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Reforming Worker Protections: Disability Pensions in Transformation

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Ilene Zeitzer just retired to start her own consulting firm after 25 years with the U.S. Social Security Administration. At SSA, she was the specialist for international disability programs and, as such, conducted and published numerous research projects on comparative policies concerning adults and children with disabilities.

Foreword

This volume examines disability pension reform undertaken in the context of political and economic transformation in Central and Eastern Europe. It was completed as part of the ILO project, *Strengthening Social Security in Central and Eastern Europe through Research and Technical Cooperation*, sponsored by the French government. The research component of this project seeks to analyze the restructuring of social security schemes that has taken place since 1989. The studies examine both social policy formation in the region's new multi-party democracies and their early experience in implementing reforms. The broad objective is to provide countries still deliberating reforms with pertinent information on the recent experience and policy results of neighbors addressing similar issues. It is intended as well to empower the government's social partners in their role as participants in making social policy.

The reform of disability pensions is one dimension of the ILO's ongoing monitoring of regional social security restructuring. We report elsewhere the results of other studies, notably, the impact of old-age pension reform on retirement security; of social security reforms, broadly considered, on poverty and social exclusion; and of reforms of pensions and maternity, family, and child-care benefits on gender equality.

This volume describes and evaluates changes that have taken place in the disability pension schemes of three advanced EU-applicant countries – the Czech Republic, Estonia, and Poland – during the first decade of transformation.[1] These three countries were selected as representative of high, medium, and low levels of disability pension spending and thus provide a sense of the range

[1] The studies were undertaken and completed during 2001.

of disability-related issues confronting CEE countries today. The focus is on pensions provided by national social insurance schemes designed to replace lost earnings caused by a disability.[2] Rather than analyze specific disabilities or general disability concepts, the studies trace changes over time, asking how policy makers and administrators have modified various components of disability policy – eligibility criteria, benefit formulas and levels, work incentives, and support for vocational rehabilitation – in response to the changing labour markets and economies within which the schemes operate. In order to facilitate comparison across the three countries, the presentations are organized in the same way for each. They examine (1) disability protection provided to workers before 1989; (2) the impact on the schemes of labour market changes adopted in the early 1990s; (3) reforms enacted later in the 1990s to restructure disability protection to address the new problems and needs arising in the course of transformation; and (4) where available, the early results of these efforts.

Three perspectives guide the work presented here. First, we consider that disability policy questions are best approached from the point of view that disability is partly a social construction. That is, it derives its meaning in specific contexts from the technologies available for accomplishing particular tasks in relation to the abilities and skills of the work force, a relation mediated by values, medicine, and economics. Thus, a society's notion of disability reflects its moral sense (e.g., individuality versus solidarity), prevailing notions of appropriate medical therapy (e.g., are heart attack victims best served by life-long rest or rapid return to an active life?), and economic conditions (e.g., current rates of unemployment). This perspective is confirmed in the wide divergence of ratios of disability pensioners across countries whose health indicators do not vary significantly, as well as in the widely observed responsiveness of disability allowance rates to changes in unemployment.[3] Our studies provide ample illustration.

[2] Other benefits for disabled persons provided in these countries, such as social assistance, social services, and employment injury benefits, are considered briefly in relation to the national disability pension schemes.

[3] See International Labour Organization (2000), *World Labour Report, 2000: Income and Security in a Changing World* (Geneva, ILO), pp.110–111.

Second, the studies take the perspective that the preferred policy for people with disabilities is support for continuing or resuming work.[4] We assume that this policy is optimal from the perspective both of those with disabilities and of society at large. Clearly, work is not a feasible option for all people with disabilities. Yet sorting out those whom labour markets will accommodate, given current economic conditions and technologies, is not a clear-cut process. What can be said is that there is considerable evidence that the potential for employment of people with disabilities in most countries today exceeds the numbers actually working.[5] Thus, the studies look closely at linkages between pension schemes, on the one hand, and national systems of vocational rehabilitation and employment promotion, on the other, and ask whether, and to what extent, pension rules and incentives encourage rehabilitation and work.

Finally, from our perspective, CEE countries in the process of transformation may benefit from the recent experience of Western European countries in managing disability pension schemes. Since most of the latter are also struggling to contain disability pension costs as they seek to promote greater independence among people with disabilities, this experience offers no sure policy prescriptions. Still, their efforts in the context of a market economy are of an earlier vintage, have had more time to mature (and thus to succeed or fail), and embody approaches that have not yet been tried in many Central European countries. To facilitate such an examination, the final chapter in this volume provides a description of recent disability pension reforms in

[4] *World Labour Report, 2000*, p.111.

[5] There are two important indicators. First, unemployment among the disabled is typically higher than among the active labour force, indicating that the obstacles to their employment are not entirely medical (see *World Labour Report, 2000*, p.108). Second, while differing definitions of disability impede comparisons, there is evidence that the severity of disabilities among major segments of the working disabled population does not vary significantly from that of the pensioner population. See Organization for Economic Cooperation and Development (2000), *Transforming Disability into Ability: Policies to Promote Work and Income Security for Disabled People* (in draft) (Paris, OECD), Table 8.

the Netherlands, Sweden, and the United Kingdom. These approaches differ from each other significantly and so provide a sample of important reforms.

The studies presented here are the work of many authors. Jiři Biskup of the Czech Ministry of Labour and Social Affairs and Mariam Kotrusová of the Ministry's Research Institute carried out the research into the Czech experience. The analysis of reform efforts in Estonia is the work of Lauri Leppik, an independent consultant and former special advisor to the Estonian Minister of Social Affairs. Irena Wóycicka (coordinator), Anna Ruzik, and Hanna Zalewska carried out the Polish study under the auspices of the Gdansk Institute of Market Economics. Ilene Zeitzer, an independent consultant specializing in international disability issues, provided the analysis of recent reforms in the three Western European countries. The Office of Employment Support Programs of the US Social Security Administration, where she was employed when she did the research, freed her from other duties to contribute to the project. We gratefully acknowledge this support.

We want to thank Mercedes Birck of the ILO Budapest project staff for her contribution in coordinating and administering numerous aspects of this work. We also thank Miklós Vörös, who provided indispensable editorial help in giving the studies their final shape.

Finally, we gladly thank the Ministry of Employment and Solidarity of the Government of France, whose financial support made possible the work presented here. We welcome the French Government's contribution to the efforts to strengthen social security in Central and Eastern Europe and value particularly its appreciation of the significance of social security for social cohesion.

We at ILO Budapest hope that by illuminating recent trends in disability pension policy, both within the region and beyond, these studies will help to bring disability issues into plainer view and to promote further analysis, deliberation, and reform in the contexts of Central and Eastern Europe.

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A Comparative Overview of Disability Pension Reforms in the Czech Republic, Estonia, and Poland

Elaine Fultz

1. Introduction

While most Central European countries made major changes in their old-age pension schemes over the past decade, the restructuring of disability pensions has been far less extensive. The problems of disability pension schemes have generally received less public airing, and reform legislation, where enacted, has been narrower in scope and has come about, in most cases, as an add-on to a more major old-age pension reform. These reforms have succeeded in sharpening eligibility standards and have had modest impacts on scheme expenditures. On the other hand, they have been less effective in encouraging rehabilitation of pensioners and return to productive employment.

This limited progress to date stands in marked contrast to the need for action. Most countries of Central Europe inherited disability pension schemes that were ill-suited to the new economies they aspired to build. These systems relied on medical definitions of disability that had uncertain correlation with the actual ability of a claimant to perform work-related tasks. The high unemployment experienced in most countries in the early 1990s led many people with minor disabilities to seek pensions, driving up scheme costs. At the same time, the transformation brought an increase in mental disabilities and in the numbers of younger pensioners. In the absence of effective programs of vocational rehabilitation, these developments will place an increasingly

heavy burden on state budgets and leave those pensioners who might return to productive lives needlessly segregated and dependent.

This comparative analysis of disability pension reforms in the Czech Republic, Estonia, and Poland – together with the individual country studies and the account of recent reforms in Western Europe – aims to give greater visibility to these problems and to encourage policy makers and their social partners to turn attention and resources to their solution.

The three countries initiated the shift from planned to market economies with significant differences in the size of their disability pension schemes relative to their populations, as well as in their expenditure levels. Still, their reforms include elements that address common features of their shared past and reflect the common challenges of transformation. Organized in the same manner as the three national case studies that follow, this comparison will focus on: characteristics of the pretransition disability schemes; the impact of the early years of transition on these schemes; the reforms undertaken; and early results, where available. The final section identifies unaddressed issues and possible areas for further reform.

2. Characteristics of Pretransition Disability Pension Schemes

The notions of disability that prevailed in socialist Czechoslovakia, Estonia, and Poland relied heavily on medical characterizations of claimants' impairments. Medical boards were charged with determining eligibility for disability pensions, and they looked predominantly to clinical signs, symptoms, and diagnoses to reach their determinations. They gave little consideration to the actual restrictions on a claimant's ability to perform particular tasks, potential for developing new skills, or likelihood of returning to work in regular (unsheltered) employment.[1] At the same time, in the absence of precise regulations to guide them, the boards' determinations lacked reliability and

[1] In addition, as will be shown, the regimes did not do much to adapt general environments to make them accessible to people with disabilities, a further impediment to mainstream employment.

consistency, and were perceived as allowing awards of disability status to claimants able in fact to work. This perception was strengthened no doubt by a general tendency on the part of the boards to view claimants with sympathy (see Leppik, section 2.5; Biskup and Kotrusová, section 1.2; and Wóycicka *et al.*, section 2.1.1, this volume).

Benefit levels reflected previous wages and years of employment, within upper and lower limits that made the schemes redistributive toward low-income workers.[2] In addition, benefits varied according to the severity of disability in all three countries. In Czechoslovakia, there were two categories, full and partial disability, as well as three broad job classifications reflecting the degree of risk of injury or illness.[3] In Estonia, there were three categories i.e., high, medium, and low, with corresponding benefit levels. In Poland, there were also three categories: full disability for those who needed assistance in activities of daily living, full disability for those who could live alone, and partial disability.

Wage replacement rates differed significantly across the three countries. In Czechoslovakia during the 1980s, the average disability pension ranged from 52 to 60 percent of the average wage, and the maximum benefit could reach 95 percent (see Biskup and Kotrusová, section 1.2 and Chart 7, this volume). In Estonia during the same period, the maximum benefit was 60–70 percent of the average wage and the minimum (for a mild disability), about 10 percent (see Leppik, Tables 2 and 3 and following text, this volume). In Poland from 1980 to 1988 the average benefit fluctuated between 41 to 51 percent of the average wage (see Wóycicka *et al.*, Table 2, this volume).

With wages and prices controlled in principle, the regimes did not make routine adjustments in pension benefit levels to take account of changes in the cost of living. In Czechoslovakia and Poland, inflation nevertheless eroded pensioners' purchasing power to the particular disadvantage of those who

[2] This was of course not a unique feature of CEE disability schemes. It occurs on a number of OECD schemes as well.

[3] In addition, there were personal pensions for members of the communist party. Both forms of privileges were eliminated from the Czechoslovak pension system in the early 1990s (1990 and 1992, respectively) making Czechoslovakia one of the first transition countries to take such action.

had been on the rolls for long periods (see Biskup and Kotrusová, section 1.1; and Wóycicka *et al.*, section 2.1.2.1, this volume).

Guided by a view of disability as medical impairment pertaining to the individual, none of the regimes did much to adapt general environments to make them accessible to people with disabilities. Rather their approach was to provide sheltered employment. In Estonia, nearly 30 percent of all pensioners were employed in supported work environments; in Poland, the figure was about ten percent; and in Czechoslovakia, about five percent.[4] Jobs were generally organized in workshops or cooperatives, often for people with similar types of disabilities and frequently in residential institutions. Thus, people with disabilities were, to considerable extent, segregated from mainstream employment.

Despite these similarities, at the outset of the transition the three schemes showed major differences in terms of both the relative size of their pensioner populations and their expenditures. In Estonia disability pensioners were 2.5 percent of the population; in Czechoslovakia, 4.2 percent; and in Poland, 5.5 percent.[5] Spending as a percentage of GDP ranged from less than 0.5 percent (Estonia) to 1.5 percent (Czechoslovakia) to 2.2 percent (Poland) (see Table 1).[6] The countries represented (and continue to represent) a high, medium, and low on the spectrum of disability spending.[7]

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[4] In Poland, 200,000 disabled workers were employed in state-supported cooperatives; in the Czech Republic, there were 21,000 such placements; and in Estonia, there were about 11,000 (see Wóycicka *et al.*, section 2.1.2.2; Biskup and Kotrusová, Table 7; and Leppik, section 1.2, this volume).

[5] All three countries continued to pay disability pensions to individuals who reached retirement age, so these figures include elderly as well as working age disabled.

[6] The figure for Estonia is an estimate, as no data is available for the years immediately preceding 1992. The 1992 figure was 0.5 percent of GDP, and Leppik estimates that spending in the years preceding this was probably modestly lower.

[7] Poland's spending rate is high not only in relation to the other two countries but also in comparison to all of Central and Western Europe, while Estonia has low expenditures by international standards, falling in relative terms below all countries in the European Union except Ireland. Even when those of retirement age are subtracted out, Poland's rate by international standards is still high (see Wóycicka *et al.*, Appendix Table A1; and Leppik, section 2.5, this volume).

Table 1
Disability pensioners and disability pension expenditures
(Poland, Czechoslovakia, and Estonia, 1988, 1989)

Country	Disability pensioners	Population	Disability pensioners (% of pop.)	Disability pensions (% of GDP)
Poland, 1988	2,100,000[8]	38,000,000	5.5	2.2
Czech., 1989	420,000	10,000,000	4.2	1.5
Estonia, 1989	40,700	1,570,000	2.6	< 0.5

Sources: Wóycicka *et al.*; Biskup and Kotrusová; and Leppik; sections 1, this volume; and ILO labour statistics (http://laborsta.ilo.org).

3. Early Transition Years

The early years of transition saw two important changes: (a) a sharp increase in disability pension expenditures, and (b) a substantial loss of supported employment.

a. Increased disability spending. In all three countries, the shift from a planned to a market economy was accompanied by expression of, and attention to, pent-up pressures for improvements in social security benefits, including both old-age and disability pensions. The Czechoslovak government's *Scenario on Economic Reform* (June 1990) highlighted this as a key area for action:

> … the social security system in the previous regime led to the slow pauperization of pensioners due to the growing difference between wages and pension benefits, which were close to the poverty line. One of the consequences of the socialist social security system was the growing discrepancy between pension benefits awarded in different periods (quoted in Biskup and Kotrusová, section 2, this volume).

Using an administrative decree in order to move quickly, the new Czechoslovak government required that disability and old-age pensions be

[8] In addition, 370,000 Polish farmers received disability pensions.

increased whenever the consumer price index rose by ten percent.[9] The Polish government required that all pensions be recalculated using a new formula and established automatic indexing that fully reflected wage increases. As a result, the average disability pension rose from 45 to 55 percent of the average wage in the two-year period 1989–1991 (see Wóycicka *et al.*, Chart 2, this volume). In Estonia, even before the break-up of the Soviet Union, the government withdrew from the Soviet pension system and started work on a new law to raise old-age and disability pension levels and liberalize eligibility criteria (1990). However, runaway inflation (1,100 percent in 1991) caused the Parliament to suspend this law quickly in favor of temporary flat-rate disability pensions. This emergency measure remained in effect for seven years, during which the pensions were increased on an ad hoc basis by relatively generous amounts. Leppik calculates that for the first and second group of disabilities (i.e., the most severe impairments), pensions in the first half of the 1990s rose in magnitude by more than did the minimum wage; and those of the most severely disabled increased by nearly 20 percent in real terms. (See Wóycicka *et al.*, Appendix Table A6; Leppik, Chart 5 and Tables 10 and 13; and Biskup and Kotrusová, Table 6 and Chart 7, and following text, this volume.)

(It is important to note that at the beginning of the 1990s, real wages and GDP were falling in these countries. Thus, while the indexing of pensions provided relative protection, it did not necessarily prevent a fall in the real value of pensions.)

Unemployment also induced people with minor disabilities to seek pensions in greater numbers. With imprecise eligibility criteria in effect, the acceptance rates of new claimants were high.[10] The transition also saw increases in pension

[9] As noted previously, it also moved quickly in the early years to remove all the socialist pension privileges from its pension system, including the three risk categories for disability benefits.

[10] In Estonia, additional contributing factors included a liberalization of benefits (i.e., eliminating the qualification period), a shortened period of sick pay, and an increase in the retirement age (Leppik, section 2.5, this volume). In the Czech Republic, increasing scheme costs were also driven by increasing life expectancy, which resulted in disabled pensioners continuing to receive benefits for longer periods. This was possible since Czech law allows those found eligible for a disability pension before retirement age to continue to receive it after retirement age (Biskup and Kotrusová, section 3.2, this volume).

claims based on mental illnesses and in those made by younger workers.[11] Poland and Estonia experienced the sharpest growth in pensioners, roughly 30 percent in each country in the last half of the decade.[12] In the Czech Republic, where unemployment in the early 1990s was lower than in most other CEE countries (3 percent), the number of pensioners increased overall by 12 percent, with recipients of full disability pensions rising by 20 percent and those with partial disability falling by 10 percent (see Biskup and Kotrusová, Table 5 and preceding text, this volume).[13]

Table 2
Disability pensioners and disability pension expenditures, 1990 and 1995

Country	Disability pensioners			Expenditures on disability pensions (in percentage of GDP)	
	1990	1995	Growth	1990	1995
Poland	2,600,000	3,400,000	31%	2.60	4.30
Czech.	429,000	480,000	12%	1.31	1.45
Estonia	40,500	53,000	31%	< 0.50	0.80

Sources: Wóycicka *et al.*, Appendix Table A5; Leppik, Chart 2; and Biskup and Kotrusová, Table 5, this volume.

The combination of benefit increases and larger numbers of pensioners caused expenditures to rise significantly. During 1990–1995, Poland and Estonia experienced increases in expenditures in the range of 65 percent, in Poland, from 2.6 to 4.3 percent of GDP and in Estonia, from less than 0.5 percent

[11] In Estonia, the number of mental disorders increased 6.5-fold between 1990 and 1999 (Leppik, section 2.5, this volume). In Poland, the portion of pensioners who were disabled by mental diseases and psychoneurosis rose from 8 percent to 11.7 between 1990 and 1995 (Wóycicka *et al.*, Table 4, this volume). No figures are available for the Czech Republic.

[12] In Poland, between 1990 and 1995, the number rose from 2.6 to 3.4 million (Wóycicka *et al.*, Appendix Table A5, this volume). In Estonia, the increase was from 40,500 to 53,000 (Leppik, Chart 2, this volume).

[13] The disproportionate number of full disability pensions was an extension of an earlier trend.

to 0.8 percent. In the Czech Republic where unemployment was lower, the rise was less pronounced, from 1.31 to 1.45 percent of GDP. (See Wóycicka *et al.*, Appendix Table A6; Leppik, Table 13; and Biskup and Kotrusová, Table 6, this volume.)

b. Declining sheltered employment. While disability pension spending increased, the sheltered employment that had been established by the previous governments essentially disappeared. Several related factors are responsible: a withdrawal of state subsidies for these enterprises; a drop in demand for their products as many of their customer firms closed their own doors; and their general lack of competitiveness, due in part to their disabled workers' lower education, skills, and productivity (see Biskup and Kotrusová, section 2.3; and Wóycicka *et al.*, Figures 11 and 12, both in this volume). In Poland, employment in special cooperatives for the disabled fell from 200,000 to 80,000 in a single year, 1990 (see Wóycicka *et al.*, section 2.1.2.2, this volume). In Czechoslovakia (and subsequently the Czech Republic), the closure and downsizing of manufacturing cooperatives caused a drop of roughly 60 percent in their disabled employees (see Biskup and Kotrusová, Table 7, this volume).[14] The loss of sheltered employment was also substantial in Estonia though no statistics are available.

Two of the governments made early efforts to compensate for these losses. In 1991, Czechoslovakia and Poland both passed laws setting employment quotas which applied to all except the smallest firms in the economy, thereby mandating that their work forces include a certain fraction of persons with disabilities.[15] In Czechoslovakia, the quota was 4.5 percent of a covered firm's work force, plus 0.5 percent with a severe disability, for a total of five

[14] The number of disabled employees decreased from approximately 13,000 to 5,000. Among the severely disabled, the loss was roughly 65 percent, from approximately 3,000 to 1,000.

[15] In Poland, the quota applied to firms with 50 or more employees, in Czechoslovakia they applied to those with more than 20.

percent.[16] In Poland, the quota was six percent of each covered firm's employees (see Wóycicka *et al.*, section 2.1.2.2; and Biskup and Kotrusová, section 2.3, this volume). The Czechoslovak law, however, contained no penalties for failure to comply. (Penalties were provided eight years later in a 1999 amendment to the act.) In Poland, the penalty was 40.65 percent of the average wage for each disabled employee the company had failed to hire. The proceeds were deposited in a state fund used to finance rehabilitation and employment. At the same time, a new type of supported employment was authorized, the Supported Work Establishment, or SWE, which provided less segregation of the disabled than the previous cooperatives.[17] These new SWEs were major recipients of funds from the quota/levy system.

Later in 1990s, the Estonian government, while rejecting quotas as an alternative, nonetheless took action to encourage private employment of persons with disabilities. With the support of major disability advocacy groups, it established instead two incentives for employers to hire disabled workers: (1) a direct subsidy during the first year of employment; and (2) payment of a portion of the employer's social tax on behalf of that person (see Leppik, section 3.7, this volume). The extent of support provided by both measures is modest.[18]

[16] In addition, the Czechoslovak government sought to promote employment of disabled persons through active labour market measures – e.g., subsidized jobs in the private and public sector and new sheltered employment – as well as through new legal protections – e.g., a prohibition against fixed-term employment of persons with disabilities, trial work periods, and termination without prior notice to the local labour office.

[17] Specifically, supported work establishments, or SWEs, were required to have at least 40 percent disabled workers and at least 10 percent with medium or high levels of disability, whereas the previous cooperatives were exclusively for the disabled (see Wóycicka *et al.*, section 2.1.2.2, this volume).

[18] The subsidy is equal to the minimum wage for the first six months and half this wage for the remaining six months. The social tax is 33 percent of wages, of which the state pays all on the first 700 EEK. The minimum wage is 1,850 EEK (2002).

4. Disability Pension Reforms in the Second Half of the 1990s

In the mid-1990s when their economies had gained a measure of stability, all three governments passed disability reform legislation. The intended thrust of the reforms was to contain rising costs and revamp eligibility procedures so that they better capture genuine cases of inability to work. The common core of these laws was to (1) sharpen standards and increase the consistency of decision making; and (2) emphasize the replacement of lost earnings as the central function of the disability schemes by removing certain social welfare elements. In addition, each reform included distinctive features that reflected or addressed particular national conditions. The reforms were passed incrementally in all three countries. The Czech Republic and Poland took action in 1995 and 1997, Estonia in 1998, 1999, and 2000.

a. Sharpening eligibility standards. All three governments responded to perceptions that eligibility standards for disability pensions were 'soft' and 'unobjective' by giving increased attention to the functional dimensions of disability. No longer was it sufficient to diagnose individual medical impairments; it was now necessary to determine as well whether an inability to function actually exists. This is a major shift in perspective, and it has proven difficult to achieve in all three countries. Still, it indicated a new policy intention to link disability evaluation to a claimant's ability, or lack thereof, to cope with the actual requirements of a job.

In Estonia, invalidity pensions were replaced by work incapacity pensions which, unlike the former, were supposed to take account of the pensioner's residual abilities. In the Czech Republic, disability was redefined as a decline in earning capacity and, correspondingly, a new evaluation procedure measured loss of work capacity as a percentage. In Poland, the disability pension, now renamed the inability-to-work pension to stress its linkage with functional capacity, was available only to those with a demonstrated functional loss.[19]

[19] A functional eligibility criterion had existed in the Polish system before 1997. However, ZUS physicians looked mainly at a person's state of health rather than at his or her actual degree of inability to work. After the 1997 reform, the functional criteria became the decisive factor.

The Polish reforms also shifted responsibility for eligibility determinations from medical boards to individual doctors, centralized their supervision, and established new requirements for their education and training.[20] It authorized a publicity campaign by the social security institution, ZUS, against physicians who improperly issued certificates supporting sickness absences, some of which were used as a basis for disability claims. (See Biskup and Kotrusová; Leppik; and Wóycicka *et al.*, sections 3, this volume.)

In Estonia and Poland, the shift in definition was accompanied by a reduction from three categories of disability to two and by major initiatives to reclassify current pensioners in these new terms. In Estonia, this reclassification also shifted disabled pensioners who had reached retirement age to retirement pensions.[21]

b. Emphasis on income replacement. The second objective common to all three countries was to narrow the policy purpose of the disability pension scheme to the replacement of disability-related loss of income. In each country, this involved reassigning social welfare functions to other agencies or programs. In Estonia, the government sought to make the disability pension formula reflect cumulative contributions more closely and, at the same time, created a new scheme of social benefits to compensate people with disabilities for certain extra costs (e.g., specialized transportation, adaptive technology, personal care services). The Czech reform eliminated pension supplements that had been provided to address special disability-related needs.[22] (However, these continue to be paid under the preexisting act, which will remain in force

[20] Specifically the law required that medical experts be specialists. Preference is given to those with expertise in internal diseases, surgery, neurosurgery, psychiatry, labour medicine, and social medicine. They also had to be trained in subjects decided by the chief physician of ZUS.

[21] In the other two countries, persons who are awarded disability pensions before retirement may continue to receive them indefinitely, so long as they continue to be disabled; and disabled persons coming onto the rolls who are eligible for both a disability and an old-age benefit are paid whichever is most advantageous.

[22] In addition, the government promoted a wide range of social services for the disabled and prepared legislation creating a voucher system that would enable them to choose their own provider (not yet introduced).

alongside the new law through 2005. It is anticipated that these supplements will eventually be provided by the social assistance system.) In Poland, the 1997 reform separated the task of making eligibility determinations for disability pensions from that for other disability-related services and benefits. Responsibility for the latter was shifted from ZUS to new Committees for Disability Certification set up under the supervision of the Government Plenipotentiary for Disabled Persons. (See Biskup and Kotrusová; Leppik; and Wóycicka *et al.*, sections 3, this volume.)

c. Distinctive elements. Each reform also included elements that were responsive to distinctive national conditions. Poland, the country with the highest ratios of pensioners and expenditures, adopted several cost-control measures. Most important of these was a shift of the basis for indexing pensions from wages to prices, a change that applied in the old-age and disability schemes alike. If real wages increase in the future as projected, pensions will drop progressively below wages, and although pensioners will be protected from inflation, they will not enjoy the increase in standards of living that the employed will experience. The Polish reforms also made it easier for ZUS to terminate pension eligibility. In a major reversal of due process, they eliminated the right to an administrative appeal in cases where a worker is denied a benefit (although the right of judicial appeal was retained), as well as the requirement that ZUS provide notification before terminating payment of certain temporary pensions. To encourage higher levels of rehabilitation and return to work, a new training pension was created which pays a higher benefit for a limited time period. ZUS was also given broader authority to pay for medical rehabilitation for disabled pensioners.

The Estonian reform was distinctive in its initial effort to base disability pensions much more closely on workers' accumulated contributions. This reform was developed simultaneously with a major old-age pension reform with the same objective and would have paid generally smaller benefits to workers who become disabled early in their careers. As this proposal was debated, tensions between the competing goals of relating benefits more closely to contributions on the one hand and ensuring benefit adequacy on the other led to multiple amendments. Parliamentarians' concerns that the proposed formula would result in inadequate pensions for young disabled

workers led them to add guarantees to the legislation. Later in the debate, it was shown that linking benefit levels to contributions would lead to reduced pensions for almost everyone. More guarantees were added, and a floor was established below which pensions could not fall. It was necessary to set this floor at such a high level that over half the pensioners receive the same benefit amount. Thus, the goal of benefit adequacy prevailed over the competing goal of relating benefits closely to accumulated contributions. The latter was achieved only for those with relatively high incomes.

The Czech reforms contained fewer additional provisions than in the other two national reforms, perhaps because the Czechoslovak scheme experienced less severe financial strains in the early 1990s and because the government had enacted more major changes than the other two during that period.[23] Beyond changing the definition of disability and the eligibility determination process to emphasize claimants' functional capacity (as described above), the reforms restricted the earnings of pensioners with partial disabilities (see Biskup and Kotrusová, section 3.3, this volume). The rule was a logical extension of the new notion that pension levels should be set to compensate for lost earning capacity.

5. Initial Impact of Reforms

In the wake of their reforms, the three countries have seen changes in the rates of allowances of new disability pensions, in the numbers of pensioners, and in pension expenditures. During 1996–2000, the number of new allowances declined in two of the three countries, in the Czech Republic, by 20 percent and in Poland, by nearly a third.[24] As Table 3 shows, the Czech reforms also helped to redress the previous imbalance between full and partial pensions. As for expenditures, Poland experienced a drop from 4.2 to 3.8 percent of GDP, due primarily to the tightening of the cost-of-living adjustment in

[23] As noted earlier, the three categories of risk were eliminated as were personal pensions, placing all workers on an equal basis in the scheme.

[24] In Poland, the trend was volatile. The yearly allowance rates were 154,800 in 1997, 141,100 in 1998, 152,800 in 1999, and 102,400 in 2000 (see Wóycicka *et al.*, Appendix Table A4, this volume).

pensions. In the Czech Republic, on the other hand, expenditures rose, from 1.45 to 1.75 percent of GDP (see Table 4). Biskup and Kotrusová attribute this rise largely to greater longevity among pensioners. (Longevity increases have a direct impact on expenditures in the Czech Republic since, as previously noted, disability pensions awarded before retirement age can be paid until a pensioner's death.[25]) In Estonia, the recency of the reforms (1998–2000) precludes meaningful assessment of their impact. What can be said, however, is that the initial reclassification of pensioners into the new categories established by the reform resulted in a net reduction of some 2000, or roughly 3 percent (see Leppik, section 3.8, this volume).

Table 3
Newly awarded disability pensions: 1990, 1996, and latest year

Country	1990	1996	Latest year
Czech.	38,000	50,000	40,000 (2000)
(Full)	(23,000)	(23,000)	(17,500)
(Partial)	(15,000)	(27,000)	(22,500)
Estonia	5,600	9,300	11,600 (1999)
Poland	241,400	151,600	102,400 (2000)

Sources: Biskup and Kotrusová, Chart 5; Leppik, Table 9; and Wóycicka *et al.*, Appendix Table A4, this volume.

Table 4
Disability pension expenditures as a percentage of GDP: 1990, 1995, and 2000

Country	1990	1995	2000
Poland	2.60	4.30	3.80
Czech.	1.31	1.45	1.75
Estonia	< 0.50	0.80	1.10

Sources: Wóycicka *et al.*, Appendix Table A6; Leppik, Table 13; and Biskup and Kotrusová, Tables 6 and 11, this volume.

[25] See Biskup and Kotrusová, section 3.2, this volume.

The reforms have not, however, improved the return of disabled pensioners to work. In Poland during 1998–2000, ZUS awarded the new training pension to less than one half of one percent of all new pensioners.[26] Meanwhile Poland was experiencing a huge 40 percent drop in the number of disabled people in regular (non-sheltered) employment.[27] The sources of this drop are surely multiple, but it reflects in part the ineffectiveness of ZUS rehabilitation efforts, of the quota/levy system, and of the training and employment programs that the levy supports (see Wóycicka *et al.*, sections 3.2.11–14).[28]

A similarly discouraging picture exists in the Czech Republic and Estonia. In the former, the inactivity level among the severely disabled rose roughly ten percent during 1990–1995, from 71 to 79 percent. The fraction of this same severely disabled population that was actually working fell by almost 40 percent, from 25.2 percent to 15.4 (see Biskup and Kotrusová, Table 13, this volume).[29] Caveats similar to those that apply in the Polish case apply here as well. Still, it is instructive that neither the increase in the general demand for labour in the Czech Republic at the close of the 1990s nor the amendment to the quota law providing penalties for noncompliance succeeded in raising the employment rate of the disabled. In Estonia, at the beginning of 2001, the employment of disabled pensioners stood at about ten percent, roughly one-third of the rate in the late 1980s at the end of the socialist period (see Leppik, sections 1.2 and 3.8, this volume).

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[26] Wóycicka *et al.* suggest that this result may be due to the limited duration of the pension, to an acute shortage of jobs for people with disabilities, or to financial work disincentives arising from the high level of the regular pension in comparison with the wages a person with a disability can expect.

[27] This drop occurred during 1995–2000.

[28] The proceeds from the levy are used by the State Fund for Vocational Rehabilitation (PFRON) for various forms of vocational rehabilitation and employment of persons with disabilities.

[29] In the Czech Republic, the measurement of employment among pensioners is complicated by two factors: (i) the use of significantly different definitions of disability in the labour force surveys and programs compared to the pension scheme, and (ii) a drop in the numbers of people who consider themselves disabled for purposes of the former, attributed by the study to a reluctance on the part of employers to hire persons with disabilities (see Biskup and Kotrusová, section 3.4, this volume).

6. Conclusion

As the studies show, the new governments of the Czech Republic, Estonia, and Poland inherited pension schemes from the socialist period that emphasized the medical aspects of disability in contrast to its functional dimensions. These schemes also had in common imprecise eligibility standards that gave rise to unwanted variation in the evaluation of disability. They did not encourage vocational rehabilitation aimed at enabling pensioners to return to or remain in non-sheltered employment. In the early years of transition, these conditions caused pension expenditures to rise as workers with minor disabilities facing unemployment used the schemes for economic refuge. (With lower unemployment, the Czech Republic experienced this trend to a lesser degree.) In addition, the new governments' efforts to compensate for the effects of past inflation on pensions and to improve pension levels drove up costs further. As their economies became more stable in the mid-1990s, all three governments passed disability reform legislation. Generally limited in scope, these reforms aimed at recasting eligibility standards to make them more relevant and precise, reducing costs, and removing social welfare benefits (including services) seen as unrelated to replacement of income lost through disability. Although the reforms have had some impact in reducing the rate of new pension allowances and, in Poland, in reducing expenditure levels, they have had no discernible effect in encouraging rehabilitation of pensioners and their return to work.

