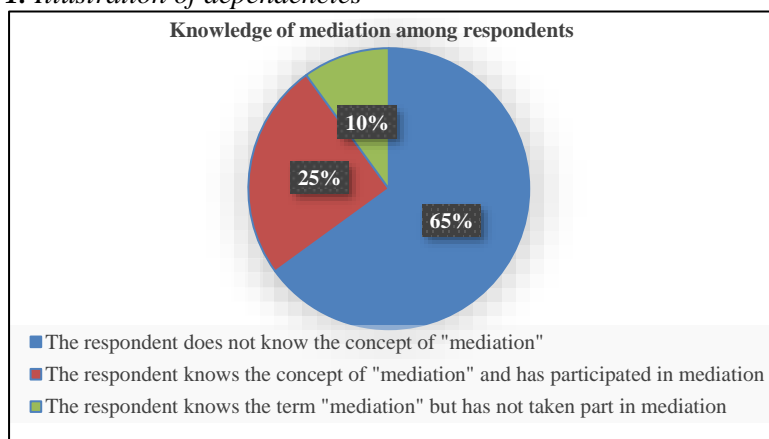
from the surroundings to deem mediation accessible?). Research review method was the triangulation of the researchers representing different disciplines (law and mediation, architecture and management and quality sciences).

#### 4. Results and Discussion

40 surveys were delivered, 20 by women and 20 by men. Half of the respondents were people with motor disability (moving on their own, on crutches, or on a wheelchair), the other half included persons with complete (a blind or visually impaired person) or partial sight damage. All respondents live in Wielkopolska.

As many as 65% of the respondents could not answer the question: “What is mediation?” Most of those people did not associate the term “mediation” with anything, and a small part of the respondents within this group claimed that they associated mediation with “media”. 35% of the respondents could, at least approximately, explain the term “mediation”, whereas most of them had been a party of a mediation before. Only 10% of the respondents knew the term “mediation”, but personally did not take part in it.

Figure 1. Illustration of dependencies



Source: Own study.

Most frequently the source of information about mediation within this group was a lawyer or an acquaintance who had previously participated in mediation. There was confirmed a distinct correlation between the knowledge of mediation and the level of respondents' education. As many as 85.7% of the respondents within the group who knew the term “mediation” completed at least secondary education. The vast majority of persons who had never come across the term “mediation” (over 90%) were people with primary education.

Among the three most important urban barriers in the access to mediation/ or mediator, were: no parking space/ too few parking spaces in front of the building, no roof over the entrance to the building, no automatically operated entrance door to the building.

Among the three most important architectural barriers in the access to mediation/ or mediator in a building, were: unfavourable floor surface, thresholds, no elevator. Practically all respondents confirmed that the location of toilets near the rooms where mediation was to be held was of significance for them. The respondents admitted in unison, that mediator's preparation for the mediation, by arranging two independent rooms and an appropriate waiting room in the building, was also important, which is confirmed by the doctrine within this scope (standards). 20% of the respondents noted that if it was for them, they would care for the availability of appropriate benches, directly in front of the building, especially now, under Covid-19 pandemic.

Practically, 100% of the subjects in the group associated with vision impairment confirmed that they willingly and often used tactile paving in municipal communication space (leading elements and fields of attention). Interesting remarks were made here by the group of people with motor disability (60% of respondents in this group) – who are not target users of tactile paving however its incorrect placement and construction can make it difficult to move, especially for persons on a wheelchair. This concerned the leading elements designed as wide metal paths with a groove in the middle along the tactile paving, which seriously affected adhesion to the surface and proper manoeuvring by people on wheelchairs. The respondents named specific locations in Poznan they avoid due to the dangers mentioned above (e.g., railway station, Aleja Marcinkowskiego). Whereas fields of attention or tactile paving made of “domes” or special, structured paint are not a nuisance for them.

Most respondents (except for the blind and visually impaired) expressed the position, that mediator's furniture should correspond to office interiors (as opposed to “home” furnishing) and should be equipped with proper office equipment. Half of the respondents preferred complete silence during mediation, whereas the other half allowed music, of course played in such manner that it would not interfere with the discussion. The same group of respondents (except for the blind and visually impaired) claimed that the light in the rooms should be bright, yet friendly, and the colours should be subdued, and rather warm.