The latter result is not altogether surprising since vocational rehabilitation was not an explicit objective of the reforms in two of the three countries. Only the Polish reforms contain provisions that target this goal directly, and these measures, while positive and useful, fall short of addressing the full range of factors that influence a disabled pensioner's decision to try to return to employment. Most notably, they do not attempt to make work a financially attractive alternative to benefit status. In the absence of such reform, pensioners with some residual work capacity but low skills (and thus low earning power) have little incentive to seek employment (see Wóycicka *et al.*, Table 6, this volume). Neither do they give pensioners the work incentive

of a clear and sure road back to benefit status in the event that their effort to resume work fails.[30]

Moreover, disincentives to vocational rehabilitation within the pension schemes are reinforced by barriers of the larger environments of the three countries. Educational systems still serve the disabled less well than other citizens and equip them with lower levels of education and skill (see Wóycicka *et al.*, Chart 11; and Biskup and Kotrusová, Charts 3 and 4, this volume). Modern systems of vocational rehabilitation are still under development. In recent years, significant advances have been made in community-based rehabilitation and social services supporting greater independence of persons with disabilities, but this too is still a developing area. Public education campaigns to change the attitudes of employers or the general public, though increasing, are still a relatively recent phenomenon, as are civil rights laws prohibiting employment discrimination and or promoting equal opportunities.[31]

Together these conditions can constitute an agenda for action in the countries studied here and in others that have made limited progress in disability reform. Clearly this agenda reaches beyond pension reform alone. Yet pension reform is an essential component needed to promote and reinforce progress on other fronts, and it can serve as an engine for change in vocational rehabilitation, creating incentives for pensioners to use their full remaining potential and, through payment and reimbursement mechanisms, encourage more relevant and cost-effective types of rehabilitation services.

For several reasons the need for action on these issues is of some urgency. First, the tightening of eligibility standards will, in all likelihood, yield further cost savings for disability pension schemes. At the same time, however, it

[30] In addition, only the Estonian reforms required that disability pensioners who reach retirement age be shifted from disability to old-age status. The continuing mix of pensioners of working and retirement ages on the disability pension rolls in the other two countries complicates the task of devising work incentives for disabled pensioners of working age.

[31] One recent effort is the Phare Consensus project on prevention of social exclusion of disabled persons (1999–2000). The project focused in particular on increasing employment of disabled persons and included a public awareness campaign.

will force some workers with disabilities into other public programs whose costs will necessarily increase as a result. Apparent savings in one area will translate into increased costs elsewhere. Second, unemployment and withdrawal from the work force are increasing among the disabled in all three countries. Even the economic upturn in the Czech Republic in the late 1990s did not reverse this trend. In the absence of vigorous measures to enable those disabled who can do so to resume gainful employment, increasing numbers will come to depend exclusively on public pensions. Furthermore, in coming years all the countries of Central Europe will experience population aging. This aging will increase the numbers of older workers with mild or moderate health problems who seek disability pensions. It is necessary to prepare for this phenomenon by putting in place measures that encourage and enable workers with residual capacities to use them.

A good starting point for devising such measures is the experience of countries that have been waging a battle against rising disability pension costs for a number of years. In the final chapter of this volume, Ilene Zeitzer describes such experiences in three EU countries: the Netherlands, Sweden, and the United Kingdom. Her analysis shows that they have enacted a range of reforms, including increased individual employer liability for sickness benefits; tax incentives to make work by disabled pensioners more profitable for them; job coaches to provide practical and moral support for disabled persons reentering the labour market; financial subsidies for adaptation of workplaces; new protections against discrimination by employers; and supportive measures to keep workers with disabilities in their jobs and off the disability pension rolls. Drawing on these experiences, Zeitzer formulates a number of general recommendations for such efforts. Reforms should: (1) build large-scale policy changes on small-scale experimentation; (2) coordinate additional policy tools with pension reform, including public education, new employment policies, and civil rights protections; (3) make work pay for pensioners by bringing to bear a range of supports that reward those who make the effort, including tax incentives, social services, personal assistants, and help with child care and housing; (4) involve the disabled directly in the formulation of pension and other reforms, both as a matter of fairness and in order to shape effective policies most likely to enable them to overcome the barriers they face; and (5) cast government in the leading role through

affirmative hiring policies that both provide employment and put people with disabilities in positions of prominence that defeat negative public stereotypes.

Recognizing that there is as yet no proven recipe for success in decreasing dependence on disability pensions, we offer these country experiences and the accompanying recommendations not as models to be emulated but as inputs to policy deliberations. The key challenge facing reformers in Central Europe will be to sift what is useful from the experience of other countries and, using it, shape their own distinctive national approaches.

Disability Protection in the Czech Republic

Jiří Biskup, Miriam Kotrusová[1]

Introduction

The current social security system in the Czech Republic has three main elements:

- social insurance;
- state social support (family benefits); and
- social assistance.

All three elements provide some benefits for people with disabilities.

Although this system has changed since the economic and political transformation began in 1989, none of the reforms has been fundamental. Rather, the old systems have been adapted incrementally to meet new needs and priorities arising from changing societal conditions (e.g., unified entitlement for benefits, increased levels of payments, and broadening the range of services and advantages provided) (Haberlová and Biskup, 2000).

The socialist system of social security operated on the principle of 'from sickness to disability' rather than the current expert view of 'from sickness (disability) to employment'. Post-1989 governments have not made any marked changes in this philosophy. They have continued to provide persons with disabilities with a range of benefits, tax relief, and special programs rather than focusing on helping persons with disabilities back into the labour market. This perspective is supported by the poorly developed state of vocational rehabilitation in the Czech Republic. The strong focus on provision of benefits coupled with weak provision for vocational rehabilitation has tended to encourage persons with disabilities to think of benefits as compensation for

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their physical or mental impairments rather than as an income supplement provided to 'top up' their earnings from employment (Socioklub, 2001).

A range of labour market programs aimed at encouraging the employment of disabled people was introduced in the 1990s, including tax relief, financial incentives provided to employers, special provisions in the labour code and mandatory quotas. These aimed to address the worsening employment situation amongst disabled people. However, these changes were not successful in preventing increasing unemployment in this population.

There are two main reasons why people with disabilities leave the open labour market: on the one hand, the overall macro-economic situation and, on the other, the somewhat weak employment incentive created by existing social benefits.

In the Czech Republic, various government programs for persons with disabilities – i.e. social insurance (pension insurance, sickness insurance), state social support (family benefits), social assistance, labour market policy, tax advantages, free or subsidized transport, and so on – provide a wide range of different direct and indirect benefits. These systems employ different definitions of disability because they deal with different social situations and compensate for different consequences of disability. For example:

1. in the pension insurance system, disability is defined as a *reduction in earning ability*;
2. state social support defines *degrees of disability* and their impact on the quality of life; and
3. labour market policy employs a completely different definition: a person with *'altered capacity for work'*.

According to the Employment Act a citizen with 'altered capacity for work' is a person who has substantially limited working potential or preparation for work (education). Beneficiaries of disability pensions who are still potentially employable are also considered to have 'altered capacity for work'.[2]

[2] In this study we will employ the term 'person with disability' *vis-à-vis* the disability pension system as well as labour market policy for easier understanding.

As a result of these differing definitions, eligibility for benefits or services often overlaps and a disabled person's needs might be addressed by more than one social sub-system. This often leads to a chain of claims for multiple social benefits and services. Similarly, a duplication of roles often occurs within the management of relevant state authorities, with one authority evaluating disability, another ruling on status stemming from the evaluation, and yet another finally deciding on the provision of social benefits or services.

The lack of a uniform definition of the concept of 'citizen with a disability' in the present system of social security creates problems concerning the consistency and reliability of data. Disability pensioners form a somewhat different group of people from those with 'altered capacity for work'. Representatives of organizations for disabled people as well as local labour office staff have repeatedly warned that the present treatment of persons with disabilities as people with 'altered capacity for work' is a misclassification which does not correspond to reality.

Many people with relatively light disabilities are able to obtain 'altered capacity for work' status relatively easily and subsequently apply for social assistance or special treatment. As a result, labour office staff pay greater attention to lightly disabled people (registered as unemployed) than to those with severe handicaps who have greater needs.

A major barrier to analyzing social security for persons with disabilities is a lack of statistical information on their social and economic situation in areas such as earnings, housing, education, equal rights, access to different social assistance, and so on. Therefore, we are, for example, unable to analyze survey data on households in which at least one member is disabled, since such research has not yet been carried out.[3] In the absence of such information, we have to rely solely on data from the social security system and the labour market programs, while recognizing that the groups of people served by these two programs are not necessarily the same.

[3] In October 2001, Socioklub published its study "An Analysis of the Social and Economic Situation of Disabled People". This study is, however, based on already existing research and data sources, so did not introduce any new inputs into this area.

1. The Legacy: Persons with Disabilities before 1989

The Velvet Revolution of November 1989 heralded a new era of democracy in the then Czechoslovakia. The first democratic government since 1948 inherited a social security system financed through the state budget which has been described as very expensive, over-generous and often ineffective, with 'soft' entitlement criteria (e.g. a relatively low retirement age) and a large number of beneficiaries (Tomeš, 1996). Tomeš also notes that two social benefits subsystems existed in Czechoslovakia and most other socialist countries, one for those in employment and another for those who were allowed not to work, i.e. people with severe disabilities.

1.1. The History of Disability Insurance

The history of disability insurance in Czechoslovakia dates back to the 1920s. The first insurance legislation introduced in the first (inter-war) Czechoslovak Republic established a highly selective Bismarckian system which accorded privileged status to certain groups of workers, for example, miners, who were entitled to higher levels of disability or old-age pension.[4]

The immediate post-war Beneš government passed the National Insurance Act of 1948, which introduced elements of the Beveridge model. It provided similar entitlement criteria to pension insurance for all workers and abolished the privileges of miners. The level of the disability pension was also the same for all and was identical to that of the old-age pension. *A person was entitled to a disability pension if, due to long-term ill health (at least one year), his earnings had substantially decreased.* A substantial fall in earnings was defined as a decrease of more than half. The main entitlement criterion was an employment record of four years in the five-year period before the onset of disability. If disability was caused by a work accident, such employment conditions did not have to be fulfilled.

When the Communist Party came to power, the newly established National Insurance Company was abolished, and with it the insurance principle in social

[4] If they had worked underground for a long period of time, miners also enjoyed a lower retirement age.

security, since benefits then began to be financed through general taxation. Entitlement criteria were changed in 1956 so that those of different ages were subject to different requirements for years of work. In addition, the new legislation defined three work categories with differing degrees of risk of workplace injuries or occupational illnesses:

- the *first category*, for those types of work involving a very high degree of risk or injury or occupational diseases, e.g. miners, airline personnel, merchant seamen, and employees of nuclear power stations. These employees were eligible for a higher amount of disability pension and their compulsory employment period was shorter;
- the *second category*, including types of work with a somewhat lower, but still significant, degree of risk, e.g. people coming into contact with potentially dangerous materials; and
- the *third category*, those occupations not belonging to the first or second categories.

Contrary to some popular perceptions of socialist regimes, the coverage of the pension system was by no means universal. According to the preamble to Act No.100 of 1988 on Social Security "all citizens have the right to social security." Yet in reality *preferential treatment* was given to manual workers and certain other groups of employees. Pilots and artists were eligible for a special kind of old-age pension depending on length of service. Personal (old-age) pensions were provided to especially deserving workers, most of them being high-level members of the Communist Party.

Workers who were insured against disability included the following: employees (as opposed to the self-employed), members of agricultural cooperatives, members of manufacturing cooperatives, soldiers, and the police. Self-employed people suffered from discrimination within the pension system, their eligibility criteria being regulated by special legislation. The retirement age for the self-employed was 65 (as opposed to 60 years for male employees and 53–57 for female employees, according to the number of children). In addition, the level of old-age pension was set in absolute figures as opposed to being earnings-related.

According to the 1988 Act, certain special needs were also taken into account; besides the two basic types of disability pensions (full and partial),

a social pension and a supplement to the disability pension due to incapacity were paid. A person was eligible for such a supplement if he or she were in need of assistance by another person. This supplement amounted to CSK 200–600, depending on the level of incapacity.[5] A social pension was awarded to disabled people who reached 65 years of age and whose disability pension was their only income. The amount of social pension differed according to the number of people living in the household and could reach CSK 1,000–1,700.

According to the 1988 Act, a person was considered disabled if, due to a long-term adverse state of health he or she:

- was unable to perform ongoing gainful activity (or able only under very modified working conditions) because it would result in serious damage to health;
- became disabled as a result of a work-related disease, had the necessary employment record, and did not meet the conditions to claim an old-age pension;
- became disabled due to a work accident (no employment record is necessary); or
- had been disabled from youth.[6]

While the employment record necessary for entitlement to a disability pension differed for different age categories, it was, in fact, a very short period of time (up to five years). The period in which the employment record had to be completed was 10 years preceding the onset of disability.

A partial disability pension was awarded to a citizen who was regarded as partially disabled and had been employed for the period of time required to qualify for this pension, or who had become partially disabled as the result of a work accident. A citizen was treated as partially disabled if his or her long-term ill health allowed for continuing previous employment, or other similar work, only under very modified working conditions or allowed for

[5] The average monthly wage in 1988 was CSK 3,095.

[6] According to the 1988 Act, there was an exemption to the necessary employment record for those young people whose disability did not enable them to start work.

performing other, less demanding work, the consequence of which was a substantial reduction in earnings. (According to the law, earnings were considered to have fallen substantially if they decreased by one third.) A citizen was also considered partially disabled in cases where earnings might not have fallen substantially but where activities of daily living had become substantially more difficult to carry out due to disability. (Types of health impairments making daily activities extremely difficult were defined in a special government decree.)

The level of the *partial disability pension* was half that of a full disability pension. Beneficiaries of partial disability pensions were permitted to work, but there was an earnings limit. If a partially disabled person earned more than two thirds of his or her pension, the pension would be terminated. If a person were entitled to both old-age and full or partial disability benefits, the beneficiary could choose his or her benefit.

The amount of (disability) pension depended chiefly on so-called 'working merits':

- length of employment;
- amount of earnings; and
- the work category into which his or her occupation had been classified.

There was a two-tier construction of pension benefits – the amount of disability pension awarded consisted of basic and percentage amounts. They differed according to the work category and the length of employment.[7] The total amount of benefits could reach 90–95 percent of a person's average earnings. The Act also stipulated an absolute maximum and minimum amount of disability pension. The maximum amount was CSK 3,800, 3,250, 2,900, and 2,800 (depending on work category), the minimum being

[7] If a person had been employed for at least 25 years preceding the onset of disability, the basic amount was 60 percent of average monthly earnings for the first work category, 55 percent for the second, and 50 percent for the third. Depending on the length of employment and type of work category, certain percentage increases were awarded, namely two percent (first work category), 1.5 percent (second work category) and one percent (for others) of average monthly earnings for each year in employment.

CSK 550.[8] The level of disability pension awarded due to a work accident was raised by 10 percent.

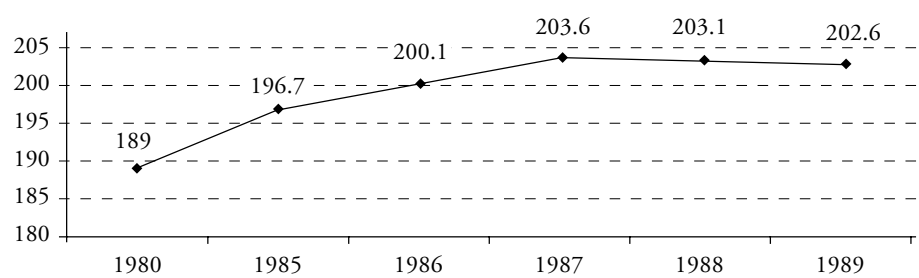
Due to the nature of the socialist economic system, inflation did not exist. Therefore, in theory, there was no reason to raise benefit levels. However, in reality, wages did rise by a small amount annually and since pension benefits were related to previous wages, as time went by, a situation was created where entry pensions were considerably higher than average pensions (Müller, 1999).

Concerning disability pensions, the 1988 Social Security Act was seriously flawed in that it encouraged selective coverage and preferential treatment for certain categories of workers. In addition, it failed to set out objective criteria concerning the evaluation of disability, thereby allowing even greater inequality in the treatment of citizens and leading to an overall increase in disability pensions awarded.

1.2. Profile of Disabled Pensioners in the 1980s

At the beginning of the 1980s, there were 189,000 people with disabilities, 123,000 of whom (65 percent) collected disability pensions, approximately four percent of the total workforce. The number of disabled people rose each year. In 1988 the trend somewhat reversed, and there was a slight decrease in the number of persons with disabilities (see Chart 1).

Chart 1
Number of disabled people in the 1980s (in thousands)



Source: The Ministry of Health.

[8] As mentioned above, the average monthly wage in 1988 was CSK 3,095.

The increase in the number of new full disability pensions awarded during the 1980s was one third larger than the number of partial disability pensions, whereas statistical prediction of normal dispersion would tend to suggest the opposite trend (see Table 1).

Table 1
The number of new disability pensions awarded and total number of disability pensions in the period between 1980 and 1990

Year	Number of new pensions awarded		Total number of pensions	
	Full disability	Partial disability	Full disability	Partial disability
1980	21,150	14,042	294,982	111,064
1985	22,667	14,859	297,001	114,409
1989	22,181	15,376	298,577	121,559

Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–1990.*

As noted, the total number of full and partial disability pensions increased year after year, leading to growth in total expenditure on disability pensions. At the beginning of the 1980s, total expenditure amounted to CSK 5.9 billion (1.42 percent of GDP); by the end of the decade it had risen to CSK 7.8 billion (1.48 percent of GDP) (see Table 2).

Table 2
Total Expenditure on Disability Pensions in the 1980s (CSK billions in current prices, percent of GDP)

Total expenditure on disability pensions	1980	1985	1989
CSK, billions	5.9	7.1	7.8
In percent of GDP	1.42	1.46	1.48

Source: Czech Statistical Office, *Statistical Yearbook, 1995*; Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–1990.*

These trends can be explained by the often somewhat soft and benevolent evaluation of disability by doctors who had no motivation to maintain disability pension expenditure at a low level.

The average amount of (full and partial) disability pension slightly increased in relation to average gross earnings during this period. In 1980 the full disability pension amounted to 52 percent of average earnings for the whole economy, whereas in 1989 it was almost 60 percent. The average level of partial disability pension was 30 percent of average earnings at the beginning of the 1980s and had increased slightly to 31 percent by the end of the decade (see Table 3).

Table 3
Average amount of disability pensions in the 1980s
(in absolute and relative terms)

Amount	1980	1985	1989
Full disability pension			
In CSK, absolute terms	395	1602	1873
In percent of average gross monthly earnings	*52.5*	*54.9*	*59.1*
Partial disability pension			
In CSK, absolute terms	781	914	993
In percent of average gross monthly earnings	*29.4*	*31.3*	*31.3*

Source: Czech Statistical Office, *Statistical Yearbook 1995*; Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–1989.*

The average age at which full disability pensions were awarded was 56 years, while that at which partial disability pensions were awarded was 47 years in the 1980s. The largest number of full disability pensioners was in the over 60 age category, the highest number of partial disability pensioners being in the 40–49 year age category. There were no significant changes in the age structure of disability pensioners during the 1980s (see Table 4).

In the 1980s, disability pensions were awarded to more men than women. 60 percent of full disability pensions were awarded to men and 40 percent to women. A similar pattern can be observed regarding new partial disability

pensions awarded (75 percent were awarded to men and 35 percent to women.) At the end of the 1980s, the situation did not change significantly.

Table 4
The number of disability pensions by age categories during the 1980s (in absolute and relative terms)

Age	1980				1989			
Groups	Full Disability		Partial Disability		Full Disability		Partial Disability	
Up to 19	296	0.1%	107	0.1%	1,343	0.4%	229	0.1%
20–24	1,837	0.6%	1,309	0.1%	5,598	1.9%	1,659	1.4%
25–29	5,575	1.9%	3,424	3.1%	6,973	2.3%	3,152	2.6%
30–39	18,874	6.4%	17,382	15.6%	25,182	8.4%	20,499	16.9%
40–49	33,564	11.4%	**35,675**	**32.1%**	47,192	15.8%	**48,001**	**39.5%**
50–54	40,852	13.8%	29,118	26.2%	35,101	11.7%	26,543	21.8%
55–59	61,949	21%	20,346	18.3%	54,081	18.1%	18,908	15.5%
60 plus	**131,435**	**44.6%**	3,703	3.3%	**81,036**	**27.1%**	2,588	2.1%

Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–1989.*

1.3. Economic Activity of Persons with Disabilities during the 1980s

In socialist Czechoslovakia, all citizens had the right, as well as the obligation, to work – unemployment officially did not exist. Different employment rules, however, applied to citizens whose long-term ill health caused disability. A number of disabled people were able to work under normal or slightly modified working conditions. Disabled people with less severe disabilities, who were capable of working, were employed in sheltered workplaces or in manufacturing cooperatives.[9] The most severely disabled were permitted to withdraw from working. This category was, however, a catch-all for people with various

[9] Manufacturing cooperatives are specially modified workplaces with barrier-free entrances, medical, and work rehabilitation facilities. The proportion of disabled people that these cooperatives have to employ in order to receive state financial support was 60 percent at the beginning of 1990s. In the year 2000, this was reduced to 50 percent.

types of disability, from the most severely disabled to relatively slight impairments (e.g. chronic back pain). This status was often abused since such people were free to work in the illegal economy and to earn untaxed income. That might explain why the number of disabled people rose even though there was no apparent deterioration in the health of the general population. Another reason was the dysfunctional rehabilitation process and relatively generous compensation payments for work accidents or occupational illnesses (see below).

1.4. Rehabilitation

Between 1945 and 1948, rehabilitation in Czechoslovakia expanded rapidly, spurred by the large number of war veterans needing treatment. Ergotherapy, treatment involving work or work rehabilitation aimed at helping people with disabilities to return to the workforce (in Czechoslovakia, to agriculture) quickly became a popular method of treating disability, and a special training center was established to train ergotherapists and physiotherapists. However, this positive development came to a halt after the communist takeover in 1948. In 1951, all physiotherapy departments were, by order, renamed rehabilitation departments. This gave rise to the fundamental error that there is no difference between rehabilitation and physiotherapy and that rehabilitation is a field of medicine dealing chiefly with motor problems and painful symptoms, rather than one concerned with helping disabled people return to the workforce (Pfeifer, 2001).

A further blow to rehabilitation of persons with disabilities came with the closure of the Ministry of Social Affairs by the communist government, the reason being that such a ministry was no longer required in a society which officially had no social problems. This led to a reduction in the provision of rehabilitation and an increasing tendency to treat people with disabilities at health care facilities.

Socialist Czechoslovakia could not, however, entirely ignore the recommendations of international organizations active in the field of social protection for persons with disabilities. Czechoslovakia adopted the ILO Recommendation of 1955 concerning the work rehabilitation of people with disabilities. Consequently, rehabilitation policy began to improve (Pfeifer, 2001). The main problem, however, was that the greatest attention was paid to those with slight

disabilities. People with severe disabilities continued to receive merely passive care in institutions. Overall, it is fair to say that the authorities responsible had little interest in developing a rehabilitation process aimed at returning persons with disabilities to the mainstream workforce and avoiding their isolation in manufacturing cooperatives or sheltered workshops.

1.5. Compensation for Work Accidents or Occupational Illness

During the socialist era, such compensation was the responsibility of the employer. Since practically all firms were state owned, these payments were in fact made by the state. The amount of compensation was generous and often acted as a disincentive to return to employment.[10] Compensation for loss of earnings for the period of incapacity for work and thereafter aimed to make the recipient's total income from benefits (sickness benefit or disability pension) equal to his or her average income prior to accident or illness. The recipient was entitled to this level of compensation up to the age of 65 (assuming that the disability still persisted).

The amount of compensation paid depended on the amount of previous monthly earnings, up to a maximum. In 1981, this earnings limit was CSK 3,000 per month with the exception of the first 12 months.[11] In 1986, compensation payments could amount to CSK 2,500.[12] Should previous monthly earnings have exceeded this amount, then the compensation was increased by 50 percent of the difference between this figure and the previous earnings.

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[10] There were several types of compensation payments: for loss of earnings, pain and loss of ability to play a full part in society, costs connected with medical treatment, property damage. If an employee died as the result of a work-related accident or occupational illness, the employer was required to provide:

- reimbursement of costs arising from previous medical treatment;
- reimbursement of reasonable expenses connected with his funeral;
- reimbursement of the costs of maintenance of his survivors (other than the survivors pension);
- a lump sum damages award to his survivors; and
- compensation for property damage.

[11] At the beginning of the 1980s, the average (gross) monthly wage was CSK 2,656.

[12] In 1986, the average (gross) monthly wage was CSK 2,964.

2. Disability Protection in the Early Years of Transition

The early years of transition in Czechoslovakia (beginning in 1993, the Czech Republic) can be considered as 1990–1995, during which time several important changes were implemented in social policy which affected benefits and services for persons with disabilities. These are to be discussed below.

Economic reform in the early years of transition, 1990–1991, was accompanied by a reform of the social security system. The basic principles of reform were laid down in the *Scenario on Social Reform,* which was approved by Parliament (together with the *Scenario on Economic Reform*) in June 1990. In the field of social security, the *Scenario* described starting conditions in the following way:

> …the social security system in the previous regime led to the slow pauperization of pensioners due to the growing difference between wages and pension benefits, which were close to the poverty line. One of the consequences of the socialist social security system was the growing disproportion between pension benefits awarded in different periods.

According to the *Scenario*, it was not enough simply to remove the negative aspects and problems of socialist social policy. It was deemed necessary to transform the whole social security system into one matching the requirements of a market economy. The new social security system should consist of three subsystems:

- social insurance (pension, sickness, and unemployment insurance);
- state social support (benefits for families with children); and
- social assistance (needs-tested social benefits and social services).

Because of the very general character of the *Scenario of Social Reform*, attention was not drawn to the issues of specific groups, i.e. people with disabilities, the only reference to this subgroup being the statement that "social policy concerning specific social groups with disabilities or social problems will be changed."

The introduction of the new system of social security required, however, a certain amount of time for preparation and implementation. Consequently, in the first years of economic and social transformation attention was focused

primarily on amending existing laws and redressing or eliminating the biggest problem areas. In the pension security system, this mainly meant introducing the principle of equal treatment for all types of employees. The preferential status accorded in the socialist regime to members of the Communist Party and certain other privileged groups of workers was abolished, as were personal pensions (i.e. for pilots and artists, as defined in section 1.1) and work categories. At the same time, discrimination against the self-employed was eliminated (see section 1.1). These measures meant that almost all economically active people acquired claims to pensions under the same conditions. This put in place excellent conditions for further reform in the area of pension security.

At the same time, it was necessary to secure a minimum living standard for those people who would suffer from increasing price levels or who had lost their employment. The government was well aware of the potential threat of social problems that could arise if the growth in inflation and unemployment reached critical levels and if the people did not enjoy adequate security. Hence the first, fundamental economic changes (price and trade liberalization) were accompanied by the swift adoption of new legislation on social security (Government Decree No.99 of 1991 on the Minimum Wage, Act No.482 of 1991 on Social Needs, Act No.463 of 1991 on the Subsistence Minimum, Government Decree No.312 of 1990 on Material Security in Unemployment, etc.).

As regards pensions, an adjustment mechanism was introduced in an amendment to pre-transition Social Security Act No.100 of 1988. Pensions had to be raised if the overall index of consumer prices increased by at least 10 percent.[13] As well as price developments, real wage increases were also taken into account. The increase was laid down by government decree rather than by the introduction of lengthy parliamentary legislation, in order to react more quickly to price increases.

Open unemployment was a completely new phenomenon for the Czech population. However, unlike several other transition countries, the Czech Republic experienced relatively low unemployment during the whole of the

[13] The trigger was lowered to five percent in 1998.

1990–1995 transition period, with the rate hovering around three percent.[14] This unemployment was concentrated disproportionately among certain groups of people – for example, women following maternity leave, immigrants, school dropouts, and persons with disabilities – who were all more vulnerable to the changing economic climate.

In 1991, there were 17,000 disabled people registered at labour offices, representing eight percent of the total number of (registered) unemployed. Persons with disabilities, many of whom possessed fewer skills and qualifications and who were regarded by many employers as less productive employees, were quickly crowded out of the open job market. Moreover, jobs traditionally performed by persons with disabilities ceased to exist under free market conditions. While no official statistics are available, qualitative research indicates that significant numbers of companies traditionally employing people with disabilities, as well as sheltered workshops, failed to survive tough competition, despite receiving state aid (Karpíšek *et al.*, 1997).

Consequently, a major priority for persons with disabilities was to attract the attention of the relevant authorities to their plight and to seek to integrate into the labour market and society as a whole.

In 1991, the Czech government set up a Government Committee for Persons with Disabilities, the aim of which was to mold legislation to suit the specific status and needs of this group of people. In 1992 the committee published its "Study of the Situation of Disabled People and the Most Important Issues To Be Addressed", in which priorities in the field of social security for persons with disabilities were identified. The first priority was deemed to be the introduction of a new system of health status evaluation for social security purposes and the creation of a register of people with

[14] Developments in unemployment before 1995 can be divided into two stages: the first stage, 1990–1993, is linked with a sharp fall in employment, a very slight rise in unemployment, and a large growth of people leaving the labour market (decrease in economic activity by 240,000). Those leaving the labour market mainly consisted of working pensioners and women. The second stage, 1994–1995, is linked with economic revival, which resulted in a rise in the number of employed people and a slight fall in unemployment.

disabilities.[15] A further aim of the Committee was to keep people with disabilities in employment to the maximum possible extent. To fulfill this aim, it put forward a whole range of measures including the preparation of new legislation supporting the employment of severely disabled people and the creation of new sheltered workshops for this population, partly financed by the state. After the first document, which analyzed the situation of people with disabilities in the Czech Republic, the Committee went on to consolidate these measures in a new document entitled the "National Plan for Assisting People with Disabilities, 1992–1994".

2.1. Pension Insurance

The financing of social insurance, including disability insurance, was shifted in 1993 to a special contribution payment outside the tax system. The Czech Social Security Administration was given the responsibility to collect these insurance payments. The contribution to pension insurance was included in the state budget, an arrangement that was fiercely criticized, in particular by the trade unions. They were strongly opposed to all surpluses being dissolved in the state budget rather than being accumulated for a time when contributions would not be sufficient to cover benefit payments.[16]

Pension insurance contributions were fixed as a percentage of gross income. One quarter came out of the employee's pay and three quarters were paid by the employer. The insurance premium was set at 6.5 percent of the gross wage for employees, and 19.5 percent for employers. The self-employed paid pension insurance contributions equaling 26 percent of their tax base.

While the Czech Social Security Administration was charged with collecting social insurance contributions in 1993, its responsibility for administering social insurance benefits goes back to 1991. This is a state institution subordinate to the Ministry of Labour and Social Affairs. Its operating costs are

[15] The existing evaluation of health status and the procedure for awarding disability pensions or status of citizen with altered capacity for work was considered to be benevolent and lacking objectivity.

[16] In 1996, a separate account within the state budget was introduced for pension insurance contributions. However, contributions to sickness and unemployment insurance were still included in the state budget.

financed out of the state budget, and its main tasks are to *collect* contributions to pension insurance, sickness insurance, and unemployment insurance; to *calculate* the amount of pensions; and to *pay* them out.

2.2. Disability Pensions in the First Half of the 1990s

In the field of disability insurance, the trends of the 1980s continued into the first half of the 1990s – significantly more people received full disability pensions than partial ones and more people were awarded full disability pensions than partial ones. The total number of disability beneficiaries increased, particularly full disability pensioners. From 1990 to 1995, the total number of full disability beneficiaries grew by 20 percent. In the same period the total number of partial disability beneficiaries decreased by 10 percent (see Table 5).

Table 5
The number of new disability pensions awarded and total number of disability pensions, in the period of 1990–1995

Year	Number of new pensions awarded		Total number of pensions	
	Full disability	Partial disability	Full disability	Partial disability
1990	22,951	15,649	305,380	123,884
1991	27,927	15,814	319,468	120,922
1992	29,646	15,197	333,938	116,659
1993	30,867	14,217	349,093	112,845
1994	28,598	11,883	360,601	110,130
1995	25,177	13,642	369,648	110,483

Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1990–1995.*

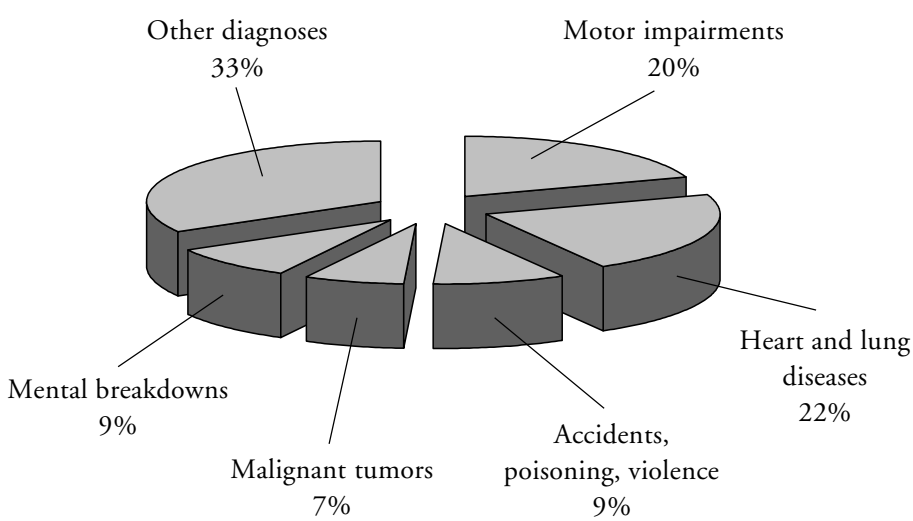
In 1990, around 305,000 people were receiving full disability pensions (2.9 percent of the total population), and almost 124,000 people were receiving partial disability pensions (1.2 percent of the total population). Within five

years, the proportion of full disability pensioners in the general population reached 3.6 percent, while the proportion of partial disability pension beneficiaries in the general population did not change significantly.

The age and gender structure of disability pensioners did not change significantly during the first half of the 1990s. There were still more men than women (the ratio was approximately three to two). The average age of pensioners in 1995 was 54; recipients of partial disability pensions were somewhat younger, on average 46.

As far as the type of physical or mental disability is concerned, the Czech Social Security Administration only monitored data on the diagnoses of disability pension beneficiaries to 1993, so recent patterns in disability allowances rates are not known. These data reveal that disability pensions were most frequently awarded on the grounds of heart and lung illnesses and motor impairments (see Chart 2).

Chart 2
Diagnoses for disability pensions awarded in 1993



Source: Czech Social Security Administration.

Total expenditure on disability pensions continued to increase during the first half of the 1990s because of the growing number of new disability pensions awarded. In 1990, disability pension expenditure was 1.31 percent of GDP, increasing to 1.45 percent of GDP in 1995 (see Table 6).

Table 6
Total expenditure on disability pensions in the first half of the 1990s (CSK, later CZK in billions; and in percent of GDP)

	1990	1991	1992	1993	1994	1995
Partial disability pension	1.6	1.8	1.8	1.9	2.1	3.0
Full disability pension	6.6	8.2	9.5	11.5	13.5	17.0
Total expenditure on disability pensions						
CSK (later CZK) in billions	8.2	10.0	11.3	13.4	15.6	20.0
In percentage of GDP	1.31	1.33	1.34	1.31	1.32	1.45

Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1990–1995*; Research Institute of Labour and Social Affairs, *Development of the Main Economic and Social Indicators in the Czech Republic, 1990–1999.*

2.3. Employment Policy for People with Disabilities at the Beginning of the 1990s: Persons with Disabilities on the Labour Market

Because of the significant increase in the number of disability pensions awarded in the period 1990 to 1995, the Government Committee for persons with disabilities and disabled people's NGOs considered keeping persons with disabilities in employment a major priority.

Manufacturing cooperatives were the biggest employers of this population in the early 1990s. Up to 1993, manufacturing cooperatives enjoyed extensive tax relief. They paid just 10 percent tax on total wages (a special kind of tax in the former Czechoslovakia), whereas other enterprises paid 50 percent. When the new tax system was introduced in 1993, tax on total wages was abolished and manufacturing cooperatives became subject to the same tax rate (income tax) as other companies (36–37 percent). At the same time, all hitherto applicable advantages were scrapped (tax relief, ready market) and were partly replaced by a system of state subsidies (Tomíšková, 1992).

Ultimately, these changes led to a considerable deterioration in the situation of manufacturing cooperatives and other organizations employing persons with disabilities. Suddenly these entities had to compete with other enterprises and firms under the same economic conditions, which brought about entirely new competitive pressures for them.

Consequently, between 1990 and 1995 the total number of workers employed by manufacturing cooperatives fell by more than half, with the number of disabled workers falling by 60 percent (see Table 7). Manufacturing cooperatives found themselves in a difficult situation. Many of them ran at a loss because state subsidies did not cover all the costs related to the lower level of production and higher sickness rates of their workers.

Table 7
Employment in manufacturing cooperatives, 1990–1995

	1990	1991	1992	1993	1994	1995	Index 1995/1990 percent
Total number of workers in manufacturing cooperatives	21,233	17,440	13,842	12,713	10,864	9,920	– 53.3
Of which:							
Disabled	12,687	10,947	7,277	6,547	5,760	5,202	– 59.0
Severely disabled	2,962	2,316	1,310	1,371	1,141	1,034	– 65.1

Source: Ministry of Finance; Federation of Czech and Moravian Manufacturing Cooperatives.

The main problems faced by manufacturing cooperatives under the new conditions of free competition included:

- a decline in orders since many traditional customers, especially large manufacturing companies, closed down due to the restructuring of the economy;
- a fall in the number of government contracts;
- low qualification level of the workers, thereby reducing the competitive edge of the cooperatives; and

- higher sickness rates and shorter number of working hours for medical reasons.

Most cooperatives were loss-making, and many became subsidiaries of other companies which often subsidized their operations.

The law allowed employers with a workforce comprising at least 60 percent of people with disabilities (most of them manufacturing cooperatives) to receive subsidies from the state budget. The subsidies were intended to partially cover the increased costs associated with employing people with disabilities. Besides state subsidies, such employers were also entitled to income tax relief at an amount that was price-adjusted. Beginning in 1994, these employers also enjoyed preferential treatment when tendering for government contracts.

During the years of 1990–1991, the government attempted to introduce measures and programs supporting the employment of disabled people common in western countries. Specially amended provisions were included in the Labour Law and the Employment Act concerning the employment of people with disabilities. Some of these amendments, however, did not work in the way intended and in fact made the employment of persons with disabilities more difficult.

Under the Labour Code, employment for a fixed term or for a trial period was not permitted in the case of disabled people. This condition, designed to protect the employment of people with disabilities, worked against them, however – employers simply refused to employ this section of the workforce. What is more, in practice this condition was often avoided by disabled people themselves, who instead gave the employer a written request for employment for a fixed term.

Another form of protection for disabled people concerned the giving of notice, which was only possible with the prior consent of the labour office (previously the trade union organization). Consent was not required if notice was given to an employee over 65 years of age, if the employer went bankrupt, or part of the firm was relocated or transferred to another entity. In all other circumstances, the employer had to find suitable new work for the disabled employee.

The Employment Act (Act No.1 of 1991) defined who could be considered a disabled person on the labour market, created entitlements to unemployment benefits, and established obligations of employers in favor of disabled people.

The Act states, "a citizen has the right to obtain suitable work corresponding to his state of health and taking into account his age, qualifications, and abilities as well as length of previous employment." This right was enforced in cooperation with labour offices, which helped disabled people look for suitable employment or financed their work rehabilitation or employment in sheltered workshops, defined as workplaces where at least 75 percent of workers were disabled. Sheltered workshops mainly employed people with severe disabilities, especially the mentally handicapped who were unable to find work on the open job market. For such people, work serving more as therapy intended to preserve their residual work potential. The labour offices were able to provide such workplaces by making a contribution towards creating a job, plus a contribution towards running costs.

The Employment Act contained a number of provisions designed to encourage the employment of people with disabilities. Employers became obliged to:

- create suitable working conditions and jobs for disabled people;
- create a list of suitable jobs;
- preferentially fill these jobs with people with disabilities; and
- enable persons with disabilities to improve their qualifications.

The Act also required employers to meet mandatory quotas for employing persons with disabilities. All companies employing over 20 people were, from 1991, obliged to employ a quota of at least 4.5 percent of people with disabilities and 0.5 percent of people with severe disabilities. This obligation could be met alternatively by such companies buying the products of or giving production orders to organizations employing over 60 percent disabled employees. Oddly, the legislation did not lay down any penalties for failure to fulfill this quota. While no statistics are available, according to labour office staff most employers did not employ people with disabilities in the proportions set out in the law (Karpíšek *et al.*, 1997).

During the period of 1990–1992, entitlement criteria for unemployment benefits changed considerably. Since the changes applied to persons with disabilities and the able-bodied alike, it is important to outline them here. At the beginning of the 1990s entitlement criteria were somewhat benevolent – everybody who lost his or her job, finished school, or cared for a child until the age of three was eligible for unemployment benefits. The benefit period

was one year, the amount of benefits 65 percent of average earnings. Employees made redundant for organizational reasons received unemployment benefit at the level of 95 percent of previous average earnings. No employment record was required; there was no maximum limit to such benefits. The reason for such a generous provision of unemployment benefit was an attempt on the part of the government to prevent the growth of massive social unrest.

In 1991 as a result of an amendment to the Employment Act, entitlements were somewhat tightened up:

- the benefit level became the same for all unemployed persons and was set at 65 percent of previous net monthly earnings; and
- a maximum level was set.

The 1992 Amendment of the Employment Act was much more fundamental in that:

- the period of benefit provision was shortened to half a year;
- the level of benefit in the first three months was set at 60 percent of previous net monthly earnings, in the second three months 50 percent; and
- only unemployed persons who had worked at least 12 months in the previous three years were entitled to unemployment benefit.[17]

There were also special payments for disabled unemployed people and increased benefits for their spouses and children. Moreover, if an unemployed person with a disability lived in inadequate social conditions, this act entitled him or her to increased unemployment benefit (the amount of this supplement to unemployment benefit depended on the number of people living in the household).[18]

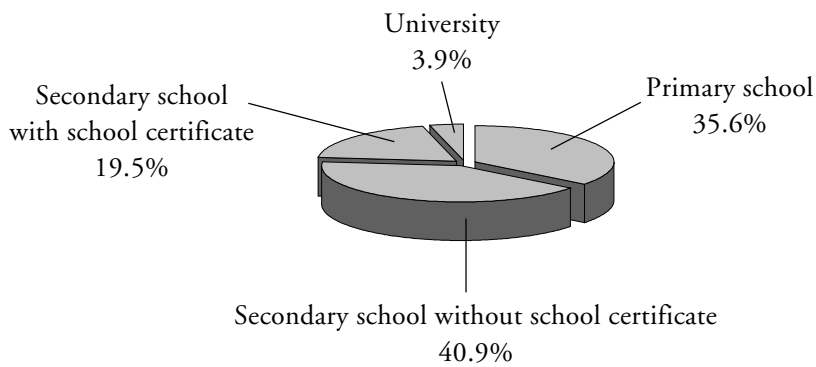
At the beginning of the 1990s, persons with disabilities made up around three percent of the total working age population. Their role in the rapidly changing economic environment began to cause serious concern for everyone

[17] There are some substitute periods (equivalent to employment), i.e. education, work rehabilitation, care for a child until three years of age (or 18 years if the child was severely handicapped), military or civilian service, or period of receiving a full disability pension.

[18] The Employment Act did not expand upon the term 'inadequate social conditions', however it can be taken to mean poor housing conditions, number of people per household, etc.

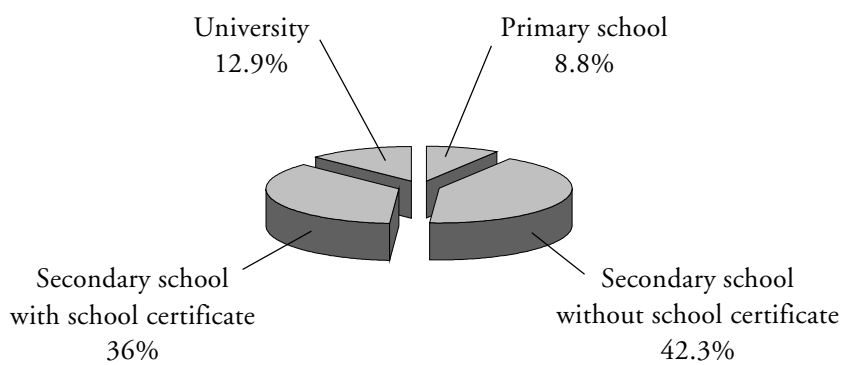
involved in disabled issues. Persons with disabilities found it increasingly difficult to find work on the open job market without some kind of assistance. Moreover, the process was exacerbated by the fact that they had both a handicap and often a lower level of education (see Charts 3 and 4).

Chart 3
Education level among disabled people (in percentages)



Source: Czech Statistical Office, *Labour Force Survey,* Third Quarter of 2001.

Chart 4
Education level among the working population (in percentages)



Source: Czech Statistical Office, *Labour Force Survey*, Third Quarter of 2001.

Compared to the able-bodied population, they lose more days through illness, can sometimes have problems reaching the required level of performance due to their disabilities, find themselves unable to do the work they were originally trained for – because of the changing nature of the whole economy and the change in demand for different jobs, or because a work accident or occupational illness deems them unfit to do so.[19] Although the last three factors may apply to the whole working population, the disabled unemployed were particularly vulnerable to them (Karpíšek *et al.*, 1997). The accumulation of these factors caused them to be squeezed out of the job market. In the years 1990–1992, there was an average of almost 12,000 disabled people registered at labour offices as unemployed, that figure being 12 percent of the average number of unemployed people. In 1995 there were almost 23,000 disabled people registered as unemployed, a rise to 15 percent of the total number of unemployed.[20] (Building on this profile of the early 1990s, economic activity of people with disabilities is more closely analyzed in section 3.4).

2.4. Occupational Injury Benefits in the First Half of the 1990s

At the beginning of the 1990s, the system of compensation for work accidents and occupational illnesses was adapted to the new social and economic environment but was not fundamentally reformed. In 1991, the Trade Act No.455 prescribed an obligation on the part of private companies to insure against work accidents or occupational illnesses with the insurance company *Česká pojišťovna*, and later (1992) alternatively with the *Kooperativa* insurance firm. (Other companies were still under state ownership at this time and therefore covered all risks themselves.) In 1993 employers' liability insurance covering work accidents was made compulsory for all employers including

[19] The majority of disabled people work in manual professions. As regards the kind of disability, the majority have a motor (bodily) disability, followed by internal illness, and mental disablement (Karpíšek *et al.*, 1997).

[20] In this period the only available information about unemployment was the register of unemployed at labour offices. The Labour Force Surveys of the Czech Statistical Office began in 1993.

employers of state-owned companies but excluding civil servants.[21] The self-employed could take out insurance commercially.

Compensation for work accidents occurring before 1993 was provided by the employer directly without reimbursement from the relevant insurance company. From 1993, if the premium collected in a given calendar year was not sufficient to cover claims, the shortfall was made up from the state budget. Equally, any excess premiums were channeled into the state budget. Insurance companies were also entitled to a fixed-rate payment for administrative costs, amounting to 25 percent of the premium collected, irrespective of actual expenditure on administrative costs. In 1993–1994, the system had a substantial excess balance (50 percent of premiums), however whereas *Česká pojišťovna* continued to show a healthy excess balance, the initial excess balance at *Kooperativa* began to diminish almost from the outset, reaching deficit in 1996.[22] By 2001 both companies were in deficit.

The insurance premium was determined according to type of industry and degree of risk. Insurance premiums were very low, averaging 0.5 percent of total wages. The system of compensation for work accidents might be described as a mixed system (Phare Consensus, 2000), since any claimant was entitled both to sickness and pension insurance benefits and to reimbursement for all costs connected with treatment, on the same basis as for non-work injuries or illnesses.

The level of benefits provided in this system was high and tended to discourage disabled people from returning to the labour market. Compensation for loss of earnings during and after the time of incapacity for work topped up people's incomes from social benefits (sickness benefit or disability pension) to the full level of average income in the national economy. Moreover, this

[21] Besides employees in paid employment, this insurance also covered school-children and students undertaking work experience, prisoners (under certain conditions), people in work or therapeutic rehabilitation, and people working under agreements on work performed outside employment.

[22] Two *Kooperativa* firms, the Czech and the Moravian, merged in 1990. Prior to this, the Czech *Kooperativa* ran a financial surplus. The Moravian *Kooperativa*, however, had been in deficit since 1996. This was due to large numbers of insured miners in the Ostrava region with very high rates of work-related accidents and diseases.

compensation was provided long-term (up to 65 years of age) and the duration of the injury to health was not reviewed, even though the Labour Code allowed this. The person affected thus enjoyed the same income level as before the accident or occupational illness occurred. Furthermore, the average income from employment before the work injury was raised in line with inflation every year in order to ensure the real value of the benefit. This was particularly advantageous for certain groups of workers, such as miners, who had enjoyed above-average earnings in the past.

The first half of the 1990s saw a fall in the number of work injuries of more than 30 percent (from 153,000 in 1990 to 106,000 in 1995). Due to a lack of information, the reasons for such a considerable fall in the number of work accidents cannot be pinpointed. According to the Ministry of Labour and Social Affairs it was caused by:

- the restructuring of the economy;
- a reduction in the number of high-risk workplaces;
- the introduction of more modern and safer technology; and
- greater compliance with safety rules (Ministry of Labour and Social Affairs, 2000a).

Conversely many employees did not report work injuries because they had not complied with safety regulations. Contrary to the decreasing number of work injuries, the length of incapacity for work per injury increased, from an average of 28 days per year in 1990 to 36 in 1995. While no research has been done on this issue, anecdotal data suggests that people earning below average wages were actually better off receiving sickness benefits and therefore in some cases artificially prolonged the claim period.

3. Reform of the System of Social Security for Persons with Disabilities

Although the system of social protection for persons with disabilities was partly reformed in the first years of the 1990s (regular price adjustment of benefits, financing by contributions, new administration), major reform had to wait until 1995.

The Government Committee for persons with disabilities was very active in supporting the enactment of social policy and employment legislation at this time. This committee and the representatives of disabled people's organizations were very influential in the reform of the social services system. From the very beginning of the process of preparing new legislation on social services, the Government Committee for persons with disabilities suggested that fundamental changes should be made to the system of financing.

The existing method of financing social services was to provide subsidies to provider institutions. However, based on the experiences of Western European countries the Committee proposed a voucher system that would enable people with disabilities to decide themselves from which service agency to purchase services.

In 1997, the Ministry of Labour and Social Affairs began work on a proposal for new legislation that incorporated principles advocated by people with disabilities themselves and the idea of a voucher system. The conservative government approved this proposal at the end of 1997 but it was not enacted by Parliament. The social-democratic government which came to power after the election of 1998, whilst not completely rejecting this proposal, did suggest certain amendments the aim of which was to solve the issue of the transition period – what to do with people currently in homes for old people and the disabled and with people whose mental conditions render them unable to make their own decisions. However, in reality, the social-democratic government did not continue working on the voucher system and started to prepare new legislation concerning the provision and financing of social services. The new legislation aimed to solve such issues as the accreditation system for private providers, social services standards, and community planning. The main role in financing social services was to be given to municipalities. They had to decide which providers would supply which services. The disabled people's organizations, providers, and municipalities participated in the process of preparing new legislation and were, therefore, not fundamentally opposed to the legislation itself.

3.1. Reform of Disability Insurance

Major new reform legislation, namely the Pension Insurance Act and the State Social Support Act (see section 3.7), was enacted in 1995. Both pieces of legislation:

- unified certain existing types of benefits;
- redefined entitlement criteria; and
- introduced a new benefit level calculation method.

The main aim of this new legislation with regard to social security for persons with disabilities was to compensate for the consequences of disability. This approach differed fundamentally from the principle applied in the past, whereby compensation was provided for the disability itself. Hence, in the current system of pension insurance, compensation is provided for the loss of the ability to carry out systematic gainful activity, while state social support aims to compensate for the consequences of disability on activities of daily living.

The new disability insurance system applicable from 1996 was designed to ensure that all citizens were treated equally in their claims to pension security. This involved preventing abuses to which the previous system had been vulnerable, especially *vis-à-vis* the somewhat subjective criteria regarding the evaluation of disability. The change in evaluation criteria aimed to rectify the weakness of the old system (the Social Security Act of 1988) which created an 'abnormal' (in terms of probability) dispersion of full and partial disability pensions.

In attempting to improve the objectivity of the evaluation criteria, the degree of a person's reduced ability to engage in ongoing gainful activity was expressed in percentage terms. In assessing the decline in earning ability, the first thing that had to be determined was whether the person's state of health was adverse and long-term and what physical or mental impairment had caused this condition. If there was more than one impairment, the individual values in the decline of earnings ability due to these impairments were not totaled; rather, the impairment that was main cause of long-term ill health was identified; and only then could the percentage decline in earnings ability created by this impairment be defined.

The Pension Insurance Act No.155 of 1995 did not replace previous legislation on pension security in the Czech Republic; rather, it aimed to improve upon and complement existing legislation, primarily the Social Security Act of 1988 which already covered certain pension security issues including administrative organization of the system and contribution payments to the pension insurance system. Furthermore, the new Pension Insurance Act incorporated various elements of the old legislation, including the two-

tier construction of disability pension benefits. For a comparison of the main features of the 1988 Social Security Act and the 1995 Pension Insurance Act, see Table 8 below (on page 66).

According to the Pension Insurance Act, the only benefits to be paid from the pension insurance system are old-age, disability, widow and widower, and orphan pensions. Other types of pension benefits such as supplements to pensions for incapacity and social pensions, which address social conditions, are not covered by this act and would thus continue to be paid according to the old (1988) legislation as subsequently amended. It is expected that in the future these two benefits (supplements and social pensions) will be moved into the needs-tested social services system. This would be a logical development since disability pension insurance aims to provide for the loss of ability to carry out systematic gainful activity, regardless of the social conditions of persons with disabilities.

The present system of disability pensions employs two different definitions of disability. The first defines disability as a physical condition used in the 1988 legislation, in which a disability pension compensates for the actual disability.[23] In the second definition, introduced by the new legislation, a person is considered fully or partially disabled if his/her earning ability falls by 66 percent and 33 percent respectively, due to his/her long-term ill health.

A disability pension cannot be claimed if the insuree satisfies the conditions for claiming an old-age pension, or in other words if the claimant had reached retirement age before becoming disabled. Beneficiaries of early retirement pensions can claim a full disability pension if they become disabled before they reach the statutory pension age. (On reaching retirement age, the entitlement to disability pension expires.)

Should a person become disabled as a result of a work injury or occupational illness, he/she can claim a full disability pension even if the required period of insurance payments for a normal disability has not been fulfilled or if retirement age has been reached. The period of insurance payments required

[23] This is the traditional type of disability, which incorporates a strong ethical component. This kind of disability does not fall under pension insurance and in the future it is expected that this type of benefit will come under another social security sub-system (social services system).

in order to claim a full disability pension remained the same as that set out in the 1988 Social Security Act (see section 1.1.).

The 1995 Act introduced a two-tier system for the calculation of disability pensions. The first tier consists of a fixed amount flat rate payment which is the same for all pensions, and amounts to CZK 1,310 (10 percent of national average monthly earnings in 2000). The government can increase this amount according to strict rules set out in the Act. The second tier consists of a percentage amount corresponding to previous earnings and the number of years in employment, this amount differing according to the type of pension. For a full disability pension, the percentage assessment is monthly 1.5 percent of the calculation base (average earnings) for every complete calendar year of insurance.

The percentage assessment element for a full disability pension fully includes any added-in period. This is a substitute insurance period, which runs from the day on which the claim to a full disability pension is made until the day on which retirement age is taken into account. Consequently the full disability pension can work out to be higher than the old age pension for certain groups of employees, e.g. for women who raised more than one child and took a substantial period of parental leave during which time their earnings were minimal. Should a claimant have the right to both a full disability and an old age pension, the higher of the two is paid. If they are the same, the claimant can choose.

A different method is employed for the calculation of disability pension benefits for claimants unable to fulfill the required employment period as a result of long-term unfavorable health status, or for those whose disability originated prior to the age of 18 (the so-called disabled from youth). The minimum disability pension in this case amounts to 40 percent of the yearly general assessment base, i.e. the national average wage.

Partial disability pensions are provided to people whose long-term ill health has reduced their ability to carry out systematic gainful activity by at least 33 percent and who have been insured for the required length of time (the same as for full disability pensions). Unlike the full disability pension, claiming a partial disability pension is not precluded by the attainment of retirement age. However, should the claimant be entitled to both pensions, the higher is paid. A claimant can also be considered partially disabled if long-term ill health significantly affects his ability to carry out the activities of daily life.

Partial disability pensions are calculated to a large extent in the same way as full disability pensions, but with one fundamental difference – the rate for calculating the percentage amount is half of the rate applicable for that of full disability pensions (0.75 percent). The minimum percentage amount of a partial disability pension is CZK 385 per month. The minimum amount (flat rate plus percentage amount) of partial disability pension is currently CZK 1,695, or approximately 12.6 percent of the average gross monthly salary in 2000.

The new Pension Insurance Act as well as the old Social Security Act stipulate income limits from economic activity for those claiming disability pensions. Whereas in the 1988 legislation, the limit was part of the definition of partial disability ("if earnings fall considerably"), the new legislation introduced the following changes:

1. Beneficiaries of partial disability pensions are expected to perform gainful economic activity, since the aim of the legislation is to provide only partial compensation for that income lost due to a person's decreased earning ability.
2. The amount of the pension is derived from income earned. If the annually stipulated income limit is exceeded, the partial disability pension is reduced or suspended.
3. If the average monthly wage earned from the gainful activity of the beneficiary of a partial disability pension is greater than 66 percent but not more than 80 percent of his or her comparable pension assessment base (defined as gross earnings adjusted to the growth of the average national wage), the partial disability pension is paid in the amount of one half of the basic amount, and one half of the percentage amount.
4. If the average monthly earnings from economic activity of the beneficiary of a partial disability pension exceed 80 percent of his or her comparable pension assessment base, the pension is not paid at all.

There are two exceptions to these rules. First, partial disability pensions are paid out in full if overall income from gainful activity for a calendar year does not exceed the minimum level, defined as 12 times the monthly subsistence minimum applicable for the individual. This minimum is very low, equating to twice the average monthly salary in the first quarter of 2001. Second, in

the case of partial disability pensions awarded to people suffering from long-term ill health rendering the performance of daily activities particularly difficult, the amount of pension is not cut should he or she earn income from economic activity.

Table 8
Main characteristics of the old and the new systems of disability pensions

	Disability Pensions before 1989	Disability Pension since 1996
Main legislation	• Act No.100 of 1988 on Social Security	• Act No.100 of 1988 on Social Security • Act No.155 of 1995 on Pension Insurance
Method of financing	• State budget (except self-employed people)	• Contributions to pension insurance
Coverage	• Highly selective	• Universal
Disability definition	• Long-term ill health status that reduces earning ability • Long-term ill health status caused by a work accident	• Long-term ill health status that reduces earning ability • Long-term ill health status caused by a work accident • Decrease in earning ability by 66 percent or 33 percent
Disability Pension Amount	• Basic amount differed according to the work category • Percentage amount • Defined minimum and maximum	• Basic amount • Percentage amount
Entitlement	• Employment record (with exception of disabled from youth) • Work accident	• Employment record (with exception of disabled from youth) • Work accident
Price-adjustment criteria	• None	• Price increase of 10 percent
Limit on income pension from employment	• Part of disability definition	• No – in the case of full disability pension • Yes – reduction in or withdrawal of the partial pension

The Research Institute for Labour and Social Affairs (Karpíšek *et al.*, 1997) has found that the reduction of partial disability benefits as a result of paid employment entails certain administration costs for employers since they are required to monitor the level of income of disabled people, complete forms, and submit them to Social Security offices. This finding is confirmed by labour office staff. Whilst no quantitative research has yet been carried out, qualitative research (interviews with NGOs, labour office staff, and people with disabilities) showed that limiting the incomes of the partially disabled tends to act as a major employment disincentive for persons with disabilities themselves. For example, they often prefer not to work extra hours and refuse extra pay because of the fear of a reduction in or withdrawal of their partial disability pension.

A ten-year protection period was included in the new Pension Insurance Act effective as of January 1, 1996 ensuring that new pensions awarded in the period 1996 to 2005 will automatically be calculated according to both the old and new laws, and whichever is the higher will be paid.

People suffering from temporary incapacity for work, rather than long term disability, are entitled to sickness benefit, assuming that they have sickness insurance. Sickness benefit is provided for one year from the start of the period of incapacity for work. After this period has elapsed, sickness benefit may be provided for a further year, but only if it is reasonable to expect that the claimant will become capable of work within a very short time. (This period is not defined in legislation, but is in practice three months.) After six months' of incapacity for work, the examining doctor, along with an evaluation doctor from the local social security office, assess the claimant's state of health in order to determine whether he or she is suffering from long-term ill health. In this case they transfer the claimant from temporary incapacity for work to disability status and benefit entitlement is considered.

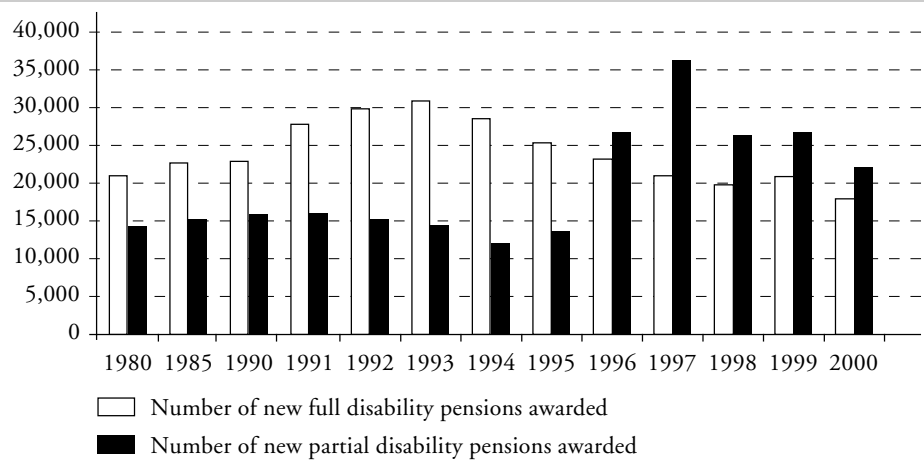
The average time period of incapacity for work is increasing year by year in the Czech Republic. Whilst in 1993 a case of incapacity for work lasted 23.2 days on average, in 2000 the duration was 28.9 days. This adverse trend in the development of temporary incapacity for work is not the result of the deteriorating state of the Czech population's health; rather, evidence points to an increase in the issuing of sickness certificates as a solution to the claimants' difficult social and economic problems, linked particularly to redundancy, unemployment, difficulty finding a job, etc. Experts also point

to a further major factor, that of benevolence on the part of doctors, who have no real motivation not to extend the length of their patients' certified incapacity without a major reason, exacerbated by a shortage of legislation imposing sanctions for unreasonable prolongation of sickness leave (Socioklub, 2001).

3.2. Influence of the New Act on Disability Pensions

The very first year after the introduction of the new legislation, 1996, saw a fall in the number of new pensions awarded and a shift in the ratio of full and partial disability pensions. Due to the new evaluation procedure for determining long-term ill health, the number of new full disability pensions awarded fell by almost eight percent from the 1995 level, returning to the level at the beginning of the 1990s. Some people who would have been entitled to a full disability pension under the previous legislation were entitled only to a partial pension. Therefore, the number of new partial disability pensions awarded rose by almost 50 percent in 1996. Since then, the fall in new full pensions awarded has continued (except for 1999). The number of new partial disability pensions awarded rose by almost 10,000 in 1997 and then also began to fall (see Table 9 and Chart 5).

Chart 5
Number of new disability pensions awarded, 1980–2000



Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–2000.*

The effects of new legislation (and new evaluation criteria) can also be observed in the fact that there was a fall in the overall number of full disability pensions by almost nine percent during the period 1996–2000.

As far as the total number of *partial* disability pensions is concerned, there has been an opposite trend. They rose by 20 percent in the same period (see Table 9 and Chart 6). Whereas the proportion of full disability pensioners to the total population was 3.5 percent in 1996, in 1999 it fell to 3.2 percent. The proportion of partial disability pensioners in the population increased from 1.1 percent in 1996 to 1.4 percent in 1999.

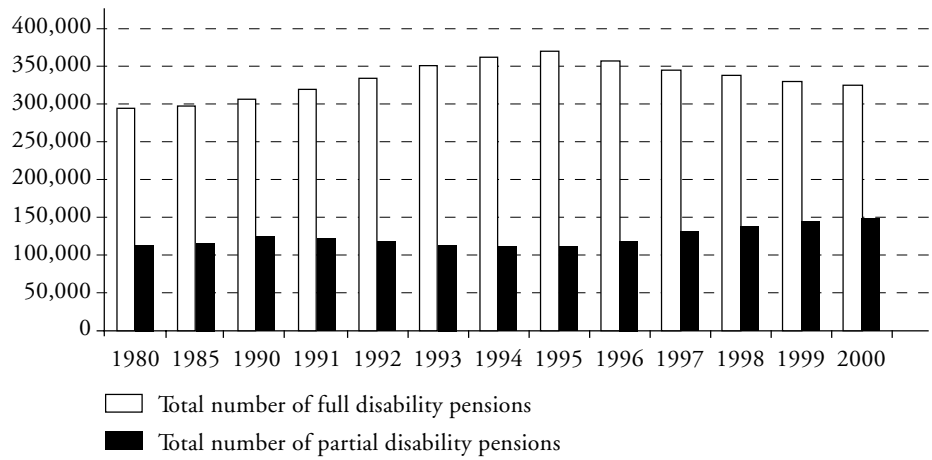
Table 9
The number of new disability pensions awarded and total number of disability pensions in the period of 1996–2000

Year	Number of new pensions awarded		Total number of pensions	
	Full disability	Partial disability	Full disability	Partial disability
1996	23,242	26,686	356,479	116,926
1997	21,156	36,225	344,255	130,417
1998	19,367	26,104	335,913	136,688
1999	20,785	26,620	329,309	142,392
2000	17,899	22,019	325,562	146,865

Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1996–2000.*

The reform of disability pensions has not substantially changed the structure of pensioners in terms of gender and age. There are still more men (approximately 60 percent) than women (40 percent) to whom disability pensions are awarded. The age structure of disability pension beneficiaries at the end of 1999 corresponded to the structure of previous years. The average age at which a disability pension is awarded did not change during the 1990s, that for a full disability pension being 54 years and partial disability pension 46–47 years. The difference between the average age for men and women is not significant.

Chart 6
Total number of disability pensions, 1980–2000



Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–2000.*

Because all adjustments in the level of pension benefits since 1990 have taken into account real wage increases, the replacement ratio of disability pensions to average wages has remained relatively stable since 1995. The replacement ratio of full disability pension benefits to gross average wages was 45–46 percent, to net average wages, 58–60 percent. Although the level of disability pension benefits rose in the 1990s in line with wage growth in the national economy, the replacement ratio still did not reach the 1989 level of 60 percent of previous gross earnings.[24] This is caused by the redistribution of benefits since 1989, the replacement ratio of people with under-average earnings now being higher than the average replacement ratio (60 percent *vs.* 45 percent) (see Table 10 and Chart 7).

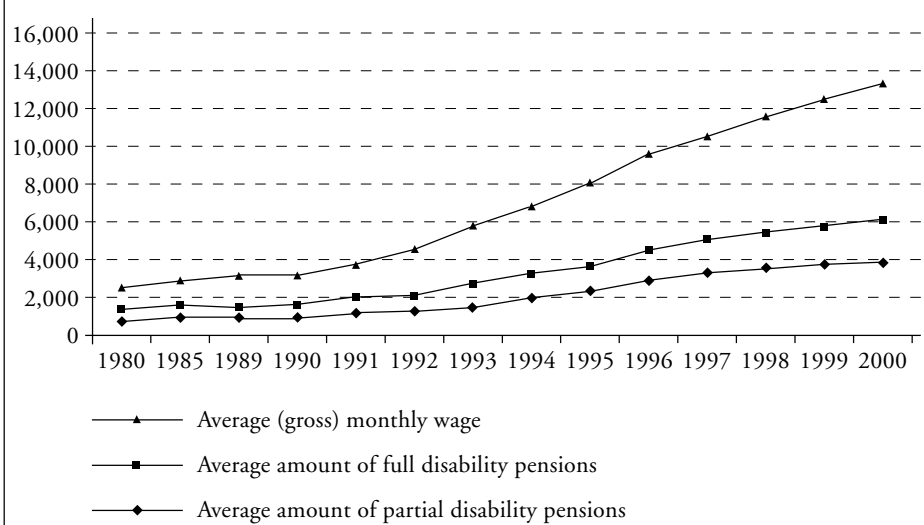
[24] It was not possible to reach this level by the basic pension system (the first pillar) alone.