Several respondents with partial sight damage said that under mediation proceedings they would appreciate larger size of font used by the mediator in documents produced to them for signing. Some of the respondents, both with motor disability and visual impairment (circa 1/3 of the subjects) expressed an opinion that a neutral, non-irritating odour in the room was of significance for them. For the remaining group the matter of odour was of no particular importance. Hardly anyone paid attention to flowers or decorations present in rooms intended for mediation. The blind/ visually impaired persons who used a guide dog on daily basis emphasized that it would be advisable that the mediator was prepared to host not only a disabled person but also the guide dog. Such preparation should consist in ensuring a proper rest place for the dog near the dog's owner, and a water bowl. 20% of the respondents expressed the opinion, that an assistant of the disabled person would come in very handy, who could help in overcoming any communication barriers, and e.g., in making notes.

## **5. Conclusions**

The research confirmed the existence of many different barriers in the people with motor or visual disability access to mediation. It turns out that the first barrier for those persons' access to mediation is the lack of awareness and knowledge concerning alternative methods of dispute resolution, mediation.

Other obstacles invariably include architectural barriers. Despite the requirements set for public utility buildings as regards their accessibility for the disabled, construction issues are still named by the respondents. At the same time, the subjects named sometimes opposing facilities suggestions (e.g., metal tactile paving). Arrangement of two different rooms adjusted to at least two different types of disability would surely facilitate accessibility for a wider group of persons.

Each mediation participant should be granted safety and comfort by staying in a healthy space with proper physical and biological parameters. Mediation spaces, due to their function and pursuing to find a compromise should show the features of a social space, attracting or at least neutral for the users. It should rather be a formal (office, law firm) and not private space (home). It should be well lit, without distracting odours, or sounds.

The need to create a compendium of knowledge for mediation space designers will be specified in the next stage of the research.

The authors of this paper emphasize that one should be particularly cautious when applying certain simplifications and general conclusions. The cases described in this paper should not be automatically applied to whole Poland and to all groups of people with disabilities, or even to people with motor or visual disabilities only. The findings and their analysis indicate rather that the conclusions contained herein may contribute to the continued research within this scope, within other disabilities, and to developing tools allowing for the control of mediators' preparedness to work with the disabled as full parties of mediation.

Therefore, this research paper is the first step in the process of verification or falsification of the theory of the disabled persons' access to mediation in Poland. It is also thinkable that a case of successful implementation of procedures facilitating access to mediation for persons with disabilities, described in detail and containing comprehensive empirical evidence, may constitute an example of good practice for mediators within the scope of mediation with disabled persons.

## **References:**

- Babbie, E. 2004. *Podstawy badań społecznych*, wyd. PWN, Warszawa, p. 205.
- Bańska, A. 2002. *Przestrzeń o zmiennych cechach*. [w:] Bańska A., *Spółeczna psychologia środowiskowa*, Wydawnictwo Naukowe Scholar, Warszawa 2002, p. 154.
- Bańska, A. 2015. *Psychologiczna struktura projektowania środowiska: Studium tworzenia miejsc architektonicznych*, Wyd. Stowarzyszenie Psychologia i Architektura, Poznań.
- Bańska, A. 2016. *Architektura psychologicznej przestrzeni życia: Behawioralne Podstawy Projektowania*, Wyd. Stowarzyszenie Psychologia i Architektura, Poznań.