Table 10
Average amount of disability pensions in the second half of the 1990s (in absolute and relative terms)

Amount	1996	1997	1998	1999	2000
Full disability pension					
In CZK, absolute terms	4,456	4,987	5,399	5,732	6,118
In percent of average gross monthly wages	*46.1*	*46.6*	*46.2*	*45.3*	*45.3*
Partial disability pension					
In CZK, absolute terms	2,934	3,338	3,593	3,740	3,905
In percent of average gross monthly earnings	*30.3*	*31.2*	*30.7*	*29.5*	*28.9*

Source: Czech Statistical Office, *Statistical Yearbook, 2000;* Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1996–2000.*

Chart 7
Comparison of (full and partial) disability pensions to average (gross) monthly wages, 1980–2000



Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–2000;* Czech Statistical Office, *Statistical Yearbook, 2000.*

The total cost of disability pensions rose sharply in the 1990s (see Tables 6 and 11). Whereas in 1990 total expenditure amounted to CZK 8.2 billion (1.3 percent of GDP), by 2000 the figure had soared to CZK 33.4 billion (1.75 percent of GDP).

The most important reason for the growth in disability pension expenditure is a 350 percent rise in the consumer price index during the 1990s. Other reasons include a real increase in pension benefits, as well as the fact that full disability pensions awarded before retirement age are, provided full disability continues, paid until the claimant's death. Since life expectancy has increased (from 67.6 in 1990 to 71.7 years in 2000 for men and from 75.4 to 78.4 for women), this has lead to a commensurate increase in disability pensions. (In 2000, 38 percent of disability pensioners were over the age of 60.) The only exception is when the claimant demands an old-age pension on reaching retirement age. Practical experience indicates (this data is not statistically monitored) that the vast majority of beneficiaries of full disability pensions do not demand old-age pensions, chiefly because they are aware that their old-age pensions would not be any higher. Most people with disabilities prefer to continue claiming disability pensions since they are entitled to work, that is, fully disabled people are permitted to work without any limit on earnings. (Old-age retirees are restricted from working in the first two years of their retirement.)

Table 11
Total expenditure on disability pensions in the second half of the 1990s (CZK in billions, current prices, and in percent of GDP)

	1996	1997	1998	1999	2000
Partial disability pension	4.0	5.2	6.2	6.7	7.0
Full disability pension	19.9	22.4	24.6	25.6	26.4
Total expenditure on disability pensions					
In billion CZK	23.9	27.6	30.8	32.3	33.4
In percent of GDP	1.52	1.64	1.69	1.76	1.75

Source: Czech Social Security Administration, *Pension Insurance Statistical Yearbooks, 1980–2000;* Research Institute of Labour and Social Affairs, *Development of the Main Economic and Social Indicators in the Czech Republic, 1990–1999.*

The government is not unduly concerned about the issue of disability pensions versus old-age pensions since both benefits are paid from the same funds.

A slight rise is anticipated by the Ministry of Labour and Social Affairs in the number of full and partial disability pensions awarded in the coming years based on the growing number of people being recognized as disabled by the evaluation service of the social security authority. This, coupled with an expected price adjustment of pensions once legal conditions are satisfied (the pensions must be adjusted if the annual rate of inflation exceeds five percent and must be at least 10 percent of the inflation rate plus one third of real wage growth) looks set to lead to an increase in disability pensions. As far as future expenditure on disability pensions is concerned, no quantified estimates have yet been made.

One factor affecting the accuracy of any estimate is the unpredictable shift between the categories of fully and partially disabled; a further complication concerns the number of disability pensions paid out separately and those paid out in parallel with other pensions. The fact that the law provides discretion for government to adjust the basic or percentage amounts of pensions, or both, is another complication.

The Pension Insurance Act has been amended several times, the most significant being Amendment No.289 in 1997, which reflected a major economic downturn in the Czech Republic. The government announced a more restrictive policy in the field of social transfers. The most important change *vis-à-vis* pension insurance was the removal of full credit for non-contributory periods in the method of calculation of pension benefits. Most of these periods were subsequently credited at a rate of 80 percent of a contributory period, rather than the previous 100 percent. Full credit is still given to a period of military service, a period of caring for a child up to the age of four years (18 years if the child suffers from long-term severe disability), or a period of caring for an incapacitated close relative. Partial credit (80 percent) is given to a period of education (secondary school, university), civilian service (an alternative to military service), unemployment, and preparation for a job in the case of disabled people, imprisonment, and sickness leave.

3.3. Assessment of the Reform of Disability and Sickness Insurance

The reform of disability insurance satisfied the expectations of the parties which had campaigned for change, in that it redefined disability as a fall in earning ability, introduced a new and more objective method of disability evaluation, and unified the entitlement criteria for all groups of the population. All these changes caused a reduction in the number of people awarded disability pensions to a greater extent than was expected by those who drafted the new legislation (10 percent). In fact, the fall in the number of new partial disability pensions awarded was 12 percent in 1996 compared to 1995. On the other hand, the old legislation, the 1988 Social Security Act was still in force and pensions were and still are calculated by both laws.

Despite the relatively successful implementation of the new pension insurance legislation, several problem areas have emerged, the main problem being the method for calculating disability pensions using the so-called 'added-in period'. This calculation method will have to be changed to prevent full disability pensions being more advantageous than old-age pensions. In the future, it will also be necessary to resolve the paradox which allows the beneficiary of a full disability pension to be in paid employment and receive any level of earnings without it affecting the pension level, whilst the earnings of a beneficiary of a partial disability pension are limited. However, changing current legislation so that the level of income from gainful activity is not taken into account when claims for partial disability pensions are assessed would mean the total reliance on a clinical assessment of a claimant's ability to carry out gainful activity, which at present seems likely to be prone to error.

While health care statistics show an improvement in the population's health over the last decade (i.e., a rise in life expectancy), sickness and incapacity for work indicators point to an opposite trend. There are several reasons for this, the main ones being institutional. It is widely believed that doctors have no interest in making savings in sickness benefit expenditure since it has no influence on their salaries. Many of them are prone to prolong sickness leave without any medical reason. However, this type of behavior is very hard to prove so it is rarely attempted. Another cause for the increase in temporary incapacity for work in the Czech Republic is the fact that sickness benefits are close to (sometimes even higher than) the wages of certain groups of employees with below-average earnings.

3.4. Economic Activity of Disabled People in the 1990s

Labour Force Surveys indicate that the total number of people with disabilities (persons with 'altered capacity for work') in the population (older than 15 years) fell by 25 percent between 1993 and 2000. Such a large decrease does not mean, however, that the health status of the Czech population has drastically improved. The trend in the number of disability pensioners tends also not to confirm such an improvement. The decreasing number of disabled people simply means that the status of disabled person ('a citizen with an altered capacity for work') is no longer regarded as advantageous on the labour market, especially in the light of employers' reluctance to employ people with disabilities, and therefore that people increasingly tend not to consider themselves as disabled (Karpíšek *et al.*, 1997).

During the period of 1993–1999 the ratio of persons with disabilities to the population as a whole fell from 5.7 percent to 4.3 percent.[25] The number of people of working age with disabilities fell by a slightly higher proportion (nearly 30 percent) during the same period (see Table 12).

The economic activity of people with disabilities continued to fall in the second half of the 1990s, according to unemployment registers at local labour offices and Labour Force Surveys, which show a 56 percent fall during the period 1993–2000. The introduction of the 1995 Pension Insurance Act has not had a substantial effect on this trend. There are several reasons for this:

- the decreasing number of jobs available for people with disabilities;
- the reluctance of employers to employ persons with disabilities in spite of various incentives for doing so (tax relief, direct financial help, etc.); and
- low wages compared to social benefits.

Consequently, a number of disabled people left the labour market completely, the proportion (on the total number of disabled people) increasing from 45 percent in 1993 to 56 percent in the year 2000 (see Table 12). This trend of people with disabilities leaving the open labour market started at the beginning of the 1990s and continued into the second half of the decade.

[25] These ratios are not comparable with the ratio of disabled people to the working population (3.6 percent) given in section 2.2.

Table 12
Number of disabled people (from the workforce) by economic activity (in absolute and relative terms), according to Labour Force Surveys, 1993–2000

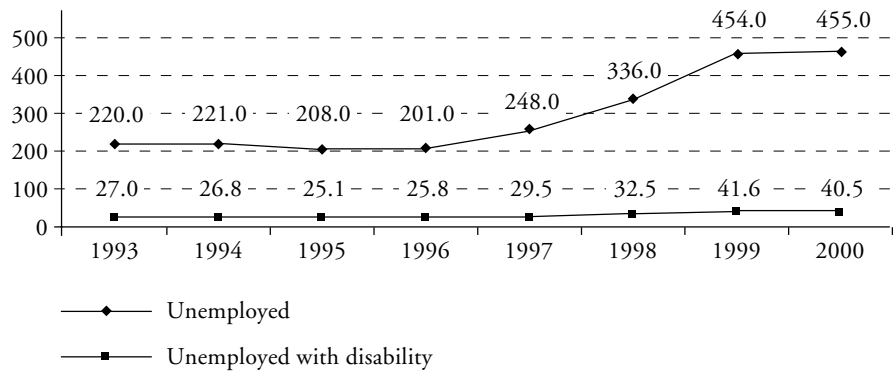
People with disabilities	1993	1994	1995	1996	1997	1998	1999	2000	Index 2000/ 1993 (%)
Total (in thousands)	400.0	369.6	378.8	365.2	342.4	332.4	313.2	288.6	–27.9
Of which:									
Employed	194.0	165.2	164.3	145.7	125.5	116.0	98.7	85.0	–56.2
In % of Total	*48.5*	*44.7*	*43.4*	*39.9*	*36.7*	*34.9*	*31.5*	*29.5*	
Unemployed	27.2	26.8	25.1	25.8	29.5	32.5	41.6	40.5	+32.9
In % of Total	*6.8*	*7.3*	*6.6*	*7.1*	*8.6*	*9.8*	*13.3*	*14.0*	
Inactive	178.7	177.6	189.4	193.7	187.4	183.8	172.9	163.1	–8.8
In % of Total	44.7	48.1	50.0	53.0	54.7	55.3	55.2	56.5	

Source: Czech Statistical Office, *Labour Force Surveys, 1993–2000.*

According to Labour Force Survey data, the overall number of unemployed people with disabilities rose by 32 percent in the period 1993–2000. The increase did not, however, follow a uniform progression: between 1993 and 1995 it fell, but between 1996 and 1999 it rose, only to start falling again in the year 2000. These trends only partially follow the general rate of unemployment (see Chart 8).

Using an alternative data source, registers of unemployed people at local labour offices, we came to the same conclusion. Even though the proportion of disabled people registered at labour offices is relatively low, accounting for roughly 10–14 percent of the overall number of unemployed in the last two years, the number of unemployed people with disabilities rose by more than 70 percent between 1991 and 2000. It appears, however, that the rate of growth has slowed somewhat in recent years: in the year 2000 the number of registered unemployed persons with disabilities rose by just 2.5 percent, whereas in the year before, the increase was 15 percent.

Chart 8
Average number of all unemployed people and disabled unemployed people, according to Labour Force Surveys, 1993–2000 (in thousands)



Source: Czech Statistical Office, *Labour Force Surveys, 1993–2000.*

Disabled people having the most difficulty on the job market are those with severe disabilities who have extremely limited opportunities to find work and are able to perform a very limited number of jobs or work only in extraordinarily modified work conditions. Those people with severe disabilities who wish to work and are registered at local labour offices are therefore generally employed in manufacturing cooperatives and sheltered workshops and workplaces. According to Labour Force Surveys, the overall number of people with severe disabilities fell by 30 percent in the period 1993–2000 along with the decline in the overall number of people with disabilities. One of the most likely reasons for this huge fall is that people with disabilities often do not report their status (to statisticians or employers) because it could lower their chances of finding employment, potential employers often being reluctant to employ them.

In the same period, the number of employed with a severe disability fell by almost 60 percent and the number of unemployed increased by 22 percent (see Table 13). The proportion of economically inactive severely disabled people in this total number rose from 70 percent in 1993 to almost 80 percent in 2000.

Table 13
Number of people with severe disability (from the workforce) by economic activity (in absolute and relative terms), according to Labour Force Surveys, 1993–2000

Severely disabled	**1993**	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**Index 2000/ 1993 (%)**
Total (in thousands)	139.2	137.2	136.6	134.8	124.2	116.3	105.2	97.5	– 30.0
Of which: Employed	36.4	33.6	34.4	30.2	25.1	18.3	17.0	15.0	– 58.8
In % of Total	*26.1*	*24.5*	*25.2*	*22.4*	*20.2*	*15.7*	*16.2*	*15.4*	
Unemployed	4.6	4.9	5.3	4.4	5.6	5.5	5.4	5.9	+ 22.1
In % of Total	*3.3*	*3.6*	*3.9*	*3.3*	*4.5*	*4.7*	*5.1*	*6.1*	
Inactive	98.2	98.7	96.9	100.2	93.5	92.5	82.8	76.6	– 22.0
In % of Total	*70.5*	*71.9*	*70.9*	*74.3*	*75.3*	*79.5*	*78.7*	*78.6*	

Source: Czech Statistical Office, *Labour Force Surveys, 1993–2000.*

The declining willingness of people with a severe disability to participate in the work process is also reflected in the decreasing numbers of such people registering at, and looking for work with the help of, labour offices. We can thus observe the increasing tendency of the severely disabled to leave the labour market.

One of the main reasons for the decline in employment among disabled people is the lack of suitable vacancies. In 1995 there were on average 1,500 vacant jobs for people with disabilities at labour offices. For the sake of comparison, the number of unemployed people with disabilities in that year was 22,400 – that makes 14.6 disabled people per vacancy. The situation was even worse in the year 2000, when there were almost 30 people with disabilities per vacancy (figures provided by the Ministry of Labour and Social Affairs). A decreasing number of job vacancies for disabled people indicates the overall

worsening of conditions on the open labour market for this category of people. The number of job vacancies only started to rise in the year 2000, which might be partly the result of the introduction of new legislation on mandatory quotas for employing persons with disabilities (to be discussed later).

One way in which labour offices try to counter this adverse trend is by placing persons with disabilities in jobs that are not advertised especially for them. The problem, however, is that persons with disabilities often cannot travel long distances to work and often prefer part-time work. The majority of vacancies offered to persons with disabilities that require commuting to work, are usually full-time and are often low paid.

The chances that a re-employed person with a disability will last longer than one year in his new job are roughly 50 percent. The outcome is re-registering at labour offices. According to the Research Institute for Labour and Social Affairs, around 70 percent of people with disabilities who have found a job through labour offices re-register, 30 percent of them repeatedly (Karpíšek *et al.*, 1997). The continually worsening chances of finding work on the job market also increases the average length of unemployment in this group. For example, whereas in 1997 about 50 percent of disabled people were registered as unemployed for more than six months, in 2001 the figure was almost 65 percent.

3.5. Employment Policy in Favor of People with Disabilities in the Second Half of the 1990s

Employment policy did not substantially change during the second half of the 1990s. Employment figures for persons with disabilities did not improve, but the government and the Ministry of Labour and Social Affairs considered it the result of the generally adverse economic conditions. Because the economic situation started to worsen after 1996, the government implemented a so-called 'austerity package of reforms'. One of these reforms was the reduction in the rate of unemployment benefits by 10 percent to 50 percent in the first three months, then 40 percent for the remaining period of unemployment.

The economic recovery of the last two years has not lead to an increase in the employment of people with disabilities. Consequently, changes have been

made to legislation so as to encourage employers to hire more people with disabilities.

In 2000, the Budgetary Rules Act introduced a system of subsidies for companies employing persons with disabilities. There are three types of subsidy:

- to cover social insurance contribution costs for people with disabilities;
- to cover costs connected with the modification of working conditions; and
- to cover new investment in such companies.

Subsidies are provided after assessment by a committee of the Ministry of Labour and Social Affairs. The quota of disabled people required in a company in order to qualify for state subsidies was reduced from 60 percent to 50 percent in 2000.

An amendment to the Employment Act in 1999 introduced sanctions for companies not meeting the five-percent mandatory quota of disabled people in their workforce. According to this amendment, employers who do not fulfill this obligation must pay into the state budget half the national average monthly wage for every disabled employee by which the employer fell short of meeting the quota. This measure was first enforced in the year 2000. According to labour office data, 90 percent of all employers (employing more than 20 employees) submitted reports containing information concerning fulfillment of this obligation.[26] Ninety-two percent reported having met the quota, on average at a rate of 5.8 percent (more than legally required). They reportedly achieved it through direct employment of persons with disabilities at an average rate of 3.5 percent, through the purchase of products at a rate of 0.3 percent, and through contributions to the state budget, at a rate of two percent.

However, one year after the introduction of mandatory quotas, no improvement can be observed in the employment rates of people with disabilities, in fact, their number in employment decreased by 13 percent in

[26] Labour office staff highlight the poor reliability of the existing register of employers with more than 20 employees.

2000 compared to the previous year. The only positive development is the findings of labour offices that the number of requests to dismiss people with disabilities has fallen.

It is important to note that labour office staff highlight their inability to check whether or not reports filed by companies were accurate, as well as their inability to penalize employers who had not met the required quota. A further complication is that the legislation does not specify who is responsible for exacting payment of the penalty for not meeting the required quota.

After the first year's experience of mandatory contributions to the state budget and despite the seemingly high rate of fulfillment of the five percent quota, the Ministry of Labour and Social Affairs suggests that the size of these contributions was set too low to compel employers to create new jobs and the right conditions for employing persons with disabilities. A further problem is that contributions flow into the state budget and are not automatically earmarked for further support for employing persons with disabilities. The Ministry therefore proposes an increase in the contribution to the state budget for failure to fulfill the quota of employees with a disability to six times the average monthly wage per year per every missing disabled employee. It also proposes that these funds should be kept separate in the state budget and the financial resources used for purposes of supporting the employment of disabled people.

The last research carried out by the Research Institute for Labour and Social Affairs concerning the most serious problems associated with employing people with disabilities was in 1997 (Karpíšek *et al.*, 1997). The results of this research identified four main problems which, considering the upturn in the general economic climate, are even more serious today than they were then:

1. *Lack of suitable jobs for persons with disabilities.* Even though the general employment rate has increased and the unemployment rate decreased in the last few years, the impact of economic growth on the employment of persons with disabilities has been minimal. It suggests that the solution to the employment of people with disabilities does not lie in an economic boom, rather in policies to promote work by this population.
2. *Employers are generally not willing to employ persons with disabilities.* According to employers, employees with disabilities have a higher rate of sickness absenteeism and a lower standard of work performance.

3. Companies employing persons with disabilities are *not motivated by the existing system of state subsidies*. They regard the process of applying for state subsidies as highly bureaucratic and the amount of financial assistance given too low.
4. *Persons with disabilities often do not fulfill the requirements for employment* in a competitive economic environment which increasingly requires qualification (see Charts 3 and 4 on page 57).

The system of negative and positive motivation – penalties for not meeting employment quotas on the one hand and subsidies and tax relief on the other – to encourage the employment of disabled people does not seem to be sufficiently effective. The increase in the number of unemployed disabled people may have been halted, but the number of disabled people in employment continues to fall. This points to a troubling pattern of permanent exit from the labour force by growing numbers of people with disabilities.

3.6. Rehabilitation

Rehabilitation did not undergo substantial reform during the 1990s, the present system being almost the same as in the previous socialist regime. There is a certain amount of medical, social, and workplace rehabilitation in the Czech Republic; but it is not the so-called 'comprehensive rehabilitation' widespread in advanced European Union countries (such as Austria). The main reason for this lies in the history of rehabilitation in Czechoslovakia, rehabilitation having been identified nearly exclusively as medical treatment (see section 1.4).

Rehabilitation is provided at rehabilitation centers, of which there are currently 15 in the Czech Republic. These facilities perform only medical rehabilitation, which is paid for from the health insurance system and is provided on either an out-patient or an in-patient basis. They do not perform vocational rehabilitation, including ergotherapy, in the real sense of the word.[27]

[27] According to a labour office survey carried out in 1997, labour office staff in most districts did not make use of rehabilitation centers for optimum evaluations of residual work potential of unemployed disabled people. In 1996 just 303 unemployed people passed through ergodiagnostic facilities. The low level of use is attributed to unresolved legislation – labour offices are not sure whether they can buy such services out of their budget for active employment policy (Karpíšek *et al.*, 1997).

Patients are referred for rehabilitation on the recommendation of the treating doctor. However, the law does not oblige the doctor to offer the patient rehabilitation, nor does it oblige the patient to accept it.

The Employment Act defines vocational rehabilitation as consistent care designed to allow citizens with disabilities to carry out their previous or other suitable employment. Vocational rehabilitation includes counseling; assistance in choosing an occupation or job; preparation for the job (education); placement in employment; and creation of suitable conditions for the performance of the work. Labour office staff can arrange, and pay for, vocational rehabilitation only for registered unemployed people who have come to the end of a period of sickness leave. In practice, the final result of rehabilitation thus conceived is predominantly placement of the person in a sheltered workshop or creation of a protected job, which often means that work skills are not kept up to date and jobs are never found on the open job market. Finding employment on the open labour market is further hindered by the non-existence of active labour market policy tools such as supported employment and temporary employment.

Rehabilitation, especially vocational rehabilitation in its present form, is considered ineffective and unsatisfactory by those authorities and institutions directly involved, the Ministry of Labour and Social Affairs, labour offices, and rehabilitation facilities, since it fails to integrate persons with disabilities into the open labour market. Amendments to existing legislation currently under preparation will introduce the concept of comprehensive rehabilitation, as well as dealing with the problems of financing rehabilitation, and will clarify links to other social systems for persons with disabilities.

3.7. Other Social Benefits for Persons with Disabilities

In the state social support system, there are universal and means-tested benefits mainly for families with dependent children. One example of targeted means-tested benefits is the social allowance. This is a benefit for a person taking care of at least one child full-time where the family income does not exceed a certain level (minimum subsistence level for different types of families). If a family has a disabled child or a disabled parent, the level of allowable income is increased. Other benefits for disabled people are universal, such as parental allowance, maintenance, and foster care allowances. A parent who personally

cares for a child up to the age of four years (and up to the age of seven years in the case of a disabled child) is entitled to a parental allowance. The same principle applies to a claim from a soldier's wife to a maintenance allowance if she is caring for a disabled child. Foster care benefits are also determined according to the child's degree of disability.

In the social services system, benefits and services are provided chiefly to the severely disabled, that is, those whose disability substantially restricts their motor or place-identification skills. The amount of these benefits depends on the degree and type of disability of the person in question. Such people receive special advantages divided into three groups, depending on the type and degree of disability.

- Advantages for people with a first-degree disability, carrying a TP card (*těžce postižený* or "severely disabled"), have no financial component. They merely give the cardholder the right to reserved seats on public transport and preferential treatment when their affairs are being dealt with, for example, in state offices.
- Besides enjoying the first-degree advantages, people with a second-degree disability, carrying a ZTP card (*zvlášť těžce postižený* or "particularly severely disabled"), are entitled to free local public transport anywhere in the country. It also entitles the cardholder to discounts on travel fares (other then local public transport), tickets to theater and cinema, as well as to concerts and other cultural and sports events.
- People with a third-degree disability may carry a ZTP/P card (*zvlášť těžce postižený, potřebující průvodce* or "particularly severely disabled and needing an escort"). The advantages comprise the entitlements of the two lower categories and also the right to free public transport for the escort. The blind are entitled to free transport for a guide dog, provided they are not accompanied by an escort. Carriers of this card and their escorts have the right to discounts on theater and cinema tickets etc.

In addition to the aforementioned advantages and discounts, other social benefits are also awarded to second and third-degree cardholders. These range from tax relief and exemption from certain fees to a contribution to the running of a motor vehicle and payment of insurance. Persons with disabilities are

also entitled to services, particularly community care services and various forms of institutional care.

3.8. Weaknesses of Existing Legislation on the Social Services System

The present system of social protection for persons with disabilities, mainly social services, has been strongly criticized by the public, persons with disabilities themselves, disabled people's organizations, and, for slightly different reasons, by social services staff. The public, disabled people, and disabled people's organizations argue that the current system is ineffective and does not allow persons with disabilities to enjoy the standard of living to which they are entitled in a modern society. The general view of social services staff concerning the system is, however, much more positive, although they do criticize some details in the functioning of the system (Haberlová, 2000).

The main reasons for such criticism include (citing a STEM survey[28] by Haberlová, 2000):

- Low take-up rates. Representatives of state institutions estimate the take-up rate for benefits at 13 percent, organizations for disabled people estimate 22 percent.
- A high level of abuse. The vast majority of social services staff and representatives of disabled people's organizations are convinced that the existing system of social security for persons with disabilities allows the abuse of benefits, tax relief, and various other advantages. Expert estimates of the proportion of people abusing one kind of benefit or another, range from nine percent (disabled people's organizations) to 22 percent (social services staff). The most common method of benefit abuse involves the claiming of benefits by someone other than a person with disabilities – generally a family member. The main cause is the shortcomings and loopholes in legislation or the inability to prove abuse.

[28] This survey, entitled "Formation of an Awareness of the Discrepancies in the System of Paying Out Benefits to the Handicapped in the Czech Republic Based on the Relevant Facts and Figures", was conducted in 1999 by the public opinion research agency STEM in collaboration with Socioklub.

- Another serious problem is the accumulation of benefits caused by the fragmented nature of the current system of social security for persons with disabilities. This can be illustrated by taking the example of the purchase of a car by a person with a disability, whereby the claimant is entitled to an allowance to purchase the car as well as an allowance for usage and sometimes a free motorway/highway coupon.

Most of the parties involved (state institutions, non-governmental organizations representing persons with disabilities, and persons with disabilities themselves) are convinced that the existing trend of incremental adjustments to the system of social security for persons with disabilities cannot continue. They suggest, as a first step, a complete evaluation of the efficiency of current social benefits provided by the social services system. On the basis of the aforementioned research it seems that all the interested parties would agree, as a further step, on the issue of reducing the significance of tax relief *vis-à-vis* social benefits. Social benefits for disabled people are currently provided by both the tax and social systems which is considered an accumulation of benefits and wasteful in terms of duplicated administration costs. However, it is very difficult to find agreement on the most important issues. Whereas social services staff, the public, and certain organizations for persons with disabilities would prefer a broadening of social services rather than increasing social benefits, people with disabilities themselves demand both an increase in financial benefits and the broadening of social services (Haberlová and Biskup, 2000).

4. Conclusion

November 1989 heralded a time of dramatic change in the then Czechoslovakia. However, the euphoria of newly found freedom and democracy soon turned into disillusionment as people began to understand that the road to economic prosperity would be long and hard.

In terms of social policy, the Czechoslovakia of late 1989 inherited a system that contained clear Bismarckian features. Furthermore, certain sections of society enjoyed preferential treatment in terms of social benefits, especially Communist Party officials, manual workers (miners), and other workers in

so-called high risk occupations, with other sections of society being discriminated against, especially the relatively small number of self-employed people.

Concerning disability benefits, the socialist administration considered such payments to be compensation for disability, rather than the view held in Western European countries which aimed disability benefits at trying to get persons with disabilities back into the workforce.

Similarly, the socialist view of rehabilitation held that such treatment should aim to relieve the disability to some extent, rather than the Western view of rehabilitation not only as a way of relieving the disability but also enabling persons with disabilities to gain employment.

The transition years in Czechoslovakia (and the Czech Republic from January 1, 1993), in our study considered to be 1990 to 1995, were difficult years for all sections of society. The inevitable restructuring of the economy away from traditional labour-intensive heavy industry and into medium and light industry and services, coupled with redundancies caused by newly privatized companies downsizing and shedding 'unnecessary workers' inherited from the socialist full-employment policy, brought about a rise in unemployment. High inflation compounded the problems of the first elected governments of the early 1990s, leading to a fear of massive social unrest.

Consequently social benefits, including disability payments, were paid at a generous level and had, to a certain extent, a discouraging influence on many of the unemployed as regards finding a new job.

Persons with disabilities were hit particularly hard by the changes that took place during this transition period. Manufacturing cooperatives and sheltered workplaces lost some of the privileges they had enjoyed during the socialist era, suddenly being thrown into direct competition with private companies. Unable to compete on equal terms, many of these workplaces closed, throwing disabled people out of work.

Most employers, having a large pool of labour to choose from preferred not to employ people with disabilities, considering them less qualified, less productive, and requiring more sickness leave than the able-bodied.

The governments of the early 1990s, whilst not fundamentally changing the system of disability benefits inherited from the 1988 Social Security Act, did react in a timely manner to the deteriorating situation of this section of society by introducing tax relief, financial incentives for companies employing

persons with disabilities, mandatory quotas, and special labour market programs. Nevertheless experts within the field of social security and groups of people with disabilities campaigned for completely new legislation aimed at unifying the best of the 1988 Act and later provisions and governments decrees, as well as elements of Western European legislation.

By 1995, the economic situation in the Czech Republic had stabilized, unemployment levels were low compared to those in the economies of neighboring transition countries, foreign investment was high, and inflation at an acceptable level.

During the second half of the 1990s, the new Pension Insurance Act came into force. The Act introduced more objective criteria *vis-à-vis* the evaluation of disability, which led to more equal treatment for disabled people and succeeded in redressing the imbalance of fully and partially disabled pensioners.

The quota system, originally introduced in 1991, was amended to include penalties aimed at forcing all companies with more than 20 workers to employ people with disabilities, or alternatively to purchase goods from other companies employing a high number of people with disabilities – for example, from manufacturing cooperatives. It appears, however, that the authorities were unable to monitor to what extent employers actually complied with this regulation, and it seems to have had little effect on the employment of persons with disabilities.

Rehabilitation was finally recognized as an important element in getting persons with disabilities back into the workforce. However, it will take a number of years for this policy to come to fruition, during which time new facilities will have to be opened and new staff trained. These new measures and others more closely analyzed in Section 3 of this study aimed to better integrate persons with disabilities into the workforce, but the results were somewhat mixed.

Our study has attempted to outline in detail developments to date *vis-à-vis* persons with disabilities in the Czech Republic. What more can be done to improve their position in this country?

- We see the most important step toward the unification of existing legislation aimed at simplifying the benefits system and reducing bureaucracy. Such a move should have first and foremost the aim of

encouraging persons with disabilities to return to employment, as well as encouraging employers to employ them.

- Whilst the severely disabled have no limit on earnings from employment according to existing legislation, the partially disabled are very much restricted as to how much they can earn without losing part or all of their benefits. We feel that these restrictions should be lifted thereby creating a very real incentive for the partially disabled to take up employment. Whilst the Research Institute for Labour and Social Affairs has recommended this step forward to the Ministry of Labour and Social Affairs, the latter has shown little enthusiasm for such a legislative change.
- A further recommendation concerns the quota system, according to which companies must employ a certain number of disabled employees. We believe that the penalties for not fulfilling this quota are too low and should be raised significantly and that labour offices should be provided with the necessary resources and powers for investigating the fulfillment of employers' responsibilities.
- We believe that the current social services system is rather complicated, which leads to confusion as to which benefits and social services persons with disabilities are entitled to, producing in turn low take-up rates and potential for abuse. We strongly believe that transformation of the social services system should be finished very soon.

However, the passing of new legislation on its own will not solve the problem of persons with disabilities. Attitudes must also change. Attitudes held by employers who, in the main, and despite financial incentives to encourage employment of persons with disabilities, are reluctant to employ such people. They consider persons with disabilities as being less productive than the able-bodied and consider the extra bureaucracy involved in employing them as time consuming and not worth the effort.

Attitudes towards persons with disabilities within society as a whole also need to change. During the socialist era, persons with disabilities, especially the severely disabled, who were housed in special institutions, were kept to a large extent out of view of mainstream society. Western countries have attempted to integrate persons with disabilities into society with so-called 'care in the

community' programs which have succeeded in raising public awareness of persons with disabilities and their special problems an needs. This is a prime area for further action in the future by the Czech Republic as well.

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Disability Protection in Estonia

Lauri Leppik

1. Disability Protection before 1991

1.1. The Soviet Legacy

Estonia regained its independence on August 19, 1991, with a benefit system inherited from the Soviet Union. The pension system of the former Soviet Union had several Bismarckian features – e.g. entitlements based on work and benefits linked to the former wage. However, unlike a typical Bismarckian scheme, pensions were financed from the general state budget. Minimum and maximum pensions made the pension system strongly redistributive, and combined with a relatively flat wage system resulted in a benefit structure that was rather weakly differentiated.

The Soviet social security system used the notion of *invalidity*, which was regarded mainly as a medical condition to be evaluated by doctors. The focus of the problem was thus put on the individual rather than on his environment, but against the background that the physical environment was to a large extent non-accessible to persons with disabilities. However, a strong work ethic and the full employment policy of the communist regime had favorable implications for the occupational integration of persons with disabilities, and contributed to high employment rates among invalidity pensioners.

The status of disabled persons in society varied quite substantially depending on the cause of disability. While war veterans and work injury victims received high official recognition and enjoyed several advantages, persons with congenital disabilities often found themselves in social exclusion, being locked behind the walls of their homes or welfare institutions.

The pension system was regulated by two legislative acts. The Act on State Pensions, dating back to 1956, covered all employed persons. For the members of a *kolkhoz* (collective farm), there was a separate scheme regulated by the Act on Kolkhoz Members' Pensions of 1964. The Soviet pension system thus resembled that of several other countries with a sizeable agricultural sector, as it maintained separate schemes for farmers and for other workers. Both pension schemes offered protection in the case of old age, invalidity, and loss of the breadwinner.

Invalidity pensions were available to persons who had been granted invalidity status by a medical expert commission. As no age limit existed, invalidity status could be granted at any age. Adult persons with invalidity status were divided into three groups:

- those with a total incapacity to work and a need for constant attendance (Group 1);
- those with a total incapacity to work without need for attendance (Group 2); and
- those with a partial incapacity to work (Group 3).

No invalidity group was determined in the case of children, who were separately categorized as invalid children. For eligibility for the invalidity pension, an age and gender specific qualification period was established (see Table 1).[1]

The amount of the invalidity pension depended on two main factors: the invalidity group and the former wage. Further, various target replacement rates were established, depending on whether the cause of invalidity was general illness, or a work accident or occupational disease (see Tables 2 and 3).

[1] The general pension age under the 1956 law was 55 for women and 60 for men. The qualification period for the old-age pension was also gender specific – 20 years for women and 25 years for men.

Table 1
Required pensionable length of service for the invalidity pension under the 1956 Soviet Union Pension Law

Age	Pensionable length of service	
	Men	**Women**
Under 20	—	—
20–22	2 years	1 year
23–25	3 years	2 years
26–30	5 years	3 years
31–35	7 years	5 years
36–40	10 years	7 years
41–45	12 years	9 years
46–50	14 years	11 years
51–55	16 years	13 years
56–60	18 years	14 years
61 and over	20 years	15 years

Table 2
Invalidity pension in case of general illness under the 1956 Soviet Union Pension Law

Invalidity group	Invalidity pension (% of former wage)	Minimum pension (in Rubles)	Maximum pension (in Rubles)
1	85	30	90
2	65	23	60
3	45	16	40

Under the Soviet Union Civil Code, the responsible employer was liable to pay compensation in case of work accidents or occupational disease, in addition to the state invalidity pension to compensate for the lost wage.[2]

[2] Wage replacement compensation equaled former wage minus invalidity pension.

Table 3
Invalidity pension in case of work accident or occupational disease according to the 1956 Soviet Union Pension Law

Invalidity group	Invalidity pension (% of former wage)	Minimum pension (in Rubles)	Maximum pension (in Rubles)
1	100	36	120
2	90	28.5	90
3	65	21	45

Persons lacking the required qualification period for the invalidity pension were granted a reduced pension proportional to their existing pensionable service, subject to the minimum. Persons over the pensionable age could choose an invalidity pension in the amount of their old-age pension, if the latter was more favorable.

Remarkably, the level of pensions remained unchanged for several decades. The Soviet ideology failed to recognize the notion of inflation, and accordingly there was no need for indexation of benefits. All prices being state-controlled, the prices of basic commodities remained stable. The maximum pension for Group 1 (90 Rubles) corresponded to 60–70 percent of the average wage, allowing the beneficiary to meet basic needs. But the minimum pension for Group 3 (16 Rubles), corresponding roughly to 10 percent of the average salary, practically forced pensioners to seek employment in order to supplement their income.

Under the Constitution of the Soviet Union, everyone had both a right and an obligation to work. Persons with an invalidity classified in Group 1 or 2 were exempted from the *requirement* to work, but still retained the *right* to work. Employment of Group 1 and 2 invalids occurred mostly in special workshops and special enterprises, e.g. workshops for the deaf and blind, while Group 3 invalids mostly worked in regular settings. Welfare institutions for persons with mental handicaps, often situated in the countryside, had agricultural production units where so-called work rehabilitation was carried out. These units also contributed to relatively high employment figures, as

about 10 percent of recipients of the invalidity pension lived in social welfare institutions. Working invalidity pensioners in Groups 1 and 2 could retain their full pension regardless of their work income. For Group 3 pensioners, the pension and work income together could not exceed the wage level before the invalidity pension was granted.

All pensions, including invalidity pensions, were financed directly from the state budget. Although companies and organizations paid a so-called social security tax (henceforth 'social tax') to the general state budget, there was no clear link between revenues from the social tax and pension expenditures.

While the right to an invalidity pension was work-related, based on the former wage and length of service, other social services and social advantages for disabled persons were status-related, entitlements based mostly on the invalidity group. Notably, disabled veterans of the Second World War enjoyed considerable advantages, such as:

- free hand-operated vehicle (once every seven years);
- free public transportation;
- prosthesis and wheelchair; and
- sanatorium treatment.

1.2. The Impact of Soviet Disability Policies

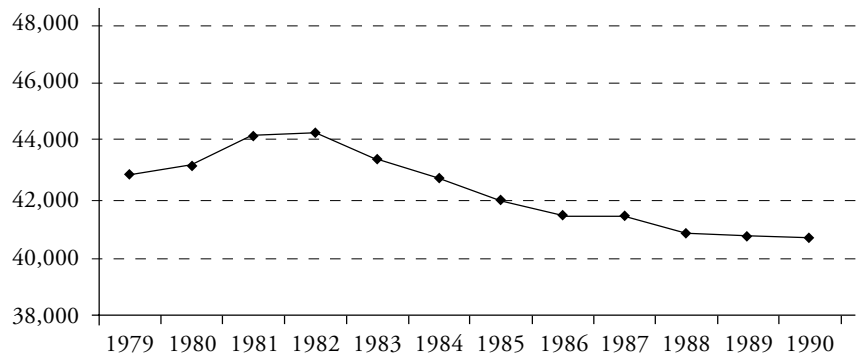
In 1970s and 1980s, the number of invalidity pensioners in Estonia remained in the range of 41,000–44,000, but a declining trend was observed in the 1980s (see Chart 1). This decline is explained by three main factors:[3]

1. the passing away of disabled Second World War veterans;
2. a decline in the number of new cases of invalidity due to tightened controls and the education of medical commissions from Moscow[4]; and
3. more extensive use of sickness cash benefits rather than invalidity pensions.

[3] According to a discussion with the former Head of the Central Medical Expertise Commission.

[4] A decline in the number of new cases of invalidity was desirable, as it was seen to indicate the achievements of the Soviet system.

Chart 1
Recipients of invalidity pensions, 1979–1990



Source: Estonian Statistical Office.

Against a background of an increasing population in Estonia during that period, the share of invalidity pensioners in the total population declined from 3.0 percent in 1981 to 2.5 percent in 1990. While the number of old-age pensioners steadily increased due to the maturation of the pension system, the share of invalidity pensioners in the total number of pensioners declined from 14.2 percent in 1980 to 10.8 percent in 1990.[5]

In 1990, at the end of the Soviet period in Estonia, about 11,000 invalidity pensioners were employed, or nearly 30 percent of the adult recipients of invalidity pensions. Among Group 3 invalids, the employment rate was even higher, at 75 percent.

[5] There were 231,000 total pensioners in 1980, and 287,000 in 1990 (Estonian Statistical Office, 1998).

Table 4
Invalidity pensioners in Estonia, 1975–1990

	1975	1980	1981	1982	1983	1984
Persons receiving invalidity pension	41,417	43,154	44,183	44,277	43,372	42,719
Share of invalidity pensioners in total population (%)	2.9	2.9	3.0	3.0	2.9	2.8
Share of invalidity pensioners among the pensioner population (%)	14.7	14.2	14.2	14.0	13.5	13.1

	1985	1986	1987	1988	1989	1990
Persons receiving invalidity pension	41,975	41,457	41,401	40,845	40,744	40,683
Share of invalidity pensioners in total population (%)	2.8	2.7	2.7	2.6	2.6	2.5
Share of invalidity pensioners among the pensioner population (%)	12.7	12.4	12.2	11.8	11.6	10.8

Source: Estonian Statistical Office, author's calculations.

2. Disability Protection in the Early Years of Transition

The early reform of disability protection in Estonia was characterized by the following stages:

1. Financial separation of the benefit system (1990)
2. Benefit liberalization (1991)
3. Benefit retrenchment (1992)
4. Benefit restructuring (1993)

2.1. Financial Separation

Deepening economic and fiscal problems in the Soviet system forced the Estonian government to take steps toward the financial consolidation of the pension system even before the formal regaining of independence. With the underlying aim of preventing negative effects from economic turbulence caused by price liberalization, increasing inflation and disturbed cash flows, the government decided to separate the financing of the Estonian pension system from the rest of the Soviet Union. This was a bold move by the government, reflecting a desire to achieve greater autonomy. At the same time, many people believed that because Estonia was a net contributor in the Soviet Union, financial separation would allow the provision of better benefits. The adoption of the Act on Social Tax by the Estonian Supreme Council introduced a social tax at the rate of 20 percent of the gross payroll, earmarked for the financing of state pensions.[6] Revenues from the social tax were collected by the Social Fund, which separated pension expenditures from other budgetary expenditures.[7]

2.2. Benefit Liberalization

As the central government of the Soviet Union was planning to replace the 1956 pension law with a revised version, the Estonian Ministry of Social Welfare started to prepare a new pension law in 1990. The law would separate the benefit side of the Estonian pension system from the Soviet system. In the view of the government, the new law had two main objectives – to do away with the Soviet pension rules, and to increase coverage and the level of benefits. Prime Minister Savisaar ordered that no paragraph of the new pension law should be a copy of the text of the Soviet law (Männik and Leppik, 1998).

The Estonian Supreme Council adopted the Pension Law of the Republic of Estonia on April 15, 1991. The new law liberalized eligibility rules and prescribed higher benefit rates. The qualification period for an invalidity

[6] The law was adopted on September 12, 1990 and came into effect January 1, 1991.

[7] Originally the Social Fund had other sources of income as well, such as certain excise taxes.

pension was abolished, and coverage was broadened to all residents regardless of their pensionable length of service. Invalidity pensions were calculated from the minimum wage (MW) and from the former earnings of the person according to the following rules:[8]

- Group 1 invalidity pension = 60% of the MW + 40% of average former earnings;
- Group 2 invalidity pension = 60% of the MW + 35% of average former earnings;
- Group 3 invalidity pension = 30% of the MW + 25% of average former earnings; and
- Pension for an invalid child = 85% of the MW.

The former wage was calculated on the basis of the five best consecutive years within the 15 years preceding the pension application or the end of the working career.

On top of the basic pension, certain supplements were granted, including:

- 70% of the MW for Group 1 invalids; and
- 15% of the MW for invalid children.

Further, the following minimum pensions were prescribed:

- Group 1 and 2 invalidity pension = 85% of the MW; and
- Group 3 invalidity pension = 45% of the MW.

In reality, however, taking supplements into account, invalidity pensions for Group 1 could not be less than 130 percent of the minimum wage. For invalid children they could not be less than 100 percent of the minimum wage.

Regardless of their age, Group 1 and 2 invalids who had the pensionable length of service required to receive the old-age pension – 25 years for men, 20 years for women – could be granted an invalidity pension at the rate of the old-age pension, when the latter was more favorable. Invalidity pensions were granted for the duration of invalidity. However, men aged 55 years or

[8] Calculations of the old age and survivors' pensions were based on the same factors (minimum wage and former earnings), but using different weights.

more and women aged 50 or more were granted a lifetime invalidity pension. The pensions were paid regardless of earnings from work or any other income.

The medical approach to the notion of invalidity remained unchanged under the new law, which maintained the previous procedures for the determination of invalidity. Adults were to be assessed by medical expert commissions, organized on a regional basis. In case of children under the age of 16, a medical consultative commission at the treating hospital determined invalidity.

Although the new law created a quite typical contribution-financed defined-benefit pension scheme, high expectations ran up sharply against economic reality. The 1991 pension law had a very short life – it was implemented for only seven months, and only for new cases of invalidity.

The major problem with the new law was its total neglect of financial calculations. Implementation of the law turned out to be unaffordable.[9] This paradox can be explained by the inexperience in policy development of specialists at the Ministry of Social Welfare. Estonia lacked specialists able to produce impact analyses and financial calculations of draft legislation. Under the Soviet regime, the task of specialists at the Ministry of Social Welfare was to implement legislation developed in Moscow. The new circumstances required new skills in policy development and drafting of new legislation, but the staff simply lacked them. Of course, predicting the future in the highly turbulent political and economic context in the Soviet Union in 1990–1991 would have been a neck-breaking challenge even for very skillful actuaries.

2.3. Benefit Retrenchment

The collapse of the Soviet Union in August 1991 and the following economic crisis further exacerbated the situation, forcing the Estonian Supreme Council to suspend the pension law in February 1992. Pensions were replaced by flat-rate state living allowances. This step should not be considered a deliberate introduction of egalitarian benefit rules. Rather it was seen by the politicians

[9] Another problem was the need to carry out several recalculations of pensions in an environment of very high inflation in 1991–1992. This had to be done manually, as the level of computerization of pension offices in the early 1990s was still very low.

as a temporary measure to help cope with a situation of deep economic crisis. With flat-rate benefits, payments were easier to administer and calculations easier to make. The failure of the 1991 pension law was not yet admitted by politicians, and therefore the resolution of the Supreme Council on the establishment of living allowances was supplemented with a decision to reintroduce the pension law three months after the introduction of Estonia's own currency.

The resolution also mandated the government to review the levels of pensions according to changes in the minimum wage. To keep pace with very high inflation – 1,100 percent in 1992 – the government revised the levels of pensions five times during the course of the year. Notably, the levels of pensions for different invalidity groups were not increased at the same rate. The dynamics show that the government was trying to find an adequate balance between invalidity pensions and the minimum wage, as well as between the size of pensions for the various invalidity groups.

Table 5
The adjustment of invalidity pensions in 1992

Invalidity pension	February 1, 1992	March 1, 1992	July 1, 1992	October 1, 1992
Group 1	750 Rubles	1,000 Rubles (1.0 x MW)	2,300 Rubles (1.15 x MW)	EEK 300
Group 2	750 Rubles	1,000 Rubles (1.0 x MW)	2,000 Rubles (1.0 x MW)	EEK 260
Group 3	530 Rubles	710 Rubles (0.71 x MW)	1,420 Rubles (0.71 x MW)	EEK 175
Invalid children	750 Rubles	1,000 Rubles (1.0 x MW)	2,000 Rubles (1.0 x MW)	EEK 260
Amount for working pensioners	375 Rubles	500 Rubles (0.5 x MW)	1,000 Rubles (0.5 x MW)	EEK 150

The summer of 1992 also marked two important reforms setting the broader context for various national policies – monetary reform,[10] and the adoption of the new Estonian constitution.[11] The constitution, *inter alia*, laid down the general principles of social security. In Article 28, the constitution provides that:

> Everyone shall have the right to health care. Estonian citizens shall be entitled to state assistance in case of old age, inability to work, loss of provider, and need. The types of assistance, its level, eligibility conditions, and procedures shall be established by law. Unless otherwise determined by law, this right shall exist equally for Estonian citizens, citizens of foreign states and stateless persons who are present in Estonia. The state supports social assistance provided on a voluntary basis or by municipalities. Families with many children and the disabled are given special attention by the state and local authorities.

In general, social rights were formulated in a rather weak manner in the constitution. Notably, the formulation "state assistance" is used instead of stronger statements such as 'the right to pension'. However, the special needs of two social groups – disabled persons and large families – are specifically recognized in the constitution.

2.4. Benefit Restructuring

Following the introduction of the Estonian currency in June 1992, the government was bound to take steps to reintroduce the 1991 pension law. The first democratic elections of the Estonian parliament in September 1992 delayed the process, and the task was handed on to the new government.

Calculations by the newly established Ministry of Social Affairs indicated that revenues from the social tax were not sufficient for reintroducing the 1991 pension law.[12] To finance the law, the social tax rate would have had to be raised from 20 percent to 26 percent (Männik and Leppik, 1998). As

[10] According to the Resolution of the Currency Reform Commission, Soviet Rubles were changed to Estonian Kroons (EEK) at the rate of 10 Rubles per Kroon on June 20, 1992. The exchange rate of the Kroon was pegged to the German mark at the fixed rate of EEK 8 = DEM 1. All residents were allowed to change up to 1,500 Rubles.

[11] The constitution was drafted by a Constitutional Assembly. It was adopted by referendum on June 28, 1992, and entered into force July 3, 1992.

[12] The Ministry of Social Affairs replaced the former three separate ministries of social welfare, labour and health.

the government opted for a radical approach to economic reconstruction – a stable currency based on a currency board, liberal trade policy, a balanced budget with very limited borrowing, and far-reaching privatization – the option of a tax increase was clearly out of the question.

Against this background, the National Social Insurance Board – a new government agency established in February 1993 with responsibilities for the administration of social security – drafted a new pension law. The draft described a pension scheme that, from a financing perspective, could be classified as a defined-contribution scheme at the macro level. The revenues of the system were pre-defined by a fixed contribution rate, and the benefit levels were adjusted according to the revenues available.[13] This closed-budget approach introduced clear fiscal boundaries to the pension system.

An Act on State Living Allowances was adopted by parliament in March 1993 and came into force on April 1, 1993, facing a rather strong public pressure from pensioners' organizations to end the system of flat-rate old-age pensions.[14] However, from the side of disabled persons' organizations, there was no objection to flat-rate invalidity pensions.

The law introduced an important change with respect to old-age pensions, differentiating the formerly flat-rate pensions on the basis of length of service. However, invalidity pensions remained paid at a flat rate, depending only on the invalidity group. The amounts were linked to the minimum wage. The change of old-age pension formula still had implications for those persons belonging to invalidity Groups 1 or 2 (regardless of age), who had sufficient pensionable service required for the old-age pension (15 years). These persons could have their invalidity pension calculated according to the old-age pension formula.

[13] The Estonian pension system operated on these principles in 1993–1999. At the micro level, i.e., concerning the benefit calculation rules, the scheme could still be seen as a defined-benefit pension scheme. Although the level of benefits could also fluctuate downward in such a system in theory, in practice this did not happen, as social tax revenues increased due to economic growth and inflation.

[14] The use of the term 'state living allowances' in the title of the law was suggested by politicians who were behind the 1991 pension law, but who landed in opposition after 1992 elections. The use of this term was intended to indicate that the benefit rules of the law were still temporary, and a true 'Pension Law' was missing.

Invalidity pensions were available to all permanent residents of Estonia following a certification of invalidity by a medical commission. Persons with a temporary residence permit could receive an invalidity pension during the validity of the residence permit, if they became disabled in Estonia. No qualification period was applied for entitlement. Invalidity pensions were granted for the duration of invalidity, and were also available to persons over the pensionable age.

The new (now fully legislated) criteria marked a considerable shift in the policy behind invalidity pensions. However, there was political consensus across various political parties that the new law should still be considered a temporary measure for the period of economic transition. In the longer term, the aim was to return to a work-related scheme emphasizing social insurance principles. Although amended several times, the Act on State Living Allowances remained in force for seven years.[15] Over this period, the benefit formula was modified ten times.

Frequent modifications in the formula were actually made mainly for the purpose of increasing pension levels. The only exception was a change effective from July 1, 1994, when pensions were disconnected from the minimum wage.[16] In the absence of any rules for the automatic indexation of benefits, an ad hoc legislative amendment by parliament was necessary for each increase of pensions.[17] Regardless of rather frequent changes in government in 1992–

[15] The Act on State Living Allowances remained in force until April 1, 2000, when it was replaced by the Act on State Pension Insurance.

[16] An additional technical change was made on September 1, 1995 when a new concept of a national pension rate (NPR) was introduced. The change meant that old-age, invalidity and survivors' pensions were no longer linked to national pensions, but to a fixed sum – the NPR. The national pensions themselves were calculated as a percentage of the NPR.

[17] In principle, pensions could be increased (after January 1996) by raising the value of the national pension rate (NPR) rather than changing the multiplier each time. This method was not used, because the NPR also served as the base amount for the old age pension formula. With respect to old-age pensions, the intention of coalition politicians was to emphasize the work-related length of service component, and therefore the base amount remained unchanged from 1995 until 2000.

1997, politicians followed a prudent fiscal approach, whereby pensions were increased only after sufficient reserves were developed in the pension insurance budget from incoming social tax revenues. However, the precise timing of each increase was subject to discretion, and sometimes used for political purposes.

Table 6.
Changes in the calculation of invalidity pensions, 1993–1999

	April 1993	**April 1994**	**July 1994**	**September 1995**	**January 1996**
Minimum wage (MW)	EEK 300	EEK 300	EEK 300	EEK 450	EEK 680
National pension rate (NPR)	—	—	—	—	EEK 410
National pension (NP)	85% MW	85% MW	EEK 300	EEK 410	110% NPR
Invalidity pension:					
Group 1	100% MW	115% MW	125% NP	165% NP	175% NPR
Group 2	95% MW	110% MW	120% NP	135% NP	145% NPR
Group 3	60% MW	70% MW	80% NP	90% NP	110% NPR
Invalid children	85% MW	95% MW	105% NP	105% NP	115% NPR
	April 1996	**January 1997**	**November 1997**	**March 1998**	**January 1999**
Minimum wage (MW)	EEK 680	EEK 680	EEK 680	EEK 1,100	EEK 1,250
National pension rate (NPR)	EEK 410	EEK 410	EEK 410	EEK 410	EEK 410
National pension (NP)	120% NPR	135% NPR	145% NPR	160% NPR	195% NPR
Invalidity pension:					
Group 1	185% NPR	200% NPR	215% NPR	245% NPR	295% NPR
Group 2	155% NPR	170% NPR	185% NPR	205% NPR	250% NPR
Group 3	120% NPR	135% NPR	145% NPR	160% NPR	195% NPR
Invalid children	125% NPR	140% NPR	150% NPR	165% NPR	200% NPR

Table 7
Principal legislation on the state pension system and implications for invalidity pensions, 1991–1994

Legislative acts	Date of adoption	Main features
Pension Act of the Republic of Estonia	April 15, 1991	Universal coverage, qualification period abolished. Invalidity pensions connected to the minimum wage and the former wage of the beneficiary.
Resolution of the Supreme Council on State Living Allowances	February 1, 1992	Flat-rate invalidity pensions, amounts fixed by government.
Act on State Living Allowances (LSA)	April 1, 1993	Flat-rate invalidity pensions connected to the minium wage.
Amendment to the LSA	July 1, 1994	Invalidity pensions disconnected from the minimum wage.

2.5. Trends Related to the First Reforms[18]

Following the adoption of the Resolution on State Living Allowances in 1992, the number of invalidity pensioners increased by over 5,000 persons as compared to 1991. In the following years, in 1993–2000, the number of invalidity pensioners further increased by 2000–3000 persons a year (see Chart 2). The increase in the number of invalidity pensioners is explained by a combination of factors:

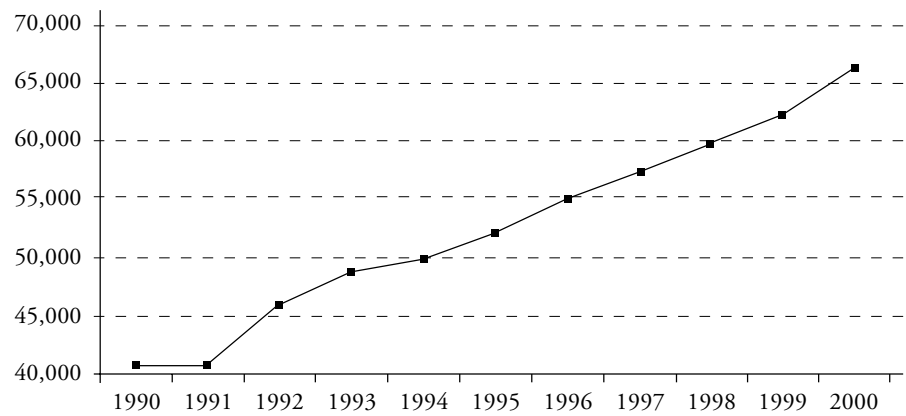
1. abolition of the qualification period, which extended the coverage of the scheme;
2. a shortened payment period for sickness cash benefits, from the earlier 8–12 months to 4–6 months;

[18] The reforms to be described in section 3 were enacted very recently, so there is as yet no year-by-year statistical data on their impact. Therefore, this section provides statistics which show the impact of the early reforms over the entire decade, 1990–2000.

3. an increase in the statutory pensionable age,[19] resulting in a decline of the number of old-age pensioners[20] (because the rate of invalidity increases with age, raising the pensionable age caused a simultaneous increase in the number of invalidity pensioners); and
4. labour market factors (increasing unemployment rates) combined with liberal judgments by the medical expert commissions.[21]

As a result of these factors, the share of invalidity pensioners in the total population increased from 2.6 percent in January 1991 to 4.8 percent in January 2000 (see Table A in the Appendix).

Chart 2
The number of invalidity pensioners, 1990–2000



Source: Estonian Statistical Office.

[19] The pensionable age has been increased gradually since 1994 according to a fixed scale, on average by four months a year. In 2001, the pensionable age is 58 for women and 63 for men. The Act on State Pension Insurance (which took effect on April 1, 2000), prescribes that the pensionable age of men and women shall be equalized at the level of 63 years by further increasing the pensionable age of women until 2016.

[20] The number of old-age pensioners decreased by nearly 29,000 persons in 1993–2000.

[21] Medical expert commissions, although subordinated to the National Social Insurance Board, enjoyed fairly autonomous status in practice, without strict controls or pressure from the supervising bodies over the application of invalidity criteria. The operational criteria still dated back to the 1950s.

About two-thirds of all invalidity pensioners were of working age, while one-third were either under 18 or over the pensionable age. It can also be observed in Table 8 that, in recent years, the increase in the total number of invalidity pensioners was mainly from the ranks of working-age persons.[22]

Table 8
The age structure of invalidity pensioners, 1997–2000

Year	under 18	18–24	25–39	40–54	55–59	60–64	65–69	70–74	75–79	80+	Total
1997	4,732	2,473	7,707	16,591	8,743	6,162	4,015	3,029	1,684	2,500	57,636
1998	4,880	2,607	7,965	17,188	9,182	6,602	4,095	3,121	1,922	2,376	59,938
1999	5,079	2,780	8,263	18,409	9,187	7,100	4,057	3,217	2,098	2,332	62,522
2000	5,374	3,004	8,743	20,339	9,671	7,805	4,180	3,120	2,292	2,286	66,814

Source: Estonian Statistical Office.

The ratio of males to females among recipients of invalidity pensions was around 1.2 in 1997–2000 (see Chart 3). Among old-age pensioners, this ratio was 0.5 (see Table B in the Appendix). The gender bias of the invalidity problem has its roots in the causes of invalidity. In particular, injuries rank high in this respect, causing invalidity four times more often among men than among women. Also, cardiovascular diseases and diseases of the nervous system and sensory organs affect more men than women.

[22] Age and gender segregated data on invalidity pensioners are available only from 1997.

Chart 3
Distribution of invalidity pensioners by gender

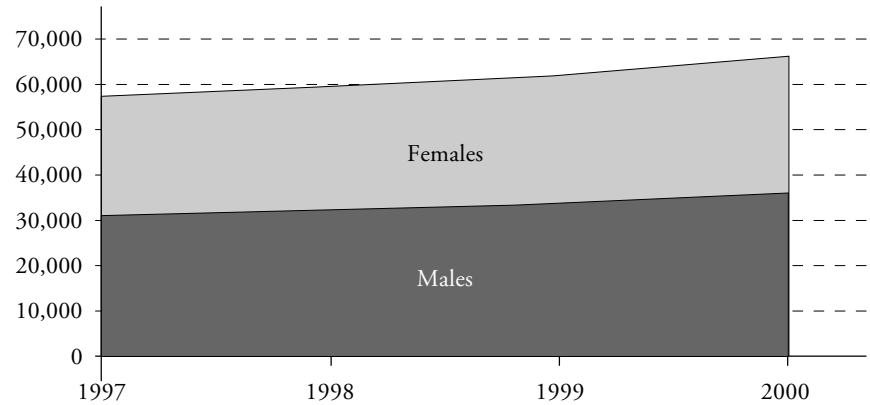


Table 9
Persons granted invalidity status for the first time by condition, 1990–1999

	1990	1991	1992	1993	1994
Cardiovascular diseases	1,235	2,358	2,864	3,047	2,886
Malignant neoplasms	683	838	1,093	1,357	1,430
Diseases of the muscle and skeletal system and connective tissue	335	612	726	917	801
Traumas	474	740	725	705	806
Diseases of the nervous system and sensory organs	238	812	814	809	690
Mental disorders	166	623	922	910	846
Other diseases	261	407	503	675	727
Diseases of the respiratory system	143	165	285	452	363
Tuberculosis	40	119	185	219	269
Diseases of the digestive system	70	88	115	141	171
TOTAL	5,584	6,790	8,255	9,232	8,989

Table 9 (continued)
Persons granted invalidity status for the first time by condition, 1990–1999

	1995	1996	1997	1998	1999
Cardiovascular diseases	1,887	2,700	2,442	2,658	3,340
Malignant neoplasms	1,180	1,404	1,538	1,555	1,586
Diseases of the muscle and skeletal system and connective tissue	634	943	1,007	1,094	1,321
Traumas	776	860	856	1,011	1,250
Diseases of the nervous system and sensory organs	691	937	935	1,030	1,164
Mental disorders	797	910	890	847	1,065
Other diseases	777	729	690	724	858
Diseases of the respiratory system	223	325	310	536	509
Tuberculosis	329	325	274	320	340
Diseases of the digestive system	133	153	167	182	208
TOTAL	7,427	9,286	9,109	9,957	11,641

Source: Estonian Statistical Office.

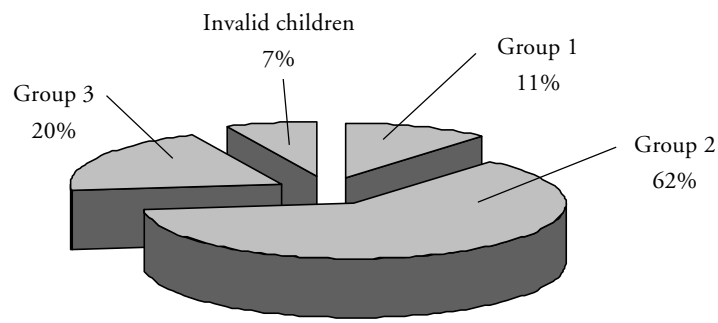
Among the causes of invalidity, cardiovascular diseases have prevailed, followed by cancer and diseases of the muscle and skeletal system. These three factors combined have caused over 50 percent of all cases of invalidity. The number of new invalidity cases doubled from 1990 to 1999. The most significant increases were observed in tuberculosis (8.5 times as many cases)[23]

[23] According to medical statistics the number of new TB cases in the same time period doubled, increasing from 325 in 1990 to 649 in 1999 (Estonian Statistical Office, 1998). The higher increase in the TB-related invalidity rate – more than four times higher – is linked to the emergence of multi-drug resistant forms of TB, requiring prolonged treatment.

and mental disorders (6.5 times). The latter has been attributed to the high stress levels of the society in transition (Lipand, 1998).

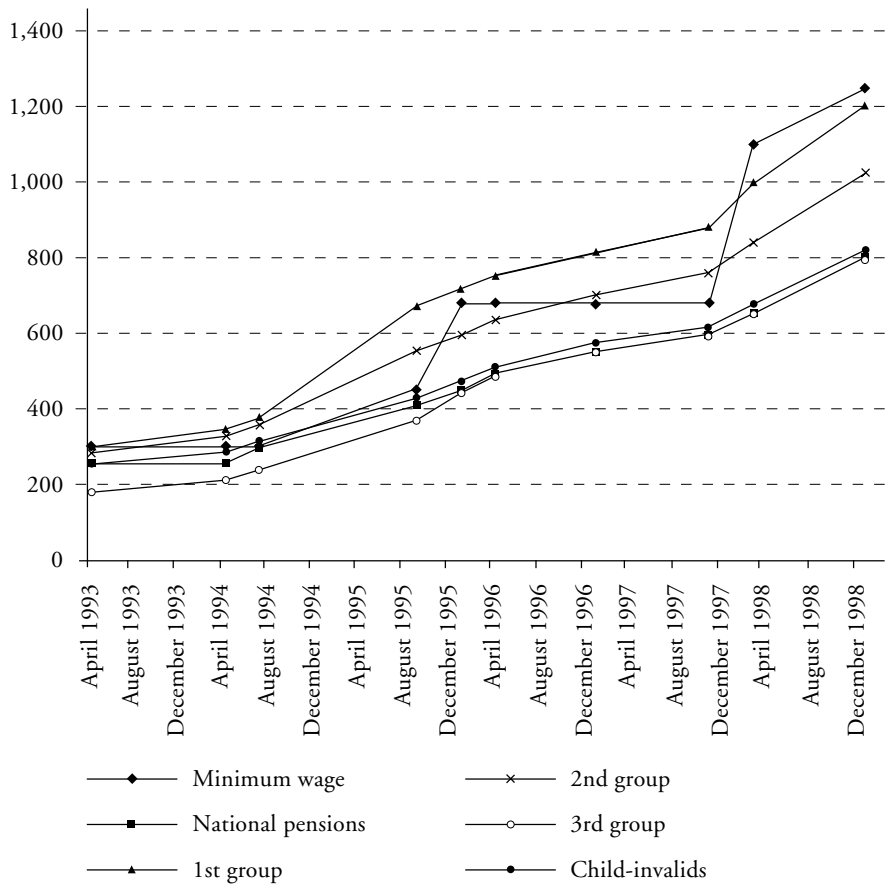
Occupational diseases (257 cases in 1999) have played a rather minor role among the official causes of invalidity – probably due to under-diagnosing, especially considering the harsh working conditions in manufacturing and agriculture during the Soviet period.

Chart 4
Invalidity pensioners by group, beginning of 2000



The distribution of invalidity pensioners by group (see Chart 4) indicates that the medical commissions have had a tendency to overuse Group 2 (i.e. total incapacity to work without the need of external care). This can be largely attributed to the sensitivity of doctors to the social situation of patients, as under normal circumstances, one could expect the Group 3 (partial incapacity) to be the largest. Besides the higher rate of pension awarded, the overgranting in invalidity Group 2 is probably related to the fact that several social advantages (e.g. reduced-price tickets or free public transportation, reduced prices on certain pharmaceuticals, etc.) extended only to Group 1 and 2 invalids, and not to Group 3.

Chart 5
Invalidity pensions under the Act on State Living Allowances, 1993–1999



The decision to disconnect pensions from changes in the minimum wage as of July 1, 1994 was favorable for invalidity pensioners, as the minimum wage remained unchanged in 1993–1994 as well as in 1996–1997. In addition, the level of the minimum wage in 1993–1997 was well below the invalidity pension for Group 1. In 1998–1999, trade unions scored success in labour market negotiations, and the minimum wage increased above the level of the Group 1 invalidity pension.

In nominal terms, the invalidity pension for Group 1 increased by a factor of four in the period 1993–2000, while at the same time consumer prices increased by about three times (see Table 10). Thus, the increase in pensions exceeded inflation rate, and invalidity pensions increased by one-third in real terms.

Table 10
Invalidity pensions *vs.* the consumer price index, 1993–2000

	1993	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**
Cumulative CPI growth (1993 = 100)	100	148	191	235	261	283	292	304
Group 1 invalidity pension (EEK)	300	375	677	759	882	1,005	1,210	1,210
Invalidity pension in real terms (1993 = 100)	100	84	118	108	113	118	138	133

Source: Estonian National Social Insurance Board, author's calculations.