- Bugajska, J. et al. 2019. Osoba z niepełnosprawnością ruchową w pracy. Poradnik dla pracodawców, Centralny Instytut Ochrony Pracy-Państwowy Instytut Badawczy, Warszawa, pp. 5-9.
- Bugajska, J. et al. 2019. Osoba z niepełnosprawnością wzrokową w pracy. Poradnik dla pracodawców, Centralny Instytut Ochrony Pracy-Państwowy Instytut Badawczy, Warszawa.
- Butlewski, B. 2012. Samozwańczy mediator, czyli różne takie wynurzenia niepełnosprawnego grafomana, Stowarzyszenie BOSIP, Poznań, pp. 13-16, 19-20.
- Butlewski, M. 2018. Projektowanie ergonomiczne wobec dynamiki deficytu zasobów Ludzkich. Wydawnictwo Politechniki Poznańskiej, Poznań, pp. 7-10.
- Butlewski, M. 2017a. Starzenie się społeczeństw europejskich wyzwaniem dla ergonomii przemysłowej, Niepełnosprawność - zagadnienia, problemy, rozwiązania, nr 4, pp. 28-56.
- Cebula, R. 2012. Mediacja w polskim prawie cywilnym, Ministerstwo Sprawiedliwości, Mediacje w polskim systemie prawa, Warszawa, p. 4.
- Craik, K. 1973. Environmental Psychology. *Annual Review of Psychology*, 24, 403-422.
- Dębska, M. 2021. Rodzaje alternatywnych metod rozwiązywania sporów. In: Roguła, C., Zemke-Górecka, A. Mediacja w praktyce mediatora i pełnomocnika. Wolters Kluwer, Warszawa, pp. 59-62, 72.
- De Cauwer, P., Clement, M., Buelens, H., Heylighen, A. 2009. Four reasons not to teach inclusive design. Conference: Include, Belgium, p. 2.
- Diec, A. 2010. Wzory preferencji przestrzeni architektonicznych. In: Winskowski, P., Banaszekiewicz, M., Czech, F., Miasto. Między przestrzenią a koncepcją przestrzeni, Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków, pp. 39-58.
- Gawron, G. 2017. Universal Design-Projektowanie uniwersalne jako idea w dążeniu do osiągnięcia partycypacji społecznej osób niepełnosprawnych. *Roczniki Nauk Społecznych*, 43(1), 125-144.
- Gifford, R., Nilsson, A. 2014. Personal and social factors that influence pro-environmental concern and behaviour: A review. *International Journal of Psychology*, 49(3), 141-157.
- Jones, P. 2014. Situating universal design architecture: designing with whom? *Disability and Rehabilitation*, 36(16).
- Kowalski, K. 2010. Włącznik: projektowanie bez barier. Fundacja Integracja, Warszawa.
- Kula, L. 2015. Mediacja jako alternatywna metoda rozwiązywania sporów w polskim systemie prawnym, *Studies in Law. Research Materials*, 1(16), pp. 116-117.
- Kurtyka-Marcak, I., Hełdak, M., Przybyła, K. 2019. The Actual Demand for the Elimination of Architectural Barriers among Senior Citizens in Poland. In: *International Journal of Environmental Research and Public Health*, 16(14), 2601.
- Lagatta, J. 2014. DfD\_UD\_ID\_DfA: Design for inclusion in sailing yacht design. In: Stanton, N., Landry, S., Di Bucchianico, G., Valliceli, A., 2014, *Advances in Human Aspects of Transportation Part III, AHFE Conference, 2014*, 978-1-4951-2099-2, p. 24.
- MKF, NiZ. 2001. Międzynarodowa Klasyfikacja Funkcjonowania, Niepełnosprawności i Zdrowia, International classification of functioning, disability and health (ICF), Światowa Organizacja Zdrowia. World Health Organization (WHO). Retrieved from: [https://apps.who.int/iris/bitstream/handle/10665/42407/9241545429\\_pol.pdf](https://apps.who.int/iris/bitstream/handle/10665/42407/9241545429_pol.pdf).
- Moore, Ch.W. 2016. Mediacje. Praktyczne strategie rozwiązywania konfliktów. Wolters Kluwer, Warszawa, pp. 25-29.
- Morek, R. 2018. Wprowadzenie. In: Gmurzyńska, E., Morek, R., Mediacje. teoria i praktyka. Wolters Kluwer, Warszawa, pp. 21-23, 32-33.
- Naderifar, M., Goli, H., Ghaljaie, F. 2017. Snowball Sampling: A Purposeful Method of Sampling in Qualitative Research. *Studies in Development of Medical Education (in Press)*.
- Parlament Europejski. 2020. Nowa, ambitna strategia UE w sprawie niepełnosprawności 20212030. Retrieved from: <https://www.europarl.europa.eu/news/pl/headlines/society/>

- 20200604STO80506/ nowa-ambitna-strategia-ue-w-sprawie-niepelnosprawnosci-2021-2030.
- Rek-Lipczyńska, A. 2013. III Kolor i forma. Badania nad percepcją formy architektoniczne i jej barwy w poszukiwaniu zależności jakie zachodzą między nimi.
- Skąpska, G. 1989. Drogi i sposoby rozstrzygania spraw spornych w ocenach uczestników postępowania. In: M. Borucka – Arctowa (red): Skuteczność rozstrzygania sporów w postępowaniu cywilnym w praktyce i w opinii stron. Wrocław, Zakład Narodowy im Ossolińskich, Wydawnictwo PAN, p. 174.
- Stępień, J. 2017. Mediacja: formą zarządzania konfliktem, *Kwartalnik Nowoczesne Systemy Zarządzania*, T.12, nr. 2, pp. 107-116.
- Ustawa z dnia 27 sierpnia 1997 roku o rehabilitacji zawodowej i społecznej oraz zatrudnianiu osób niepełnosprawnych (Dz. U. 1997 nr 123 poz. 776 z późn. zm.).
- Wolski, P. 2013. Niepełnosprawność ruchowa. Między diagnozą a działaniem. Warszawa, Centrum Rozwoju Zasobów Ludzkich, pp. 6-9, 107.