Notably, pensions for the three invalidity groups were not increased at exactly the same pace. This was primarily because there was no automatic indexation system, and pensions were increased on the basis of *ad hoc* political decisions. In 1996–1999, the ratios between the benefit levels were rather stable – Groups 2 and 3 invalidity pensions were 85 percent and 66 percent, respectively, of the pension for Group 1 (see Table D in the Appendix).

A comparison of the trends in invalidity and old age-pensions indicates that the two groups of pensioners have not been in 'political competition', as their pensions have increased at the same rate (see Table 11). This result is not self-evident, considering that the old-age pensioners outnumber invalidity pensioners by roughly five times, and constitute a powerful lobbying group. Moreover, they 'compete' for the same revenue resources, especially since pensions have been increased by *ad hoc* political decisions in the absence of any pre-set rules.

Table 11
Group 1 invalidity pension *vs.* old-age pension, 1993–2000 (year-end)

	1993	1994	1995	1996	1997	1998	1999	2000
Invalidity pension (Group 1)	300	375	677	759	882	1005	1,210	1,210
Old-age pension (40 years)	363	492	787	935	1,082	1,197	1,460	1,460
Invalidity pension/ old-age pension	83%	76%	86%	81%	82%	84%	83%	83%

Source: Estonian National Social Insurance Board, author's calculations.

Invalidity and other types of pensions (i.e. old age, survivors', national and superannuated pensions) have been financed from an earmarked portion of the social tax, which is 20 percent of gross wages.[24] As the pension allocation was not sub-divided between the various forms of pensions, the increase in the number of invalidity pensioners has resulted in a higher proportion of such pensions within total pension expenditures. While invalidity pensions accounted for 9.9 percent of all pension expenditures in 1992, this rose to 13.4 percent by 1999 (see Table 12).

Table 12
Expenditures on invalidity pensions in total pension expenditure, 1992–1999 (million EEK)

	1992	1993	1994	1995	1996	1997	1998	1999
Invalidity pensions	69	158	219	340	467	556	664	863
Total pension expenditure	694	1,440	1,970	2,908	4,067	4,728	5,306	6,460
Share of invalidity pensions in total pension expenditure (%)	9.9	11.0	11.1	11.7	11.5	11.8	12.5	13.4

Source: Estonian National Social Insurance Board, author's calculations.

[24] The total rate of social tax is 33 percent, of which 20 percentage points are allocated for pension insurance and 13 percentage points for health insurance.

Invalidity pension expenditure as a percentage of GDP more than doubled in the period 1992–1999 (see Table 13). On the one hand, this was caused by an increase in the number of invalidity pensioners by 1.5 times. Another key factor was an increase in expenditures on all types of pensions within GDP. However, in a European comparison, the ratio of expenditures on disability pensions to GDP remains rather low. The average expenditure of the 15 EU members states on disability pensions was 2.3 percent of GDP in 1997 (European Commission, 1998). The figure reached 4.7 percent in Finland and the Netherlands, and only Ireland showed less spending in relative terms than Estonia (0.9 percent).[25]

Table 13
Expenditures on invalidity pensions as a share of GDP, 1992–1999 (million EEK)

	1992	1993	1994	1995	1996	1997	1998	1999
Expenditures on invalidity pensions		69	158	219	340	467	556	664	863
GDP		13,054	21,826	29,867	40,897	52,423	64,045	73,538	76,327
Invalidity pensions in percent of GDP		0.5	0.7	0.7	0.8	0.9	0.9	0.9	1.1

Source: Estonian National Social Insurance Board, Estonian Statistical Office, author's calculations.

3. Central Elements of Disability Reform

The core disability reform, undertaken in 1995–2000, included four main elements:

1. development of community-based social services to foster the social integration of disabled persons;

[25] This has to be evaluated in the context of total social protection expenditures in relation to GDP. The EU average of 28 percent in 1998 compared to 17 percent in Estonia, in line with the differences in GDP per capita.

2. transformation of invalidity pensions to work incapacity pensions under a new three-pillar pension system, in order to rationalize income replacement in case of incapacity to work;
3. introduction of a new scheme of social benefits for disabled persons, to compensate for additional costs related to their special needs; and
4. provision of tax incentives and labour market services to encourage the employment of disabled persons.

The following sections describe the main features of the reform elements, followed by a discussion of the impact of reform policies.

3.1. The 1995 Act on Social Welfare and the Development of Community-Based Social Services

In the early years of transition, the focus of disability protection was primarily on cash benefits as a means of basic income maintenance. With the economic stabilization of the country, the agenda of disability policy broadened and benefits in kind received increasing attention. Demand for social services by disabled persons' organizations grew. The early 1990s saw a boom in the organizations of civil society, and several organizations representing disabled persons emerged. These NGOs were mainly formed by persons with similar disabilities (e.g. physical disabilities, hearing impairments, parents of mentally handicapped children, etc.). While they act as self-help groups on the one hand, they also exert pressure for greater opportunities for the disabled. These organizations were united under an umbrella organization, the Estonian Chamber of Disabled Persons, which played an important role in the preparation of a general concept paper on disability policy, adopted by the government in May 1995. The concept paper was to a large extent based on the United Nations' document *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, and was to serve as the basis for more concrete measures in various sub-areas of disability protection, including income maintenance, employment, education and social services. While these factors boosted demand for social services, the re-emergence of social work education in 1991 and the hiring of social workers by local municipalities were important preconditions for the development of social services from the supply side.

A major development in the area of social assistance and social services was the adoption of the Act on Social Welfare in April 1995. The Ministry of Social Affairs prepared the law with the assistance of one Finnish expert.[26] The ideas contained in the law stemmed from the historical experience of Estonia in the pre-war period (1918–1940), from the principles of social service delivery in the Nordic countries, and from the requirements of the European Social Charter. The objective of the law was to put emphasis on open (community-based) care and rehabilitation, as opposed to the Soviet-era approach of institutional care (Suni, 1995). The law obliged local municipalities to organize social services, including:

- social counseling;
- provision of prosthetic, orthopedic, and other devices;
- domestic services;
- housing services;
- family care; and
- care and rehabilitation in welfare establishments.

Most importantly, the law gave disabled persons a direct right to assistive technical devices necessitated by their condition. While the supply of other social services depends on the fiscal possibilities (and political priorities) of the local government, the provision of technical aids is financed from the state budget. Further, local governments were given a number of specific tasks designed to ensure that persons with disabilities have equal opportunities, can take an active part in social life, and can earn a living. With respect to disabled persons, local governments are required to:

- create opportunities to reduce or remove impediments resulting from disability through treatment, rehabilitation, training or interpreting services;
- create opportunities (in cooperation with other competent authorities) for persons with disabilities to receive vocational training, to increase their competitiveness on the labour market;

[26] The Finnish expert was Matti Mikkola, professor at Helsinki University and a member of the Committee of Independent Experts on the European Social Charter.

- adapt workplaces and create activity centers, in cooperation with other competent authorities;
- organize transport for disabled persons;
- ensure that persons with disabilities have access to public premises; and
- arrange, if necessary, a support person or personal assistant.

3.2. The Work Incapacity Pension under the New Three-Pillar System

A major pension reform was initiated by Prime Minister Siimann in 1997.[27] The government appointed a Social Security Reform Commission with the task of preparing an outline for reform. The expert commission was chaired by an economic adviser to the prime minister, and the members were from the National Social Insurance Board, the Health Insurance Fund, the Ministry of Finance and the chairman of the social committee of parliament. In June 1997, the government adopted the commission's end product, a policy paper entitled *Conceptual Framework for the Pension Reform*. The paper described the main goals and principles of a new pension system, including some basic features with respect to invalidity pensions. The paper aimed at establishing a three-pillar pension system, as follows:[28]

- First pillar: state-managed compulsory pay-as-you-go scheme providing defined-benefit pensions.
- Second pillar: privately-managed compulsory funded scheme providing defined-contribution pensions.
- Third pillar: privately-managed voluntary funded schemes providing either defined-contribution or defined-benefit pensions.

The first pillar was to cover the risks of old age, incapacity to work and survivorship; the second pillar only old age; and the voluntary third pillar old age and incapacity to work. The reform had the following primary objectives:

[27] After the general elections in 1995, the government was formed by the center-right Coalition Party and center-left agrarian parties.

[28] The first pillar was to be created by reforming the existing state pension scheme, while the second and the third pillars were to be introduced as new schemes.

1. introducing stronger incentives for participation and decreasing labour market distortions, especially the phenomena of 'envelope salaries', by strengthening the insurance principle[29];
2. combating an expected increase in the system dependency ratio (beneficiaries to contributors) due to demographic aging, which could lead to the decline of the relative value (replacement rate) of pensions, by tightening eligibility criteria;
3. increasing financial transparency by switching the financing of non-insurance pensions or pension supplements to general state revenues; and
4. guaranteeing compliance with the EU's *acquis communautaire* by securing the equal treatment of men and women in all aspects of the pension system and allowing for the pro rata calculation of pensions in applying the EU social security coordination system.

The concept paper was based on a general notion that the function of invalidity pensions was to provide a fixed income for incapacitated persons, taking into account their degree of disability. In contrast, the function of the work incapacity pension was seen as providing a partial replacement of previous earnings lost due to incapacity, while taking into account the remaining capacities of the person. The aim was thus to make a clearer distinction between the roles of social insurance and social assistance instruments concerning the risk of disability.

The new state pension system was to address social insurance objectives, but to meet other objectives – in particular to compensate for the costs related to the special needs of disabled persons – a new scheme of social benefits for the disabled was envisaged. The concept paper set the following concrete guidelines regarding the former invalidity pensions:

- Invalidity pensions shall be replaced by work incapacity pensions, following the principle that social insurance benefits shall be more closely linked to contributions paid.

[29] Here, employers keep books and pay taxes only on a part of the total salary (often only on the minimum wage). The other portion is paid out (and accepted by the employee) 'in an envelope', thus avoiding taxes.

- An age-related qualification period shall be established for work incapacity pensions, in order to emphasize the insurance principle.
- The calculation of work incapacity pensions shall be based on the same formula as old-age pensions, taking into account the amount of social tax paid on behalf of the person and registered in the pension insurance register.
- Upon attaining the retirement age, work incapacity pensioners shall be transferred to the old-age pension.
- The financing of national pensions (e.g. for persons with permanent work incapacity, but lacking the required insurance period), pensions for disabled children and various politically motivated pension supplements (e.g. for war veterans) shall be transferred to the general state budget. These transfers shall not be financed from earmarked social revenues, as they do not have the character of social insurance.

The concept paper served as a basis for drafting the new pension legislation. But several practical issues, e.g. a concrete pension formula, were not described in detail in the concept paper and had to be clarified in the process of drafting the new laws.

3.3. 1998 Act on State Pension Insurance – Emphasis on Earnings-Related Benefits

The draft of the Act on State Pension Insurance – the new first pillar law – was elaborated by the National Social Insurance Board in cooperation with the chairman of the social committee of parliament. The law was adopted in June 1998, and its gradual application was foreseen. The individual recording of pensionable service on the basis of social tax paid was started from January 1, 1999, but the new benefit rules were to be applied only from January 1, 2000. The law limited the declaration of work incapacity to persons of working age (16 through the pensionable age). Formerly, invalidity pensions could be paid regardless of age, from birth through death. A qualification period was established to be eligible for the work incapacity pension (see Table 14).

Table 14
Qualification periods required for work incapacity pensions[30]

Age	Qualification period (years worked)
16–20	No minimum period
21–23	1 year
24–26	2 years
27–29	3 years
30–32	4 years
33–35	5 years
36–38	6 years
39–41	7 years
42–44	8 years
45–47	9 years
48–50	10 years
51–53	11 years
54–56	12 years
57–59	13 years
60–62	14 years

Persons with permanent work incapacity who did not satisfy the qualification period for the work incapacity pension had the right to a national pension. Former recipients of invalidity pensions were divided into four categories:

1. Children under age 16 were transferred to the disabled children's benefit, payable according to the Social Benefits for Disabled Persons Act from the general state budget.
2. Persons over the pensionable age were transferred to the old-age pension.
3. Persons of working age were transferred to the work incapacity pension, if they fulfilled the qualification period established by the new law.

[30] Either the pensionable length of service acquired through December 31, 1998, or the pension insurance period acquired from January 1, 1999.

4. Persons of working age who did not fulfill the qualification period were transferred to the national pension.

The law prescribed a single pension formula, which was to serve for the calculation of old age, work incapacity and survivors' pensions, and included three additive elements[31]:

- a flat-rate base amount, signifying the solidarity element in the system;
- a length of service component applying to periods of work before the enactment of the new law (through December 31, 1998); and
- a pension insurance component applying to periods of work after the enactment of the new law (after January 1, 1999).

In mathematical terms, the new formula could be expressed as:

$$\mathbf{P = B + s \times S + i \times I,}$$

where symbols have the following meaning:

B – base amount;
s – pensionable length of service of the pension applicant;
S – cash value of one year of pensionable length of service;
i – sum of pension insurance coefficients of the pension applicant;
I – cash value of pension insurance coefficient 1.0 (i.e. insurance coefficient when social tax has been paid on average wage).

The value of B is fixed annually by parliament, whereas the values of S and I were set by the government on the basis of available social tax revenues.[32]

Basically, in the pension formula, pension rights acquired before January 1, 1999 are taken into account on the basis of time periods, while from January 1, 1999 onwards all new pensions rights are acquired only on the basis of social tax payments. Accordingly, the new pension formula entails a gradual transition from the old rules to the new rules.

[31] The formula does not concern national pensions, which remained at a flat rate.

[32] The concept paper suggested the introduction of pension indexation, which *inter alia* would have entailed a shift towards a defined-benefit scheme. In the course of drafting the law, the idea of indexation was rejected by the governing coalition,

The new pension insurance coefficients, or pension points, are calculated from the annual social tax paid on the account of the insured person in the pension insurance register. These amounts are summed up and divided by the average amount of social tax paid in the given calendar year.[33]

Thus, the amount of the pension depends on two individual variables – length of pensionable service accumulated before the new law and the sum of pension insurance coefficients, or pension points, accumulated thereafter. Longer service before 1999 and higher amounts of social tax paid (i.e., higher legal wages) from 1999 onwards are the main factors contributing to a higher pension.

If the general pension formula were used for the calculation of work incapacity pensions for everyone, those persons who became disabled at young ages would receive very low pensions. To prevent this from happening, a social welfare element was added to the formula: persons with less than 15 years of credit toward a pension (including both length of service under the old law and pension insurance periods after the 1998 reform) would be deemed to have 15 years for pension calculation purposes. This assumption requires the calculation of new, fictitious values for both the length of service and the pension insurance periods, done in such a way as to preserve the actual ratio between the pre- and post-reform periods for each individual. From January 1, 1999, pension rights were to be calculated on the basis of social tax paid, and not simply on the basis of periods. And in case the insurance

maintaining the earlier 'macro level defined-contribution' approach. It was argued that with indexation, social tax revenues might be insufficient to finance pensions, depending on the development of factors determining the index and considering possible increases in the number of pensioners. In reality, the main driving force against indexation was a political intention to leave the government's hands free to increase pensions before the next general elections, which were scheduled for March 1999. Indeed, in January 1999 pensions were increased on average by 20 percent. The new government, which took office in April 1999, approved the plan of indexation. With an amendment to the Act on State Pension Insurance dating from December 2000, introduction of indexation from April 1, 2002 was foreseen.

[33] According to this formula, payment of social tax on the average wage in the course of one year would give an insurance coefficient of 1.0.

coefficient for the last year preceding disablement was less than 1.0 (indicating that the person had earned less than the average wage or worked less than the full year), the coefficient 1.0 was to be used.

According to the new law, all previously granted invalidity pensions were to be recalculated. In spite of stipulated minimum guarantees (i.e., the extension of shorter insurance periods to 15 years using a minimum value of 1.0 for the pension insurance coefficient), the application of the new benefit calculation rules would have resulted in a substantial drop in the level of pensions for most former invalidity pensioners who were to be transferred to the work incapacity pension. This was because, even with the assumption of 15 years of pensionable service, the new pension insurance law which bases benefit amounts on actual contributions would not provide a pension as generous as that derived from the pre-1998 pension formula.

However, parliament's social committee did not perceive this as a problem. In parliamentary debate, reference was made to the new Act on Social Benefits for Disabled Persons, which was adopted on January 27, 1999 for entry into force as of January 1, 2000. It was envisaged that while work incapacity pensioners would see their benefits decrease, they would receive additional support from the new social benefit scheme established by this law. This approach was consistent with one of the underlying political intentions of the governing coalition – to shift the financing of disability risk more towards the general state budget, in order to free more social tax revenues for old-age pensions. The reason for this was continuing political pressure from pensioners' organizations.

3.4. 1999 Amendments to the 1998 Pension Act – Freezing the Disability Reform

A new government coalition took office in March 1999.[34] Before the 1998 Act on State Pension Insurance even took effect, several amendments to the

[34] The new coalition was formed by *Isamaa* (Pro Patria – national conservatives), the Reform Party (neo-liberals) and the Moderates ('third way' social democrats). It was headed by Prime Minister Laar (Pro Patria). The position of the Minister of Social Affairs was held by Mr Eiki Nestor (of the Moderates).

law were introduced.[35] A number of these concerned work incapacity pensions in particular. Due to economic decline in 1999 (sparked by the Russian financial crisis), but also because of a major political decision to abolish the corporate income tax on reinvested profits, the coalition decided to postpone the introduction of new social benefits under the Act on Social Benefits for Disabled Persons until January 1, 2001. Thus, when pitted against other priorities, disability reform did not rank very high among the coalition's objectives.

The postponement created a timing problem between the application of the Act on State Pension Insurance (in force as of April 1, 2000) and the Act on Social Benefits for Disabled Persons (in force as of January 1, 2001). The timing problem and budgetary restrictions necessitated further amendments to the Act on State Pension Insurance. As an additional guarantee, it was stipulated that the recalculation of formerly granted invalidity pensions could not result in a decrease in the pension amount. Because in most cases recalculation would have resulted in a decrease, in essence work incapacity pensions in 2000 were paid in the amounts of the former invalidity pension – i.e. at three different rates, depending on the former invalidity group (EEK 1,210, 1,025 or 800).

3.5. 2000 Amendments to the 1998 Pension Act – Modified Definitions and Increased Benefit Floor

Further amendments to the Act on State Pension Insurance were passed on March 15, 2000, and came into force on April 1, 2000. These amendments clarified the definitions of work incapacity, and modified the calculation rules of work incapacity pensions. The aim was to harmonize the measurement of work incapacity with prevailing practices in other European countries by reflecting work incapacity in percentages, and to fix problems discovered in the rules for benefit calculation.

Under the amendments, a person is considered to be entirely incapable of work if he or she is unable to earn an income because of a serious functional

[35] First of all, the application of the Act on State Pension Insurance was postponed by three months, mainly because all the necessary data to calculate pension points for the previous calendar year were not available before April 1.

impairment. A person is considered partially work incapable if he or she is able to earn an income, but because of the functional impairment is unable to perform suitable full-time work corresponding to the statutory norm of 40 working hours per week.

The degree of work incapacity is evaluated in percentages. Total work incapacity corresponds to 100 percent, and partial work incapacity from 10 percent to 90 percent.[36] However, persons with only a small incapacity are not entitled to a pension – for entitlement, the work incapacity must be at least 40 percent. The shift from the earlier three invalidity groups to the new measurement of work incapacity is to be achieved over a transition period of three years, from 2000 until 2003. The equivalence scale (see Table 15) can be seen as a tightening of the criteria, because disabled persons who were in the former Group 2 were considered to have a total incapacity for work. However, in reality the change was rather to the advantage of disabled persons, because the former Group 2 disabled persons received access to labour market services. Formerly they were excluded from the scope of these services because they were considered totally disabled.

Table 15
Equivalence between percentages of work incapacity and former invalidity groups

Former invalidity group	Work incapacity percentage	Degree of work incapacity
Group 1	100	total work incapacity
Group 2	80–90	partial work incapacity
Group 3	40–60	partial work incapacity

In 2000, the Ministry of Social Affairs conducted a more detailed analysis of the possible implications of the benefit calculation rules of the 1998 law.

[36] The 1998 version of the law had foreseen only two categories (partial and total work incapacity), without the use of percentages. According to an amendment, from April 2000 work incapacity is expressed by a decimal figure ending with zero – 10 percent, 20 percent, 30 percent, and so on, up to 100 percent.

The study showed that these rules had some unintended effects for work incapacity pensioners and were in conflict with the declared objective of strengthening insurance principles in the pension system:

- In some cases, persons with a shorter insurance record (i.e. those who had no 'old' pensionable service for periods before 1999) were better off than persons with longer work careers. This was the result of the deeming of 15 years of credit toward a pension for all those with less than 15 years, calculated in a way which maintains the actual ratio between the 'old' and 'new' periods for each individual pensioner.
- The difference between the work incapacity pension for a person who had fulfilled a required qualification period and the rate of the national pension for a person without sufficient insurance period was marginal (less than five percent).

Mr Nestor, the Minister of Social Affairs of the new governing coalition, also had the political intention to guarantee that the amounts of pensions would not decrease as a result of the new pension calculation rules, and that social benefits for disabled persons would improve their living standards in real terms – not just make up the difference between their old and new pension levels. Therefore, according to the new rules, the higher of the following two amounts are to be used as a basis for calculating the work incapacity pension:

1. the amount of an old-age pension calculated from the individual's actual accumulated pensionable service and pension insurance coefficients (i.e. the amount of a standard old-age pension); and
2. the amount of an old-age pension for a person with 30 years of pensionable service.

However, because the amount of a work incapacity pension must reflect the degree of the individual's incapacity, the calculation base, as derived above, is multiplied by the percent of person's work incapacity. This procedure would result in very low pensions for some individuals. To create a floor below which pensions cannot fall, it is stipulated that the invalidity pension may not be less than the rate of the national pension (that is, the minimum old-age pension). In practice, these rules create a relatively high floor for work

incapacity pensions. Most persons under 50 years of age – about two-thirds of all beneficiaries – will receive the fixed rate, as their insurance record is relatively short. In fact, these guarantees create such a high floor that the general pension formula has practical relevance only for persons who are closer to the pensionable age and have an insurance record longer than 30 years.

The choice of the second component of the floor as described above – an old-age pension for a person with 30 years of pensionable service – bears an indirect relation to the requirements of the European Code of Social Security, signed by the government in January 2000.[37] Estonia has also ratified Article 12 of the revised European Social Charter (on the right to social security), which requires that the social security system should meet the standards of the European Code of Social Security. With this floor, the new calculation rules improved the value of work incapacity pensions substantially as compared to the former invalidity pensions (see also Table 17).

3.6. Social Benefits for Disabled Persons

According to plans of the Social Security Reform Commission and the Ministry of Social Affairs, the social assistance functions of disability protection were to be achieved by a new scheme of social benefits for disabled persons. The new scheme was also backed by the Estonian Chamber of Disabled Persons, which considered it an important step towards improving the social protection of disabled persons.

The declared aim of social benefits for disabled persons is to compensate for the special needs and additional costs that occur with disability, as well as for costs associated with rehabilitation, studies or work, the need for personal assistance and technical aids, and the use of transport, communication, and other public services. The draft of the Act on Social Benefits for Disabled

[37] The European Code of Social Security requires that the pension for a person with a total loss of earnings capacity shall correspond to at least 40 percent of the wage of an ordinary adult male labourer. The same standard also applies for an old-age pension for persons with an insurance period of 30 years. In establishing the guarantee, the Government linked these two requirements, so that the pension for a person with total work incapacity must at least equal the old-age pension for a person with 30 years of service.

Persons was prepared by the Ministry of Social Affairs in 1997–1998 and adopted by parliament in January 1999. The law came fully into effect as of January 1, 2001, although some benefits were already introduced on January 1, 2000. In contrast with pension laws, the Act on Social Benefits for Disabled Persons uses the term *disability*. This was at the suggestion of the Ministry of Social Affairs. The use of this concept was based on the Internationals Classification of Impairments, Disabilities, and Handicaps (ICIDH), developed by the World Health Organization (WHO).[38]

The law makes a distinction between three degrees of disability – profound, severe, and moderate – following the ICIDH classification. Slight disability does not give entitlement to benefits. Profound disability is the loss of (or abnormality in) an anatomical, physiological or mental structure or function as a result of which the person needs constant personal assistance, guidance or supervision 24 hours a day. Severe disability is the loss of (or abnormality in) an anatomical, physiological or mental structure or function as a result of which the person needs personal assistance, guidance or supervision within every 24-hour period. Moderate disability is the loss of (or an abnormality in) an anatomical, physiological or mental structure or function as a result of which the person needs regular personal assistance or guidance at least once a month. The assessment of the degree of disability is based on:

- health aspects of the individual, such as the degree of impairment and remaining operational capacity;
- social aspects, such as the need for personal assistance, guidance or supervision; and
- the social environment and living conditions of the person.

The assessment of disability is made by expert commissions, which are subordinated to the National Social Insurance Board. The commissions also consider the extent to which functional capacity may be extended by technical aids or rehabilitation. The assessment of the special needs of children is based

[38] In 2001, the WHO classification was renamed the International Classification of Functioning, Disability and Health, to emphasize a more positive approach to the problem.

on a personal social rehabilitation plan drawn up by a licensed social rehabilitation institution. The plan includes an evaluation of the operational capacity of the child, and sets out the objectives and methods of various activities necessary for his or her social integration and the schedule for achieving those objectives.

A general condition for an entitlement to allowances is that the moderate, severe or profound disability has caused additional expenses. The law prescribes nine different types of benefits:

1. Disabled child allowance
2. Allowance for disabled persons over 16 years
3. Caregivers' allowance
4. Disabled parent allowance
5. Study allowance
6. Rehabilitation allowance
7. Further education grant
8. Transport allowance
9. Telephone allowance

The *disabled child allowance* replaced the earlier pensions for invalid children. Apart from the new label, the function of the benefit also changed, and the rate of benefit for severely and profoundly disabled children was increased. The aim of the disabled child allowance is to meet the extra outlays associated with the social rehabilitation and special care of a disabled child.[39] The allowance is paid monthly until the child attains the age of 16. There are two different amounts, depending on the degree of the child's disability: (1) 210 percent of the social benefit rate (SBR) for children with a moderate disability;[40] and (2) 235 percent of the SBR for children with a severe or profound disability (see Table 18 for benefit amounts of all allowances in 2001).

[39] All disabled children are also eligible for standard child benefits payable under the Act on State Family Benefits.

[40] The SBR is established by parliament in the annual state budget, and is currently EEK 400.

The aim of the *allowance for disabled persons over 16 years* is to meet the extra outlays associated with the disability of adults (including technical aids, special care, transportation and other special services). The allowance is paid monthly at three different rates depending on the degree of disability: (1) 160 percent of the SBR for persons with profound disability; (2) 105 percent of the SBR for persons with severe disability; and (3) 50 percent of the SBR for persons with moderate disability.

The *caregivers' allowance* is paid to a non-working parent raising a disabled child (3–16 years of age), or to an officially appointed caregiver taking care of a severely or profoundly disabled adult. The amount of the allowance varies in the range of 60–100 percent of the SBR, according to the age of the child and degree of disability. The *disabled parent allowance* is paid to a single disabled parent or one of two disabled spouses, and aims to compensate for the extra costs associated with the parenthood of disabled persons. The allowance is paid at the flat rate of 75 percent of the SBR.

The aim of the *study allowance* is to compensate for the additional disability-related expenses of disabled students.

The *rehabilitation allowance* is paid as a reimbursement of the actual costs of rehabilitation, up to a prescribed limit (100 percent of the SBR). Rehabilitation courses with a duration not longer than two weeks per calendar year may be compensated. For reimbursement, the person must present the bill for the cost of the rehabilitation.

The *further education grant* is a specific one-off benefit to enable disabled persons to continue their work. It is paid to working disabled persons to compensate for the actual expenses of training courses, for up to three months every three years, and a maximum of 200 percent of the SBR per one week of training.

Transport and *telephone allowances* are intended to partially compensate for the special mobility and communication needs of families with severely or profoundly disabled children.

3.7. Labour Market Issues and Tax Incentives

The employment rates of disabled persons have substantially decreased in the course of transition from a planned economy to a market economy. The dominant perception in the government and in organizations of disabled

persons is that such employment should be encouraged and promoted through indirect measures – such as tax incentives, labour market training, and vocational rehabilitation – rather than by imposing compulsory quotas on employers. The possibilities of a quota system were debated, but rejected both by the main organizations of disabled persons as well as by politicians, on the grounds that it could turn out to be counterproductive. The use of compulsion could lead the employers to perceive disabled persons as an unpleasant obligation, which they may attempt to avoid, while the use of economic incentives could promote disabled persons as a useful workforce. The arsenal of indirect measures is still rather limited, and includes two main tools:

- a temporary employment subsidy (labour market grant) paid to employers hiring a disabled person; and
- a state contribution towards the social tax paid by employers on behalf of disabled employees.

According to the Act on Social Protection of the Unemployed (a new version of the law has been in force since October 1, 2000), persons with a total loss of working capacity may not be registered as unemployed. Persons with partial work incapacity can be registered as unemployed, but have no right to an unemployment allowance as long as they are recipients of a state pension (regardless of the type of pension). However, disabled persons may still benefit from labour market services provided under the Act on Labour Market Services (in force since October 1, 2000). These services include:

- a labour exchange;
- labour market training;
- vocational guidance;
- labour market grants; and
- relief work.

Labour market grants are paid to employers of persons with reduced competitiveness, including persons with partial loss of work capacity. This is essentially an employment subsidy paid during the first year of employment. The amount of subsidy is the minimum wage (currently EEK 1,600 per month) over the first six months, and 50 percent of the minimum wage over the next six months.

The Act on Social Tax provides some tax relief for employers hiring persons with disabilities. The social tax obligation of the employer is reduced by EEK 231 per month, because the state pays the social tax (33 percent) on the first EEK 700 of the monthly wage. As with any full-time worker, the employer is liable to pay at least the minimum wage (currently EEK 1,600), so the state contribution can be considered rather modest. Hopefully this measure at least assists in keeping currently working disabled persons employed by providing the employers with a small tax rebate. However, it probably does not have a substantial impact on the employment rate of disabled persons.

3.8. Impact of Reform Policies

It is clearly too early for a sound evaluation of the impact of the reforms implemented in 2000–2001. What can be said is that the transition from invalidity pensions to work incapacity pensions stipulated by the Act on State Pension Insurance resulted in a substantial drop in the total number of pensioners in this category – from 66,814 in January 2000 to 43,394 in January 2001. At the same time, the number of old-age pensioners increased by 13,000 persons, from 284,327 to 297,363. This reflected to a large extent the transfer to old-age pensions of beneficiaries of invalidity pensions who were already over the pensionable age. A total of 3,167 persons began to receive national pensions on the grounds of work incapacity, and about 4,800 disabled children receive the disabled child benefit rather than the former pension for invalid children. From these figures, the 'net effect' of the reform can be calculated as a decline in the total number of beneficiaries by 2,000 persons.

The reform also affected the gender distribution of work incapacity pensioners. Of the 43,394 total recipients, 25,884 were men and 17,550 women, increasing the male/female ratio from 1.2 in 2000 to nearly 1.5 in 2001. This is mainly attributable to elderly women being transferred from the invalidity pension to the old-age pension scheme.

Because of these changes, data on the former invalidity pensioners and the new recipients of pensions for work incapacity are not comparable. The old time series ended in 2000, and a new time series started from 2001. Most importantly, the number of work incapacity pensioners now reflects only persons of working age (see also Table E in the Appendix).

Table 16
Distribution of work incapacity pensioners, January 1, 2001

Work incapacity	Work incapacity pensioners	Work incapacity pensioners who work	Working pensioners as percent of total
100%	4,449	143	3.2
90%	1,107	29	2.6
80%	22,887	1,492	6.5
70%	1,599	140	8.7
60%	9,611	2,238	23.3
50%	1,755	185	10.5
40%	1,986	225	11.3
Total	43,394	4,452	10.3

Source: Estonian National Social Insurance Board.

Data on the distribution of work incapacity pensioners by degree of disability indicate a disproportionately high number of persons with 60 percent and 80 percent incapacity (see Table 16). This is because most persons from the former invalidity groups have not yet been re-evaluated by expert commissions, and have therefore been assigned a work incapacity percentage on the basis of the equivalence scale (see Chart 4 and Table 15).

The new pension insurance register also provides reliable data on the employment of pensioners. At the beginning of 2001, about 10 percent of all work incapacity pensioners worked. The disproportionately high share of working pensioners with 60 percent incapacity derives from the higher employment rates of former Group 3 invalidity pensioners. Among persons with complete (100 percent) work incapacity, only 3.2 percent worked. Nevertheless, according to the definition of total work incapacity, these persons are not expected to be able to earn any income at all.

Table 17
Disability-related pensions under various pension laws[41]

Work incapacity	Invalidity pension under former Act on State Living Allowances	1998 version of the Act on State Pension Insurance		Work incapacity pension (January to March 2001)	Work incapacity pension (April 2001 to present)
		Work incapacity pension	National pension on basis of incapacity		
100%	1,210	804	800	1,197	1,232
90%	1,025	724	720	1,077	1,109
80%	1,025	643	640	958	986
70%	800	563	560	838	862
60%	800	482	480	800	800
50%	800	402	400	800	800
40%	800	322	320	800	800

Changes in the pension calculation formula improved the value of work incapacity pensions as compared to the former invalidity pension, except for persons with an 80 percent work incapacity. However, in case the recalculated amount is less than the former invalidity pension, the rules stipulate that the amount of the previous pension is retained. Therefore, the decrease in the pension level applies only to new cases. The Act on Social Benefits for Disabled Persons, which entered into full force on January 1, 2001, further improved the income position of disabled persons, adding EEK 200–640 a month to the income of adult disabled persons, depending on their degree of disability.

[41] With respect to the Act on State Pension Insurance, the rates indicated in the table refer to the minimum amounts.

Table 18
Social benefits for disabled persons, 2001[42]

Type of benefit	Amount of benefit (EEK)
Disabled child allowance	
Moderate disability	840
Severe or profound disability	940
Allowance for disabled persons over 16 years of age	
Moderate disability	200
Severe disability	420
Profound disability	640
Disabled parent's allowance	300
Caregivers' allowance	
Disabled child	300
Severely disabled adult	240
Profoundly disabled adult	400
Education allowance	100–400
Rehabilitation allowance	up to 800
Transport allowance	up to 80
Telephone allowance	up to 60

The number of beneficiaries of the allowance for disabled persons over 16 years of age substantially exceeds the number of work incapacity pensioners, mainly due to elderly persons in need of assistance with activities of daily living. Caregivers of adult disabled persons are a totally new category of beneficiaries, as previously there was no financial support available to caregivers who were forced to withdraw from work because of a disabled (or dependent elderly) family member. In 2001, total expenditure under the Act on Social Benefits for Disabled Persons will exceed EEK 360 million.

[42] The rates are for monthly benefits, with the exception of the rehabilitation allowance, which indicates the maximum sum per calendar year.

Table 19
Number of beneficiaries under the Act on Social Benefits for Disabled Persons, first half of 2001

Type of benefit	Number of beneficiaries
Disabled child allowance	4,600
Moderate disability	2,130
Severe or profound disability	2,470
Allowance for disabled persons over 16 years of age	67,200
Moderate disability	12,100
Severe disability	31,500
Profound disability	23,600
Disabled parent's allowance	1,970
Caregivers' allowance	17,800
Disabled child	2,100
Severely disabled adult	5,900
Profoundly disabled adult	9,800
Total	91,570

Source: Estonian National Social Insurance Board.

4. Conclusions

The starting point for national policy development on disability benefits was the Soviet pension system. Invalidity pensions in the former Soviet Union had Bismarckian features – entitlement was based on employment, and benefits linked to the former wage. However, in contrast to a typical Bismarckian scheme, pensions were financed from the general state budget. A noteworthy feature of the Soviet system was a high proportion of working invalidity pensioners as a result of the full-employment policy. Although the Soviet pension system provided rather high replacement rates, the first attempts of the Estonian government to reform the system were partly motivated by an

intention to raise the level of social protection even further. Another important factor was a desire to differentiate the system from the Soviet one, emphasizing the autonomy of Estonia from the rest of the Soviet Union.

These aims were first implemented through a change in the financing system, from the general state budget to an earmarked social tax. New benefit rules followed shortly thereafter, broadening coverage to all residents and introducing a mixed benefit formula (a flat rate, supplemented with an earnings-related component). The failure of the first reform was mostly due to a striking lack of qualified staff able to develop policies and legislation in a coherent way. The situation was further exacerbated by serious economic crisis at the time of collapse of the Soviet Union. In this context, the high social expectations of the population associated with independence and statehood ran sharply against harsh conditions during the first years of independence.

The introduction of living allowances with flat rate benefits in the second reform should be regarded as a rescue measure rather than a purposeful change towards egalitarian principles. The prudent fiscal approach towards the financing of the pension system – what we have called a defined-contribution method at the macro level – was a direct result of the earlier lessons from trial and error. The Beveridgian benefit rules provided a safe haven for the pension system for eight years.

A third reform, initiated in 1997, was complicated by a conflict between the principles of benefit adequacy and equity. The challenge for policy makers was how to meet the political desire for a stronger link between contributions and benefits, while keeping all beneficiaries above the poverty level. After a few trials, the conflict was resolved through benefit rules that, although in principle earnings related, included such a high minimum pension that over half the beneficiaries received the same amount. The end product can thus be characterized as a step back to Bismarck, but with strong Beveridgian elements.

A number of problems still remain unaddressed in the pension system, notably the following:

- The relatively short period of payment of sickness cash benefits (up to 182 days) has a significant effect on bringing new beneficiaries to the system.
- Incentives for returning to work are low.

- Interaction of the pension system with rehabilitation services to support the return to active life is very weak.

Table 20
Main features of disability pension reforms

Law	Concept	Entitlement	Benefit	Financing
1956 Soviet Pension Law	Invalidity	Employment -based	Earnings-related	General budget
1991 Estonian Pension Law	Invalidity	Residence-based	Flat-rate + earnings-related component	Earmarked social tax
1993 Act on Living Allowances	Invalidity	Residence based	Flat-rate	Earmarked social tax
2000 Act on State Pension Insurance	Work incapacity	Work incapacity, employment -based	Earnings-related (with high floor)	Earmarked social tax
		National pension, residence-based	Flat-rate	General budget

The medical model of *invalidity* (i.e. focus on the individual rather than on the environment) had a strong position during the Soviet period. This paradigm remained unchanged until 2000. The introduction of the new concept of *work incapacity* was an attempt by the Ministry of Social Affairs to reshape the old paradigm. This attempt has largely failed, mainly because medical professionals alone still define operational criteria for the evaluation of work incapacity. Also, the legal definitions of work incapacity remain controversial. By definition, a person with total work incapacity should not be able to earn any income – however, it is not prohibited for him to work and supplement a work incapacity pension with other income.

The concept of *disability*, which served as the basis for the new social benefit, focuses on the interaction between the person and his environment. This approach has apparently had more success in terms of changing the

dominant paradigm of disability as inability to function. However, both new terms – *work incapacity* and *disability* – are still one step behind international developments, where the conceptual framework is shifting towards looking at remaining abilities and at the functioning of the person, rather than at functional limitations.

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Appendix

Table A
Invalidity pensioners in the population and among all pensioners, in 1991–2000 (start of year)

	1991	1992	1993	1994	1995
Number of invalidity pensioners	40,750	46,034	48,923	50,004	52,339
Percentage of invalidity pensioners of total population	2.6	3.0	3.2	3.3	3.5
Percentage of invalidity pensioners of total number of pensioners	11.1	12.3	12.8	13.1	13.9
	1996	**1997**	**1998**	**1999**	**2000**
Number of invalidity pensioners	55,250	57,636	59,938	62,522	66,814
Percentage of invalidity pensioners of total population	3.7	3.9	4.1	4.3	4.8
Percentage of invalidity pensioners of total number of pensioners	14.8	15.6	16.3	16.8	18.8

Source: Estonian Statistical Office, author's calculations.

Table B
Distribution of invalidity pensioners by gender, 1997–2000 (start of year)

Year	Men	Women	Total
1997	31,578	26,058	57,636
1998	32,840	27,098	59,938
1999	34,300	28,222	62,522
2000	36,833	29,981	66,814

Source: Estonian Statistical Office.

Table C
Rates of invalidity pensions (EEK), 1993–1999

	4/93	**4/94**	**7/94**	**9/95**	**1/96**
Invalidity pension					
Group 1	300	345	375	677	718
Group 2	285	330	360	554	595
Group 3	180	210	240	369	451
Invalid children	255	285	315	431	472
National pension	255	255	300	410	451
Minimum wage	300	300	300	450	680
	4/96	**1/97**	**11/97**	**3/98**	**1/99**
Invalidity pension					
Group 1	759	820	882	1,005	1,210
Group 2	636	697	759	841	1,025
Group 3	492	554	595	656	800
Invalid children	513	574	615	677	820
National pension	492	554	595	656	800
Minimum wage	680	680	680	1,100	1,250

Source: Estonian National Social Insurance Board.

Table D
Ratios of invalidity pensions and the minimum wage, 1993–1999

	4/93	4/94	7/94	9/95	1/96
Ratio of Group 2 to Group 1 invalidity pension	95%	96%	96%	82%	83%
Ratio of Group 3 to Group 1 invalidity pension	60%	61%	64%	55%	63%
Ratio of minimum wage to Group 1 invalidity pension	100%	87%	80%	66%	95%
	4/96	**1/97**	**11/97**	**3/98**	**1/99**
Ratio of Group 2 to Group 1 invalidity pension	85%	85%	86%	84%	85%
Ratio of Group 3 to Group 1 invalidity pension	65%	68%	67%	65%	66%
Ratio of minimum wage to Group 1 invalidity pension	90%	83%	77%	109%	103%

Source: Estonian National Social Insurance Board, author's calculations.

Table E
Age distribution of work incapacity pensioners (January 1, 2001)

Age	Under 18	18–24	25–39	40–54	55–59	60–62	Total
Number of pensioners	752	2,829	7,693	20,120	8,141	3,859	43,394

Source: Estonian National Social Insurance Board.

Disability Protection in Poland

Irena Wóycicka (coordinator), Anna Ruzik, Hanna Zalewska

Introduction

In Poland, people with disabilities may receive social insurance and/or social welfare benefits, depending on their occupational status. Upon turning 18, a person who has been disabled since childhood is eligible for a flat-rate social welfare benefit irrespective of the income of the family in which he or she lives. At the same time, disabled persons who have worked a sufficient period are eligible for a pension and other social insurance benefits. Medical prevention and rehabilitation for persons with chronic health conditions who receive, or might receive, a disability pension were gradually incorporated into the social insurance system in the 1990s.

For the most part, the organization and financing of vocational rehabilitation remain outside the social insurance system.[1] Although vocational rehabilitation has achieved some undeniable benefits, its impact on labour force participation by people with disabilities is limited. This situation is due to problems in the labour market and certain features of the provider institutions themselves, as well as to the lower average levels of education and professional skills among persons with disabilities. Almost 85 percent of persons with disabilities are economically inactive.

Compared with other countries, a high portion of the insured population receives disability pensions; and the labour force participation rate among persons with disabilities is low. A partial explanation for the former is that some pensioners have already reached retirement age and could be eligible

[1] Except for the training pension, which was introduced for employees and self-employed persons within the framework of the social insurance system in the late 1990s.

for an old-age pension.[2] In 1997, more than 24 percent of those receiving disability pensions were age 65 or older. Nevertheless, in the working age population (15–64 years old), the proportion of disability pensioners is the highest among all OECD countries (see Appendix Table A1).

1. The Legacy: Disability Protection before 1989

1.1. Law, Regulations, and the Structure of Administration

In 1989, the new Polish government inherited a complex system of disability protection. There were two main schemes operating side by side, both managed by the Social Insurance Institution (ZUS). One was for workers and the self-employed, and the other was for farmers.[3] Both were funded from a single contribution, which covered not only disability pensions but also old age and survivors' pensions and sickness and maternity benefits. These contribution revenues were insufficient, so the schemes also received national budget subsidies. Several special groups (the military, police, war invalids, etc.) also had their own disability schemes, which were fully funded by state revenues (no contributions required). All the schemes provided both short- and long-term benefits. The long-term benefits included general disability and employment-related disability, and the short-term benefits included, among others, sickness, rehabilitation, and training.

The process of determining whether a person was disabled involved the interplay of three variables: medical condition, ability to work, and need for care. Disability was defined in the law as "a complete or partial inability to work due to permanent or long-lasting physical or mental impairment."[4] This definition covered both the biological aspect of disability (i.e. the requirement to have a permanent, irreversible, or long-lasting impairment)

[2] This is because, in Poland, individuals who are eligible for more than one social insurance benefit are permitted to choose between or among them.

[3] The administration of farmers' benefits was later shifted to another institution, KRUS.

[4] Act of December 14, 1982 on the Social Security of Employees and Their Families (published in the Journal of Laws as Dz.U. of 1982, No.40).

and the economic aspect (i.e. complete or partial inability to work and the loss of earning ability resulting from the impairment). Three disability groups were established and, in order to receive a benefit, a disabled person had to be classified as belonging to one of these:

Group I: No employment possible, unable to live alone, needing permanent or long-term care provider

Group II: No employment possible, but not needing permanent or long-term provider[5]

Group III: Partial disability, for a person who is

- unable to continue previous employment on a full-time basis but able to (i) do reduced work, or (ii) work at a less demanding job; or
- suffering from a physical or mental impairment which is significant but might not affect ability to continue previous employment (e.g., loss of a foot, eye, fingers etc.).

For farmers, there was a different work criterion, namely, inability to work on a farm.[6]

In addition to meeting the legal definition of disability, most claimants also had to satisfy a length-of-service requirement. The general requirement was five years in the ten prior to applying for a disability pension. For those under age 30, it was proportionally shorter. In calculating a claimant's service, certain periods were credited even though no paid work had been done and no contributions made (for example, child care leave). This length-of-service requirement did not apply to pensions for accidents at work or occupational diseases.

As for the benefit amount, a Group I or II pension for employees or the self-employed was calculated in the same way as an old-age pension; a Group III pension was a portion of this amount; and a farmer's disability pension was calculated in the same way as a farmer's old-age pension.

[5] The ability of persons to work under special conditions did not preclude them from being classified as belonging to Group I or II.

[6] Act of December 14, 1982 on the Social Security of Farmers and Their Families (published in the Journal of Laws as Dz.U. of 1982, No.40).

The above rules applied to the so-called 'overall state of health' pensions, which accounted for nearly 90 percent of all disability pensions in the late 1980s. Work-related pensions accounted for the remaining ten-plus percent of pensioners. These had more generous terms: no specific length of employment was required, and payments amounts were 100 percent of previous earnings (75 percent for partial disability).

1.1.1. Organization of Disability Determination and Medical Examination

ZUS relied on local medical boards to make many decisions related to eligibility for disability pensions. These boards assessed claimants' ability to work, assigned them to one of the disability groupings, determined the date of onset of a disability, and assessed claimants' need and suitability for vocational training.[7] These boards operated at ZUS branch offices across the country and dealt with both initial claims and appeals. Each board was under the direct supervision of a physician (superintendent for disability determinations). Unless challenged, their assessments served as the basis for administrative decisions on pension and other benefit awards.

The boards also conducted follow-up examinations to check pensioners' degree of disability (*ex officio* or upon the request of a pensioner reporting deterioration in health). These examinations were required every one or two years, depending on the cause, severity, and expected evolution of the disability.

During the 1980s, the boards' average numbers of determinations assigning new applicants to one of the disability groupings exceeded 200,000 per year. Follow-up examinations resulted in approximately 300,000 additional board determinations, or approximately 60 percent of the boards' total workload of 500,000. Yet despite the high level of resources devoted to redeterminations,

[7] The boards had other powers too. They assessed the disabilities of persons applying for employment or vocational training in places specially provided for the disabled, social assistance, relief, and pension privileges and special benefits. They were also responsible for assessing eligibility for the rehabilitation benefit, extent of work-related disability, the need for occupational rehabilitation when judged not necessary by another public health service institution, whether a child needed constant care entailing nursing and regular assistance for treatment and rehabilitation, as well as other matters coming under separate regulations.

they had very little effect on the overall number of disability pensioners, nor did they produce much shifting of pensioners among the disability groupings. Only approximately 2.5 percent of pensioners were declared not disabled each year, and approximately 80 percent of those who were examined remained in the same severity group.

1.1.2. Rehabilitation Benefit

In 1983, a *rehabilitation benefit* was established as part of the ZUS disability scheme.[8] It was for persons who were still unable to work after their sick pay ended, but whose recovery seemed promising if they were given continued treatment or rehabilitation. This benefit was awarded for the time needed to recover the capacity to work, up to a maximum of 12 months. It was 75 percent of the salary on which the sick pay was calculated, or 100 percent of that salary if the impairment was work-related.[9]

However, this benefit was not paid to a large portion of persons insured in ZUS. In the second half of the 1980s, the average number of rehabilitation benefits per month was just over 16,000 (with the number of disability pensioners at about two million and the insured population exceeding 14 million). The revenues spent on this benefit accounted for only between 0.1 percent and 0.2 percent of ZUS expenditures on all cash benefits.

1.1.3. Vocational Rehabilitation

In the 1980s, ZUS could refer insured persons to vocational training or employment. In terms of the latter, the only formal employment specifically adapted to the needs of disabled workers was disabled workers' cooperatives. Since the 1960s, such cooperatives had been granted various privileges in Poland, and at the end of the 1980s there were still around 200,000 disabled persons working in them (Barczyński, 2001).[10] However, as the economic

[8] Act of December 14, 1982 on the Social Security of Employees and Their Families (Dz.U. of 1982, No.40).

[9] That is, accidents occurring at work, on the way to or from work, and occupational diseases.

[10] At that time, these included easier access to the means of production, but also a monopoly on the production of certain goods.

changes in the 1990s would show, these entities were not competitive enough for the free market.

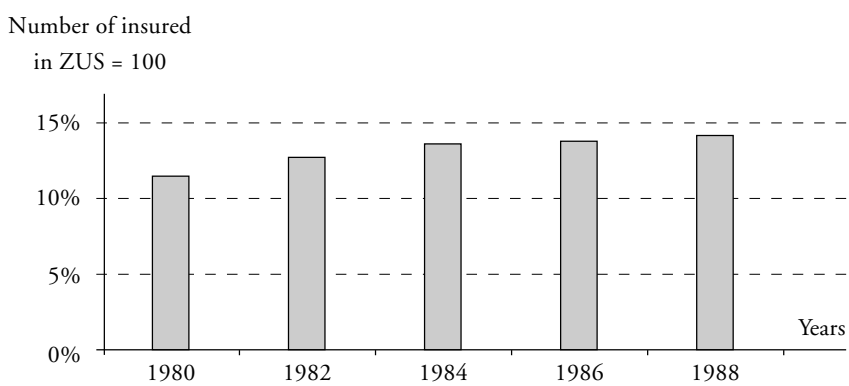
1.2. Number of Disability Pensioners and Expenditure Trends

1.2.1. Disability Pensioners

The 1980s was a period of dynamic growth in disability pensions. Over this decade, the percentage of ZUS disability pensioners grew from 12 percent to 14 percent of the insured population (see Chart 1). The period of highest growth was 1979–81. After that, allowances of new pensions declined somewhat; and this was slowly reflected in the total number of pensioners (see Appendix Tables A2 and A3).

The number of disability pensions for farmers grew extremely rapidly, increasing from 5,400 in 1978, the year that this scheme was introduced, to 368,700 a decade later (see Appendix Table A3).

Chart 1
The number of disability pensioners in relation to the number of those insured under the ZUS scheme, between 1980 and 1988



Source: ZUS (1986, 1991), *Social Insurance Yearbook* (Rocznik Statystyczny Ubezpieczeń Społecznych); authors' calculations.

1.2.2. Spending on Disability Pensions

In the second half of the 1980s, spending on disability pensions accounted for between 2.1 and 2.2 percent of GDP (see Table 1). *Ad hoc* increases in benefits were provided up to 1986, when rules were established for automatic indexing of all pensions, including old-age, survivors', and disability.[11] Under these rules, pensions were adjusted by the increase in the average wage, subject to a cap of 150 percent of the average wage in the previous year. As can be seen in Table 2, this shift caused significant fluctuations in the relation of disability pensions to average wages.[12]

Table 1
Spending on disability pensions
(in percentage of GDP)

Year	Total	Scheme for employees and the self-employed	Scheme for farmers
	In percentage of GDP		
1985	2.10	1.89	0.21
1986	2.18	1.91	0.27
1987	2.24	1.95	0.29
1988	2.21	1.91	0.30
1989	2.13	1.83	0.30

Source: See Figure 1, and KRUS (1998), *Social Insurance for Farmers* (Ubezpieczenie społeczne rolników); authors' calculations.

[11] There was an increase of benefits granted up to 1981 in 1982, and benefits granted up to the end of 1983 were increased in 1985.

[12] In Table 2, the drop in 1988 is due to the fact that the increase in wages was higher than the 150 percent cap. In 1987, it was 121 percent, while in 1988 it was 184 percent.

Table 2
Relation of average monthly disability pension paid from ZUS to average monthly wage

Year	Average monthly disability pension as percentage of average monthly wage
1980	41.4
1985	46.0
1986	46.7
1987	50.4
1988	46.4

Source: See Figure 1; GUS (Central Statistical Office) (1990,1991), *Statistical Yearbook* (Rocznik Statystyczny); authors' calculations.

2. Disability Protection in the Early Years of Transition

2.1. Early Changes in the Labour Market and National Policy Response

2.1.1. Changes in the Labour Market

In the early years of transition, the social insurance system was greatly affected by the changes taking place in social and economic arenas, and in particular in the labour market. Unemployment rose sharply, and by 1994 the number of unemployed reached 16 percent or 2.8 million of the working age population. At the same time, employment declined by more than seven percent, or by 1.2 million jobs (between 1990 and 1995); and the informal sector expanded rapidly. Real wages and agricultural income also fell precipitously. In 1990 alone, real wages fell by 24 percent, and only started to grow four years later.

The rapidly changing economic and social environment contributed to a feeling of deep insecurity among the population. Many displaced workers sought social security benefits, including disability benefits, which were relatively easy to obtain. Workers who were of retirement age and had accumulated the required period of service for an old-age pension were the first to be dismissed, but the threat of job loss prompted many more to apply for early retirement on their own initiative. The number of new old-age pensions awarded annually

soared from around 130,000 in the mid-1980s to 500,000 in 1991. In addition, many people with health problems, some of which were relatively minor, claimed disability pensions. This route to early retirement was made easier by rather lenient eligibility criteria and by the lack of effective supervision of disability assessment procedures.

2.1.2. National Policy Response

2.1.2.1. Disability Pensions

During 1990–1992, the government's priority was to provide social cover to alleviate the costs of transformation suffered by the least wealthy groups of people. Thus, beginning in 1990, disability pensions (as well as old-age and survivors' pensions) were protected against high inflation by indexation based on wage increases in the national economy.[13]

In 1992, disability expenditures increased further due to the enactment of major benefit increases.[14] All ZUS disability and old-age pensions were recalculated according to a new formula,[15] and all wages that served as the basis for benefit payments were indexed in a way that restored their original

[13] Before 1992, old age, survivors' and disability pensions were subject to periodic indexation when the ratio of average wages to average wages in the quarter when the last adjustment took place (the so-called 'indexation ratio') was at least 105 percent. In 1992, the ratio that triggered indexation was increased from 105 to 110 percent.

[14] Act of October 17, 1991 on Revalorization of Pensions (Dz.U. of 1991, No.104).

[15] In the case of disability pension for the disabled from Group I and Group II, it is as follows:

RI=24%KB+1,3%Os x wwp x KB+0,7%On x wwp x KB+0,7%Oh x wwp x KB

In which

KB – base amount, or average salary in the national economy just before the last quarter of the year before retirement. 24 percent of KB constitutes the universal element, which is included in all benefits. This is smaller than the minimum level of social welfare in the pension system, which is 36 percent.

wwp – calculation base indicator (relation of beneficiary's average salary to average wages, during the period considered for determination of the calculation base of the benefit)

value at the time of the benefit award.[16] This reform addressed a major inequity of the old system, namely, that irregular and inadequate benefit adjustments left those who had been pensioners for the longest time with greatly reduced purchasing power. Thus, the reform provided an important equalization of the level of average benefits awarded in different years. Together these measures resulted in a substantial increase in the average benefit, as well as in the relation between the average benefit to the average wage (compare Chart 2 and Appendix Table A7).[17]

Os – contributory periods (periods when social insurance contributions were paid)

On – non-contributory periods (e.g., periods of military service, studies in higher education)

Oh – notional period (period missing for full 25 years of contributory and non-contributory periods by the date of application for disability pension, till the day on which the pensioner would turn 60; in other words, this makes up for the time period if Os+On is smaller than 25)

The amount of Group III disability pension is 75 percent of disability pension for the disabled from Group II.

In the case of disability pension for accident at work or occupational disease, the amount of pension calculated in accordance with the above formula cannot exceed:

80% of its calculation base in the case of the disabled from Group I or II;

60% of its calculation base in the case of the disabled from Group III.

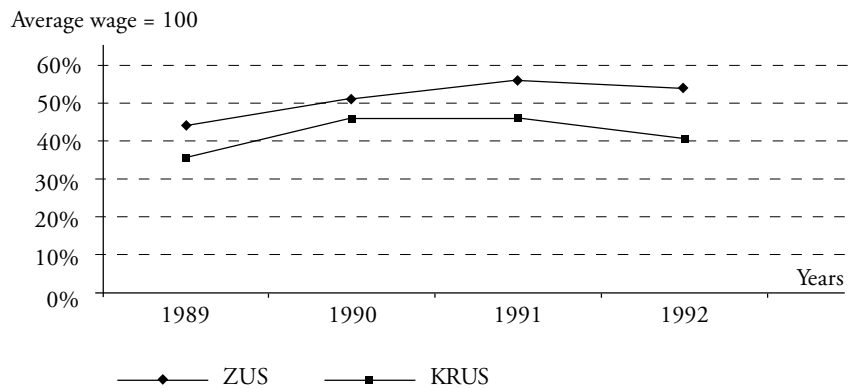
[16] The average wages used to calculate disability pensions expressed as a portion of the average wage in the economy was 67.2 percent before revalorization and grew to 110.9 percent.

[17] The change in the average basis for calculation of benefits depending on the year of benefit granting as a result of the pension reform launched in 1992, as illustrated below.

Year of award	Average benefit amount (in percent of salary)	
	Before revalorization	After revalorization (as calculated)
Until 1981	55.9	66.5
1982–1983	52.2	67.2
1984–1988	55.6	64.2
1989	70.5	61.6
1990–1991	82.2	69.3

Source: ZUS, "The effects of revalorization," unpublished information.

Chart 2
The relation of the average net disability pension in ZUS (together with pensions for military services and war veterans) and KRUS to the net average wage, 1989–1992[18]



Source: ZUS (1996), *Social Insurance Statistical Yearbook* (Rocznik Statystyczny Ubezpieczeń Społecznych); KRUS (1998), *Social Insurance for Farmers* (Ubezpieczenie społeczne rolników), 1998; authors' calculations.

The farmers' disability scheme also underwent important revisions. Here reform was necessary because the scheme had many features designed to support the goals of the former communist regime (e.g. the liquidation of private ownership in agriculture, the sale of farm produce to state-owned enterprises[19]). In December 1990, a complete overhaul of the law on farmers' social insurance was enacted.[20] This Act established a separate institution, KRUS, to collect

[18] The Personal Income Tax, introduced in 1992, resulted in a gap between net and gross wages.

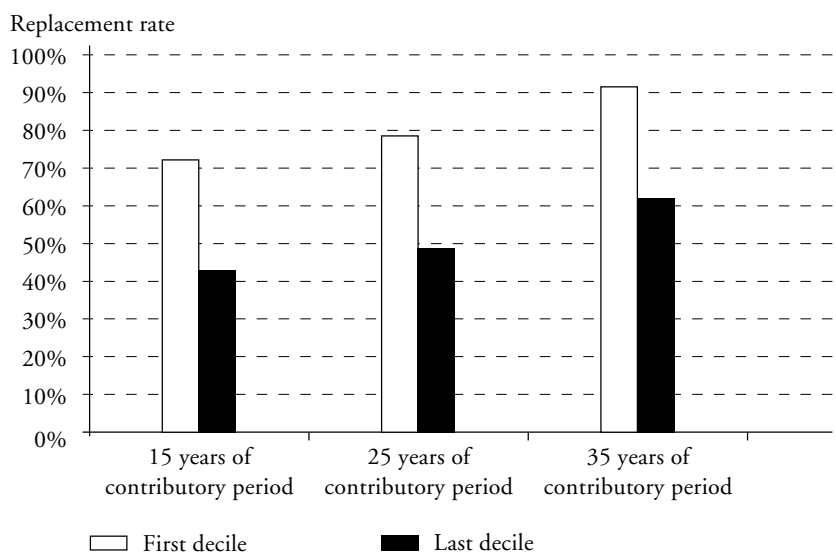
[19] In other words, those farmers could expect larger amounts of pensions who cooperated with the state, by selling their produce to state-owned enterprises or selling their farm to the state.

[20] Farmers' social insurance covers old-age, survivors', and disability pensions, extra benefits (such as allowances for veterans) and short-term social insurance benefits (sickness and maternity allowances, etc.).

contributions, determine eligibility, and pay benefits.[21] (Disability assessment, however, remained with ZUS.) Under the pressure of a strong farming lobby, the reform also loosened eligibility criteria, replacing the previous disability definition with a new standard, namely, long-term inability to work on a farm. Other non-health-related eligibility requirements were liberalized as well (for more details, see Supplement Table S1).

Together the sharp growth in the scheme beneficiaries and the increases in expenditures helped to protect a large segment of the population (nine million pensioners) from the deteriorating economic conditions. The wage replacement rates provided by old-age and disability pensions, especially those of low-income beneficiaries, were relatively high, as shown in Chart 3.

Chart 3
Newly granted disability pensions as percentage of wages for blue-collar workers (the highest wages in the first and last income deciles), 1992



Source: ZUS (1996), *Social Insurance Statistical Yearbook* (Rocznik Statystyczny Ubezpieczeń Społecznych); GUS (1994), *Statistical Yearbook* (Rocznik Statystyczny); authors' calculations.

[21] Act of December 20, 1990 on Social Insurance for Farmers (for the final form of text see Dz.U. of 1998, No.7, item 25).

As a result, these pensioners were better protected on the whole than those receiving unemployment compensation (World Bank, 1995). In the agricultural sector, because of the decline in real income from agricultural production and growing unemployment among rural residents, KRUS disability and old-age pensions, though declining in relation to the average wage (see Chart 2), started to play a more important role in the family income (Zegar, 2000; Topińska, 2000; Wóycicka, 2000).

2.1.2.2. Vocational Rehabilitation

Along with these changes in disability pensions, the Polish government adopted new measures aimed at getting disabled people back to work. The new approach was motivated by a lack of competitiveness among the cooperatives that employed disabled people under the old regime. Following the political and economic changes, the government withdrew the special privileges these cooperatives had traditionally enjoyed (i.e. monopolies on the supply of certain goods, preferential access to certain production inputs). As a result, employment fell precipitously, over just one year from 200,000 to 80,000.

In June 1991, a new approach to supporting employment was provided by the Disabled Employment and Return to Work Act.[22] Its main provisions called for:

- the introduction of financial incentives for all firms to employ the disabled and penalties for not doing so, in the form of a quota-levy system;
- the establishment of the State Fund for the Rehabilitation of Disabled Persons (*Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych*, or PFRON), which would use funds from the levy for various forms of rehabilitation and employment;
- the development of operating rules for a new type of supported work establishment (so-called SWE); and
- the appointment of a Government Plenipotentiary for Disabled Persons.

Under the quota-levy system, companies with more than 50 employees were required to ensure that at least six percent of their work force comprised

[22] Act of May 9, 1991 on Disabled Employment and Return to Work (Dz.U. of 1991, No.46, item 201).

persons with disabilities. Firms that failed to achieve this minimum had to pay a penalty: For every disabled person by which they fell short of it, 40.65 percent of the average salary had to be paid to PFRON.

The revenue generated this way was to be spent on the vocational, social, and medical rehabilitation of persons with disabilities and on direct employment creation for this population. The law stipulated that at least 65 percent of all PFRON's yearly revenues had to be spent on vocational rehabilitation and employment.

The new SWEs were required to hire higher percentages of persons with disabilities than normal firms (but fewer than the previous cooperatives, which were exclusively for the disabled), and in return received certain forms of preferential treatment. The main rules for SWEs were:

- at least 40 percent of workers had to be disabled and at least 10 percent had to be of a medium or considerable degree of disability;
- more stringent safety requirements at work had to be met; and
- certain medical and rehabilitation services had to be provided to disabled employees.

These requirements were obviously costly and, as compensation, the SWEs enjoyed preferential tax treatment – e.g., they were exempt from certain taxes, including income tax, real estate tax, donation and inheritance tax, agricultural and forestry tax, transport tax, and VAT. In addition, the income tax that the SWEs withheld from disabled workers' wages were earmarked for medical rehabilitation. Ninety percent of these withheld taxes went to the enterprise's rehabilitation fund, and the remaining ten percent went to PFRON. The SWEs were also exempted from paying contributions to the Employee Security Benefits Guarantee Fund or the Labour Fund.[23]

[23] The Employee Security Benefits Guarantee Fund was established to cover some costs (wages etc.) of those enterprises that go bankrupt. The fund is financed out of the contributions paid by employers.

2.2. Impacts on Disability Pension Programs

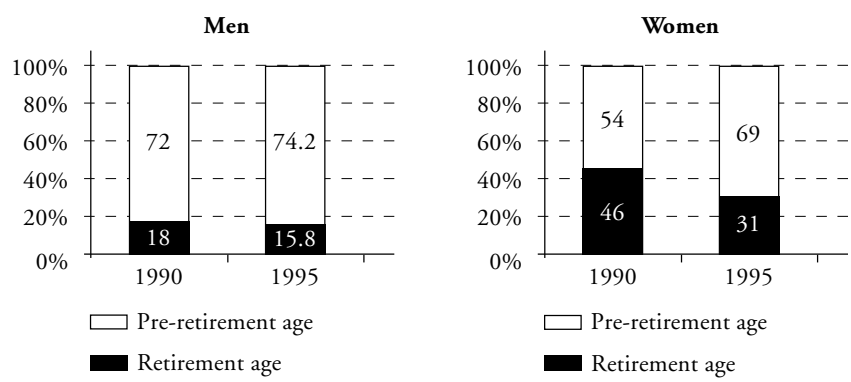
2.2.1. Number of Pensions and Spending

Together the economic changes and reforms just described had a major impact on Poland's disability schemes. During the first half of the 1990s, the number of ZUS pensioners increased by over 20 percent (that is, by almost 500,000 pensioners) and the number of KRUS pensioners increased by 90 percent (380,000 new pensioners). At the same time, total spending on disability increased from 2.6 percent of GDP in 1990 to 4.3 percent in 1995 (see Appendix Tables A4, A5, and A6).

2.2.2. Age of Beneficiaries

In 1990, Poland had an unusually high portion of disability pensioners who were of retirement age (see Chart 4).[24] This was possible because, in Poland, disability pensioners may choose whether to switch to a retirement pension when they reach retirement age or to remain on the disability rolls. In the

Chart 4
Changing age ratios of people receiving disability pensions from ZUS, 1990–1995



Source: Unpublished ZUS data, authors' calculations.

[24] Among ZUS disability pensioners, more than 18 percent of men were age 65 or older, and almost 46 percent of women were age 60 or older.

early 1990s, however, the major influx of new pensioners altered the age mix significantly, as larger numbers of younger workers applied for and were granted disability pensions than before. In the first half of the 1990s, ZUS disability pensioners were on average almost three years younger than at the close of the 1980s.[25]

Similar developments can be observed among people receiving disability pensions from KRUS (see Wóycicka, 2001).

2.2.3. Reasons for Inability to Work

As explained previously, two types of disability pensions are available in Poland: non-work-related pensions for the 'overall state of health', and work-related pensions which cover both work accidents (including injuries on the way to or from work) and occupational diseases. While the first category has always dominated, the early 1990s witnessed a small and gradual decline in it and an increase in the second (see Table 3).[26] In 1995, ZUS paid out 2,602,000 disability pensions, of which 212,000 (6.3 percent) were granted on account of occupational diseases or work accidents.[27] This was an increase of about one third over 1990.

Occupational diseases were most frequently found among teachers, miners, and metal workers. The most common ones included chronic diseases of the vocal organs, damage to hearing caused by noise, and dust-related diseases.

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[25] In the first half of the 1990s, the average age of disability pensioners was 54 (men 53.7, and women 54.5), while at the end of the 1980s, it was 56.4 (men 55.1, and women 56.6).

[26] Both work accidents and occupational diseases caused two or three times more disabilities among men than women.

[27] When interpreting these figures, the significant increase in the number of disability pensions in the first half of 1990s should not be forgotten. As has already been discussed (see sections 2.1.2.1 and 2.2.1), the reason for that increase was the economic problems of the period and the lax eligibility standards for disability benefits.The growth in disability pensions did not reflect a decline in the overall state of health of the population or an increase in occupational diseases. These continued to represent a relatively low proportion of employment-related disability pensions.

Table 3
Causes of disability among ZUS disability pensioners, 1990–1995

Disability cause	First-time disability determinations		
	1990	**1993**	**1995**
Total	100.0	100.0	100.0
Work accidents	1.4	2.8	2.9
Occupational diseases	2.5	2.9	3.4
Overall state of health	96.1	94.3	93.7

Source: ZUS (1991, 1994, 1996), *Determinations on Inability for Work* (Orzecznictwo inwalidzkie o niezdolności do pracy).

If we compare the main causes of disability in 1990 and in 1995, we can also see significant changes (see Table 4). The proportion of cardiac and cardiovascular diseases decreased, while the proportion of mental diseases, psychoneurosis, and malignant neoplasms increased.[28]

Table 4
Main causes of disability, 1990 and 1995

Year	1990	1995
Cardiac and cardiovascular diseases	31.1	26.9
Rheumatic diseases	21.0	21.2
Mental diseases and psychoneurosis	8.0	11.7
Nervous system diseases	4.9	6.7
Respiratory system diseases	4.0	3.7
Malignant neoplasm	3.4	4.9
Bone and joint diseases and injuries	3.1	6.6

Source: ZUS (1991, 1996), *Determinations on Inability for Work* (Orzecznictwo inwalidzkie o niezdolności do pracy).

[28] These changes reflect changes in the causes and incidence of diseases among the entire population.

Special mention should be made of diseases associated with the stresses of modern life, which are making an increased contribution to the number of people applying for disability pensions and are affecting the young in particular. In the youngest age group (under 30), which in 1990 accounted for 27 percent of people examined to determine disability, there was a prevalence of mental diseases and psychoneurosis. This age group also accounted for a relatively high proportion of people suffering from diseases of the nervous system (18.8 percent).

In the next age group (aged 30–39), we can see similar causes for disability: mental diseases, 23.7 percent; and diseases of the nervous system, 25 percent. On the other hand, the 40–59 age group constitutes the majority of those suffering from rheumatic diseases (75.6 percent), malignant neoplasms (68 percent), and respiratory diseases (69.8 percent), while diseases prevailing in the 60–64 age group were heart diseases (14.5 percent), and cardiovascular and respiratory diseases (13.3 percent).

2.2.4. Degree of Disability and Changes as a Result of Follow-Up Examinations

In the first half of the 1990s, the majority of ZUS determinations were of the Group III degree of disability (partial disability); and the majority of benefit allowances were for a limited time. In 1995, the proportion of partial disabilities was 58.1 percent, while the proportion of determinations made for a fixed period was 80 percent. Yet despite the fact that most pensioners were found to be partially and/or temporarily disabled, the great majority of reviews of individuals so classified did not result in any change in disability status. As can be seen in Table 5, most pensioners remained on the disability rolls in the same status as before a review.

Table 5
Changes in disability status
as a result of follow-up examinations, 1990–1995

Determinations made after follow-up examinations	Year			
	1990	1993	1994	1995
Total, including determinations on:	100.0	100.0	100.0	100.0
Upholding the existing disability classification	77.2	74.4	74.9	75.9
Upgrading the disability classification	18.8	20.4	20.3	18.6
Downgrading the disability classification	2.0	2.8	2.6	3.0
Determining an absence of disability	2.0	2.4	2.2	2.5

Source: ZUS (1991–1996), *Determinations on Inability for Work* (Orzecznictwo inwalidzkie o niezdolności do pracy).

3. Substantial Elements of the Disability Reform

3.1. Legislative and Regulatory Changes

The rapid growth in the number of disability pensions and expenditures necessitated reforms in the disability pension system. Public discussion started in 1993 concerning the reform of the entire social insurance system in view of the expected aging of the population. Actuarial projections showed that the system faced growing financial difficulties (MPiPS, 1993). Those criticizing the existing legal rules for disability determination argued that there was a need to separate disability pension determinations from other types of decisions. They emphasized the lack of professionalism in the work of the medical boards, which was partly a result of their lacking medical facilities (Golinowska, 2001). Further aims of the reform were a more active ZUS policy on medical rehabilitation and vocational training.

The reforms took place in several stages during the second half of the 1990s. The first one, enacted in 1995, authorized ZUS to provide medical rehabilitation.[29] Then the pension indexation mechanism was altered to link

[29] Act of June 22, 1995 Amending the Act on Social Security Organization and Financing (Dz.U. of 1995, No.85).

pensions to prices rather than wages, a change projected to result in substantial benefit savings. This was followed by a comprehensive reform of ZUS disability determinations in 1997, which tightened the definition of insurable risk and the system of establishing eligibility, both of which were adopted with the goal of reducing the number of disability pensioners.[30] This new law made doctors more responsible for preventing abuses of the system and established a new benefit, the training pension. In the same year, another new law introduced a separate system operated outside ZUS for determining eligibility for disability benefits other than pensions.[31]

3.1.1. Medical Rehabilitation as a Tool for Disability Prevention

The first reform (1995), which gave ZUSauthority to provide rehabilitation, was intended to prevent a person with a sickness or short-term disability from crossing over into the permanent or long-lasting disability groups. Under this rather limited authority, ZUS could cover only part of the medical rehabilitation costs of people who received sickness allowances (or rehabilitation benefits) for longer than six months and those in danger of long-lasting or permanent inability to work.[32] In 1997, ZUS was authorized to provide rehabilitation on a more flexible basis. Under this law, a determination concerning the need for rehabilitation can be made at many stages in the eligibility process.[33] ZUS bears the full costs of such medical rehabilitation, including accommodation and travel expenses. As part of its efforts to prevent disability, ZUS may operate its own rehabilitation facilities or procure rehabilitation services in other facilities.

[30] Act of June 29, 1996 on Pensions and Social Insurance (Dz.U. of 1996, No.100).

[31] Act of August 27, 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons (Dz.U. of 1997, No.123, item 776; with amendments).

[32] ZUS was able to finance medical rehabilitation costs but not travel expenses.

[33] It can be made, for example, when extending sickness benefit when determining the justification for rehabilitation benefit, when determining inability to work for disability pension purposes, when reviewing the grounds for determination of temporary inability to work due to sickness, or when issuing a medical certificate of disability.

3.1.2. Changes in Benefit Indexation

The sharp increase in expenditure on old-age, survivors', and disability pensions created financial strains for these schemes which made changes in the indexation mechanism necessary.[34] The mechanism used in the mid-1990s was linked to wage increases, while the new one adopted in 1996 was linked to price increases. The new indexation mechanism resulted in the decline of average benefits in relation to wages. The indexation ratio was set in the annual Budget Act, where the planned real growth in average old-age, survivors', and disability pensions was set for each year. The adjustment was to be made either once or twice a year, depending on whether the estimated annual consumer price index (CPI) was above or below 110 percent.

Shortly after the shift to price indexing, the indexation mechanism was changed again in order to restore part of what had been taken away in 1996. On January 1, 1999, new valorization regulations came into force guaranteeing a minimum adjustment for both ZUS and KRUS pensioners which cannot be lower than the CPI forecast for a given year plus a percentage of projected average wage growth. This percentage was 15 for years 1999–2000, increasing to 20 percent in 2001 and thereafter. Even under this liberalization, a continuing decline is projected in the relation of average benefits to average wages.

3.1.3. The New Concept of 'Inability to Work'

In 1997, legislation established a new eligibility category, 'inability to work', for ZUS social insurance benefits, replacing the previous 'disability' category. This reform was enacted in response to perceptions by many close observers of the scheme that, (a) the increasing number of pensioners was to a certain extent due to the legal definition of 'disabled', and (b) in making disability

[34] Dynamics of main macroeconomic data for 1990–1998

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998
Dynamics of average gross monthly wage – *real*	—	100.2	115.4	99.6	101.7	103.0	105.5	106.1	103.5
Dynamics of average net monthly wage – *real*	75.6	100.2	97.1	97.0	100.5	103.1	105.7	107.5	104.7
CPI (goods and services)	658.4	170.3	143	135.3	132.2	127.8	119.9	114.9	111.8

Source: Hagemejer, Liwiński, and Wóycicka (2002).

determinations, ZUS physicians looked mainly at a person's state of health rather than at his or her actual degree of inability to work. The disabled population was thus regarded as having physical or mental impairments but not necessarily a high degree of inability to work.

In addition to replacing the old concept of 'disability' with the new concept of 'inability to work', the reform reduced the number of disability status groups from three to two. Group I and II pensions became pensions for 'complete inability to work', while Group III pensions became pensions for 'partial inability to work'.

The following factors are taken into account when assessing the degree and permanence of the inability to work, and the prognosis for regaining the ability to work:

- degree of physical or mental impairment, and the chances of improvement through treatment and rehabilitation; and
- chances of continuing prior employment or of obtaining new employment, and the advisability of retraining in view of the nature of the previous job, education, age, mental and physical aptitude.

Together these changes were intended to restrict the range of impairments that met the definition of an insured risk.[35] Only a person who has no chance of regaining the ability to work through retraining could be regarded as unable to work for pension eligibility purposes.

The previous division into permanent and temporary disability pension status was maintained. However, the law no longer provides for automatic follow-up examinations by ZUS; instead the burden is shifted to the pensioner to apply for an extension of his or her entitlement or for a conversion to a permanent pension. Moreover, ZUS is not responsible for reminding the pensioner of the date when the temporary pension is due to expire.

[35] The new definition left some impairments uncovered which had previously been covered even though they did not limit ability to work. This was the very part of the previous definition that drew most criticism – that is, failure to take economic circumstances into account in defining a given case as insurable risk. However, the ability to work in special conditions laid down in the regulations on treatment and vocational rehabilitation still does not preclude the possibility of finding cases that could be determined as complete 'inability to work'.

3.1.4. Changes in the Procedures for Medical Determination

Enacted as part of the 1997 reform, these changes were aimed at increasing the authority of ZUS medical experts and improving their professionalism and skills. The responsibility for medical experts' determinations no longer rested with a medical board consisting of several members, but with only one person: a medical expert from ZUS. The ZUS medical expert is responsible for many tasks, including assessing inability to work, whether it is total or partial, the date of onset of inability to work, whether an impairment is work-related, and whether retraining is likely to be effective.

To improve the professionalism and skills of the medical experts, professional supervision was introduced. A ZUS Chief Physician was appointed, and Chief Physicians were likewise appointed to ZUS Branches. They exercise direct supervision over medical experts to ensure accuracy, conformity with the law, and compliance with medical determination rules in cases of inability to work.[36] In addition, medical experts are now required to be specialists. Preference is given to those with expertise in internal diseases, surgery, neurosurgery, psychiatry, labour medicine, and social medicine. They must also be trained in subjects decided by the Chief Physician of ZUS.

To increase the weight of medical experts' decisions, the former process of two-instance determinations was replaced by a single instance appeal, the difference being that appeals against the determination of the medical expert can no longer be made to ZUS.[37]

Finally, the reform limited the role of ZUS decision-making on disability-related issues. Previously the medical boards were responsible for a wide range of decisions related to various types of disability benefits. Now they are restricted exclusively to inability-to-work determinations in social insurance cases. This was done because the new criteria for determining inability to work were different from, and irrelevant to, eligibility for other types of benefits. To deal

[36] The supervision entails among other things: review of determinations in substantive and formal terms; judicial analysis of appeals against decisions of the pension-awarding authority in matters relating to determinations of inability to work; analysis and control of the accuracy and uniformity of applying the rules of determining the inability to work by medical experts; providing guidelines and training for determining the inability to work.

[37] As with the previous system, appeals can still be taken to court.

with other benefits, new Committees for Disability Certification were set up at the *powiat* and *voivodship* level under the supervision of the Government Plenipotentiary for Disabled Persons.[38] In the case of the farmers, medical determination was moved to KRUS (see Supplement Table S3).[39]

3.1.5. Training Pension

ZUS also introduced a new type of pension, the 'training pension', to be provided along with free training (or retraining) by labour offices to people referred to them by ZUS. In view of the special purpose and short-term nature of this pension, the benefit amount is 20 percent higher than other inability-to-work pensions. It is available to a person found unable to perform his or her previous job, but who is capable of regaining the ability to work through retraining. The pension is paid for the period of retraining, up to a maximum three years. When assessing whether a person is to be retrained, consideration is given to his or her profession, qualifications and skills, age, and employment aptitudes.

3.1.6. Legal Aspects of Vocational Rehabilitation

In 1997, the law on vocational rehabilitation was revised to place new restrictions on the way that PFRON and the SWEs managed their funds, as well as how they were organized.

The 1991 Act, which had established PFRON and authorized the operation of the SWEs, was widely criticized by experts and disabled persons alike. Public audits of these entities revealed many financial irregularities, in particular a lack of oversight and control by PFRON of funds spent on job creation.[40]

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[38] *Voivodship* is a larger administrative unit with local self-government entities. *Powiat* is a smaller administrative unit. Since an administrative reform in 1999, Polish territory has been divided into 16 *voivodships*, 308 *powiats*, and 65 cities with *powiat* status.

[39] Up to 1996, disability determinations for KRUS benefits were made in the framework of ZUS, but in that year KRUS took this over. The KRUS system differs from that of ZUS and consists of the following elements: a medical expert, medical boards for disability matters, and a Chief Physician.

[40] The body that supervises the operation of public institutions in Poland is the Supreme Chamber of Control (Najwyższa Izba Kontroli, or NIK). Its main function is undertaking state audits on order of the Sejm or its bodies.

Many of the loans it made to SWEs were misused and never repaid. There was also evidence that SWEs abused their tax exemptions, a possibility that was facilitated by lack of record keeping requirements. In the absence of reliable accounting information, the government lost control over the costs of the program.[41]

In the second half of the 1990s, there was a partial reworking of the 1991 Act. Finally, it was replaced by the Act of August 27, 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons. While the main objective of the new law was to introduce the disability determinations for other than ZUS and KRUS benefits (see section 3.1.3), other provisions required the re-granting (re-examining) of SWE status every three years and reduced the size of companies covered by the quota-levy system on the open market to those with at least 25 employees. Later new restrictions were also imposed to further improve the use of public money spent on vocational rehabilitation of SWE employees (see Supplement Table S2). Specifically, as of 2000,[42]

- there has been no more Corporate Income Tax (CIT) exemption for SWEs;
- exemption from Personal Income Tax (PIT) has applied exclusively to SWE employees (employers and the self-employed have to pay it); and
- VAT has to be paid and is then partially reimbursed, enabling better supervision.

3.2. Impact of Reform Policies

3.2.1. Pension Expenditure

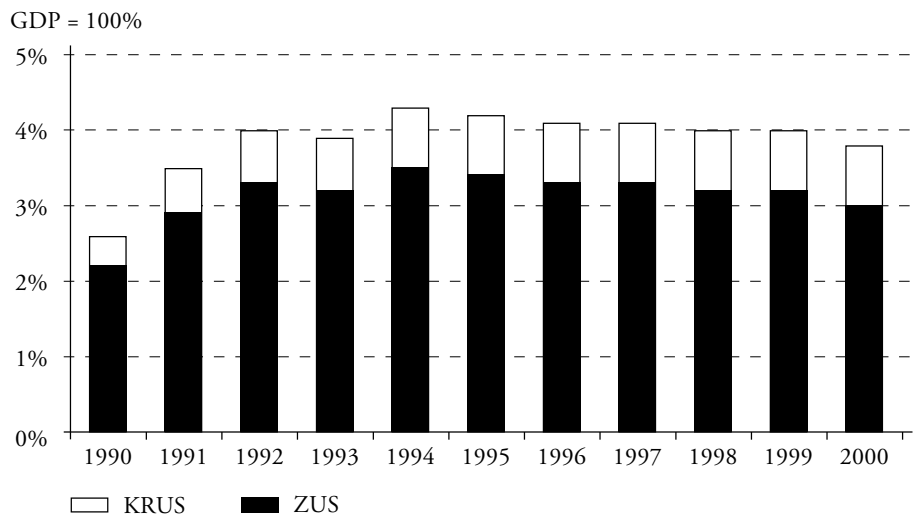
In the wake of the reforms, spending on disability pensions dropped from 4.2 percent of GDP in1996 to 3.8 percent in 2000 (see Chart 5). The main reason for this was the new indexation rules. The first indexation was made in September 1996. Since then, the relation of the average disability pension

[41] SWEs did not keep records of VAT exemptions in separate accounts so it was difficult to assess the amount of VAT exemption and to control it.

[42] In force by the Act of November 9, 2000 Amending the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons (Dz.U. of 2000, No.119).

to the average wage has been falling, from 48.5 percent (1997) to 45.1 percent (2000) (see Appendix Table A7).[43]

Chart 5
Spending on the pension for inability to work in relation to GDP, 1990–2000



Source: ZUS (1992–2001), *Information on Cash Benefits from ZUS and the Alimony Fund* (Quarterly) (Informacja o świadczeniach pieniężnych z Funduszu Ubezpieczeń Spolecznych i Funduszu Alimentacyjnego); KRUS (1992–2001), *Quarterly Statistical Information* (Kwartalna Informacja Statystyczna); authors' calculations.

3.2.2. Number of New Pensioners

The reforms undertaken during 1995–1997 appear to have had short-term effects on new allowances of pensions for inability to work. In 2000, the number of such allowances was just two thirds of its 1996 level – 102,400 as opposed to 151,600 (see Appendix Table A4). The number of new disability pensioners

[43] The average KRUS disability pension in relation to the average wage decreased from 41 percent in 1995 to 36 percent in 2000.

did not, however, decline steadily over this four-year period. Rather, the number decreased by almost nine percent in 1998 compared with 1997 but grew again in 1999 by eight percent compared to 1998. In 2000, there was a drop of over 30 percent.

The decline in 2000 is explainable in part as a result of actions by ZUS in 1999, when it exercised its new authorities to tighten control over medical examinations and eligibility determinations based on them. During 1999, ZUS organized a mass media campaign against physicians who abuse the system of issuing certificates for sickness allowances. It also established a new certification process for physicians and intensified its supervision of their reviews. These measures might have discouraged unconsidered issuance of medical certificates which otherwise could have provided a basis for applying for disability pensions.

3.2.3. Benefit Levels

If one compares the average and minimum disability pensions with the net minimum wage, it appears that there are still incentives for 'moral hazard', despite the less generous cost of living adjustments. As shown in Table 6, the financial incentive to remain on a disability pension rather than look for a job still appears to be strong, especially for farmers and persons without professional qualifications.

Table 6
The minimum and average net disability pensions in ZUS and KRUS as a percentage of the net minimum wage in the second quarter of 2000

Net *minimum* disability pension from KRUS and ZUS	87
Net *average* farmers' disability pension from KRUS	104
Net *average* disability pension from ZUS	130

Source: ZUS, KRUS, and Ministry of Labour information; authors' calculations.

3.2.4. Periods of Entitlement

The time periods for which new ZUS pensioners were granted benefits decreased significantly following the reforms, as shown in Table 7. During 1999–2000, the proportion of benefits granted for 12 months or less more than doubled,

while the proportion granted for 25–36 months declined to less than a third of the previous share.

Table 7
Periods of entitlement to first-time ZUS determinations of inability to work, 1995–2000 (selected years, in percentages)

Expected period of inability to work	Year			
	1995	1998	1999	2000
Total determinations	100.0	100.0	100.0	100.0
12 months or less	21.0	20.5	32.8	45.3
13–24 months	24.0	24.6	27.2	26.3
25–36 months	34.3	20.5	18.7	11.7
37 months and more	0.6	0.9	0.8	0.4
For unspecified time	20.1	33.5	20.5	16.3

Sources: ZUS (2001), *Analysis of the Periods of Old-Age, Disability, and Survivors' Pension Entitlements and the Mobility of the Beneficiaries* (Analiza wyników badania okresów pobierania emerytur i rent oraz mobilności świadczeniobiorców wewnątrz systemu emerytalno-rentowego).

One can also observe a shift in the classification of inability to work, from higher portions of permanent inability classifications to higher portions of temporary inability (see Table 8).

Table 8
ZUS pensions for inability to work, broken down into permanent and temporary classifications, 1997–2000 (in percentages)

Year	1997	1998	1999	2000
Total pensioners with:	100.0	100.0	100.0	100.0
Permanent inability to work	64.2	65.2	60.2	58.3
Temporary inability to work	35.8	34.8	39.8	41.7

Source: ZUS (1998, 1999, 2000, 2001), *Determinations on Inability to Work* (Orzecznictwo inwalidzkie o niezdolności do pracy).

3.2.5. Follow-Up Examinations and Determinations

Between 1998 and 2000, the number of ZUS follow-up examinations which resulted in determinations that the pensioner was no longer unable to work doubled, increasing from 43,700 to 88,400 annually.[44] At the same time, the portion of determinations in which ZUS confirmed a prior finding of inability to work fell moderately, from 71 percent in 1998 to 63 percent in 2000. In addition, there was an increase in the proportion of determinations of partial inability to work (by about 2.6 percent per year).

3.2.6. Disability Types

In terms of the types of disabilities for which pensions were paid, the post-reform period demonstrates a continuation of earlier trends. Disabilities which are more strongly associated with advanced age (e.g. heart disease, rheumatoid arthritis) continued to decline in importance, while those associated with the stresses of modern life (e.g. mental and nervous diseases and some types of cancer) continued to increase (see Table 9).

In addition, the proportion of work-related determinations fell slightly, from seven percent in 1996 to six percent in 2000. This was apparently due to the restructuring (in this case, a drop in employment) of those branches of the coal and steel industries which had high accident and occupational disease rates.

It is noteworthy that the number of inability-to-work pensions increased over the period despite indicators showing an improvement in the health of the population.[45]

[44] As noted earlier, one of the reform measures requires that the beneficiary must apply for an extension of entitlement before the end of the temporary pension period.

[45] For example, by the year 1999, the probability of death in the 15–59 age group decreased by 4.3 percent (males) and by 1.2 percent (females) from 1991, and under-5 child mortality rates decreased by more than 50 percent between 1990 and 2000. See also Zatoński, 2000 and Wóycicka, 2002.

Table 9
Diseases causing inability to work in ZUS in 1995 and 2000 (in percentages)

Specification	1995	2000
Cardiac diseases and cardiovascular system diseases	26.9	24.2
Rheumatic diseases	21.2	15.5
Mental diseases and psychoneurosis	11.7	14.9
Nervous system diseases	6.7	8.3
Malignant neoplasms	4.9	10.2
Respiratory system diseases	3.7	5.3
Organ of vision diseases	3.2	2.5
Tuberculosis	1.0	—
Other	14.1	19.1

Source: ZUS (2001), *Determinations on Inability to Work* (Orzecznictwo inwalidzkie o niezdolności do pracy).

3.2.7. Appeals

Abolition of the right to appeal to ZUS before making a judicial appeal (see section 3.1.3) did not result in a significant new workload for the courts. However, among the cases adjudicated, the proportion of rulings in favor of the claimant was significant. In 2000, a total of 1,128,000 disability determinations was made overall, while the courts issued 118,000 rulings on inability to work. Of these, 42,000 (i.e., 34 percent) were favorable to the claimant. Compared with the number of newly awarded benefits (102,000), this is a very significant figure. Moreover, this higher level of appeal involves protracted court proceedings and, when the ruling is beneficial to the claimant, ZUS has to pay interest on back benefits owned. These costs and burdens make abolition of the right to appeal decisions to ZUS highly controversial.

3.2.8. Period of Pension Receipt

Between 1995 and 2000, the average period during which an inability-to-work pension was paid dropped by two years and two months, bringing the average period to nearly ten years – that is, nine years and ten months. In

addition, the proportion of pensioners who had received benefits for 'long' and 'very long' periods (i.e., 16 years or more) dropped by almost ten percent (see Table 10).

Table 10
Period of receiving pensions for inability to work from ZUS in 1995 and 2000 (in percentages)

Period of receiving pensions for inability to work	1995	2000
TOTAL	100.0	100.0
Very short (less than 6 years)	37.8	45.8
Short (6–10 years)	14.8	23.4
Medium (11–15 years)	14.9	8.2
Long (16–20 years)	13.6	8.8
Very long (21+ years)	18.9	13.8
Average period of receiving pension (in years and months)	12 years	9 years and 10 months

Source: ZUS (2001), *Analysis of the Periods of Old-Age, Disability, and Survivors' Pension Entitlements and the Mobility of the Beneficiaries* (Analiza wyników badania okresów pobierania emerytur i rent oraz mobilności świadczeniobiorców wewnątrz systemu emerytalno-rentowego).

3.2.9. Average Age of Beneficiaries

The diminishing number of newly granted benefits led to an increase in the average age of people receiving inability-to-work pensions. In 1997, this average was just under age 54, but by 2000 it had reached 55.5. There was also an increase in the proportion of pensioners of retirement age: in the case of men, from 15.9 percent to 17.6 percent; and for women, from 29.5 percent to 31.2 percent.[46]

[46] As described earlier, disabled pensioners in Poland can choose to remain on disability or switch to a retirement pension at the age of retirement.

3.2.10. Rehabilitation

Following the 1995 introduction and 1997 expansion of ZUS's authority to finance rehabilitation, there was an increase of almost three-fold in the number of people referred by it for this purpose (see Table 11).

Table 11
Data on medical prevention at ZUS

Year	Number of people referred for medical rehabilitation	Previous Year = 100	1997 = 100
1997	18,194	—	100.0
1998	34,153	187.7	187.7
1999	40,851	119.6	224.5
2000	49,132	120.3	270.0

Source: Unpublished ZUS data.

To consider the cost effectiveness of these expenditures, ZUS determined whether benefits were received within one year after the completion of rehabilitation, and, if so, what kind (ZUS, 2000). This exercise was conducted only in one year, 1998, so the results may not be broadly applicable. It turned out that 32 percent of persons undergoing medical rehabilitation did not receive any inability-to-work benefits during the year following its completion. Therefore, it can be argued that rehabilitation of this insured group brought about a positive effect. A similar effect was found in a further 12.6 percent of rehabilitated persons, for whom the only benefit received after rehabilitation was sickness allowance for a period of between one and 20 days after rehabilitation. Hence, overall, ability to work was restored in 44.6 percent of cases. In comparison, the proportion in 1997 was 35.8 percent.[47]

[47] In addition, rehabilitation benefits awarded in the 12 months following rehabilitation were collected by 8.1 percent (for 2.7 percent of this group, this was the only post-rehabilitation benefit received). The inability-to-work pension was collected by 27 percent (in 18.2 percent of these cases, disease was the reason for medical rehabilitation). In

While not conclusive, these statistics suggest the possibility that greater expenditures for rehabilitation could be cost effective in reducing pension expenditures. Yet there are two reasons for concern about pursuing such a strategy under current conditions.[48] First, both ZUS and KRUS finance rehabilitation that is under the legal purview of universal health insurance. Thus, they are effectively taking on extra costs that could be covered elsewhere. Yet it also seems quite likely that ZUS and KRUS can make rehabilitation more effective for their own client populations, given that they stand to reduce their own pension costs by doing so. Universal health insurance, by contrast, is aimed at restoring health (complete or partial) regardless of the person's ability to work and insurance status.

A second concern relates to the costs of rehabilitation. Given the wide variety of diseases and impairments affecting the pensioner population, there is a need for highly diversified forms of rehabilitation, which would be quite expensive. In addition, both ZUS and KRUS conduct rehabilitation only on an in-patient basis, where high overhead costs add considerably to operating costs.[49] Further, KRUS conducts rehabilitation in residential establishments (sanatoriums), where its investments in buildings, equipment, and renovation drive up operating costs as well.

Given these factors, the cost effectiveness of ZUS (and KRUS) rehabilitation remains an open question. The best alternative would seem to be for ZUS and KRUS to contract for rehabilitation services in the open market and to rely, wherever possible, on the services of out-patient departments located at the place of residence of the pensioner. It also seems to be advisable to

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more than 89 percent of cases these were temporary pensions. The remaining rehabilitated persons received sickness allowance for a period longer than 20 days. It should be emphasized that, of those persons who collected the inability-to-work pension at the moment they were put on a rehabilitation scheme, more than 70 percent received no benefits at all in the year following rehabilitation, 27.8 percent were still receiving pension and 2.2 percent collected sickness allowance.

[48] For medical rehabilitation conducted by KRUS, see Chłoń (2001).

[49] Prior to 2001, ZUS had a number of bad experiences with financing equipment for establishments providing rehabilitation for its client population: A number of establishments ended cooperation with ZUS as soon as equipment was provided to them, or failed to guarantee an appropriate standard of service. Since 2001, ZUS has not been authorized to finance investments in rehabilitation centers.

contemplate whether Health Funds should cover part of the costs of medical rehabilitation conducted by ZUS and KRUS.

3.2.11. Training Pension

The introduction of a new 'training pension' (see section 3.1.5) has to date failed to produce the expected effects. As shown in Table 12, the number of people referred for vocational training (retraining) by ZUS and receiving this benefit is very small.

Table 12
Number and growth rate of training pensions, 1998–2000

Year	Number of people granted training pension for the first time	Previous Year = 100	Percent of the number of newly granted pensions for inability to work
1998	673	—	0.48
1999	372	55.3	0.24
2000	373	100.3	0.36

Source: Unpublished ZUS data.

Without additional analysis, it is difficult to explain the reasons for this. One possible explanation is growing unemployment, both in the labour market in general and among the disabled.[50] This may cause low motivation to retrain, as there are often no jobs available when retraining has been completed. Another reason could be the lower overall level of education of the disabled population, as this limits the possibilities of finding a job (see section 3.2.14 below).[51] Yet another reason affecting motivation to seek employment may be 'moral hazard':

[50] The unemployment rate went up from 10.6 percent in 1998, to 15.3 percent in 1999, and to 16 percent in 2000.

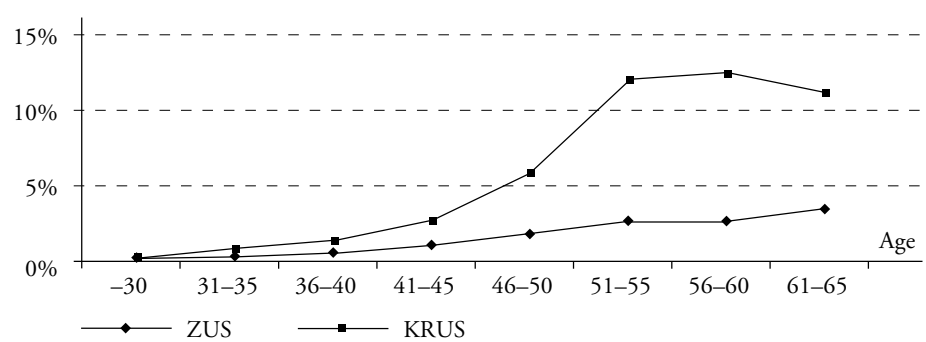
[51] Every second disabled person has no more than primary education (for the whole population that figure is 33 percent), and only 19.2 percent have secondary and vocational secondary education (31 percent in the whole population) (GUS, 2000). The unemployment rate among poorly educated people is much higher than in other groups.

that is, the inability-to-work pension could be similar to or even higher than the salary offered (see section 3.1.1). Finally, the smaller but more secure inability-to-work pension may seem more attractive than the higher training pension, which poses the risk of loss of entitlement to pension since it is paid for a limited period. This may apply especially to people with low professional qualifications.

3.2.12. Impact of Reforms on KRUS Pensions

While the reforms seem to have exerted a salient impact on ZUS inability-to-work pensions, their impact on KRUS pensions is more difficult to evaluate due to the lack of data.[52] The statistics that do exist show a flattening out of KRUS expenditures as a portion of GDP in recent years but, unlike ZUS expenditures, there has been no decline (see Appendix Table A6). One can also observe a large difference between the ages of the two beneficiary populations, as well as in the number of beneficiaries per insured person. In both cases, the KRUS rates are well above those of ZUS. In 1999, 0.029 new KRUS benefits were granted for every insured person, while at ZUS the proportion was less than half of this. Moreover, as shown in Chart 6, the KRUS rate increases much more sharply with age.

Chart 6
Number of newly granted benefits in relation to the number of ZUS and KRUS insured, by age in 1998



Source: Wóycicka (2001).

[52] KRUS does not monitor disability determinations. However, a comparison of 1995 and 1999 indicates a decrease in the percentage of determinations resulting in benefits for an unlimited period of time (from 30 percent to 16.3 percent) (Wóycicka, 2001).

Part of the reason for these differing patterns is the difficult situation in the rural labour market and the contracting income from agricultural activity. In this environment, social insurance is an important source of income for farming families (Topińska, 2000); and the amount of disability pensions for farmers, when compared to the minimum wage, is conducive to moral hazard (Wóycicka, 2000). In addition to the differences in legislation and demographic structure of the insured population, this is one of the main causes of the much higher rate of retiring on disability pensions at KRUS.

3.2.13. Projections for the Future

3.2.13.1. Impact of the Reform of ZUS Pension Determination on the Number of Beneficiaries and Expenditures

As described earlier, the main objective of the reforms was to reduce spending on inability-to-work pensions. This effort relied on tightening the definition of the insured contingency and the system of determining eligibility for it, as well as putting more emphasis on rehabilitation, both medical and vocational. As shown, there has been a modest and gradual reduction in the number of inability-to-work pensions and in overall spending on them. It is noteworthy that these results have been achieved despite a lack of significant progress in vocational rehabilitation.

It is of course not possible to predict whether these trends will accelerate, hold steady, or reverse themselves with time. This uncertainty is due to the relatively short period under analysis on the one hand and the tendency toward strong fluctuations in the number of new pensioners on the other. Thus, in order to project the possible long-term effects of the reforms, a set of simulations was made using the Polish Social Policy Budget model.[53] These simulations assumed three scenarios:

[53] The model was constructed by the Gdańsk Institute for Market Economics in cooperation with the International Labour Office and the Polish Ministry of Labour and Social Policy. The simulations were also made at the Gdańsk Institute for Market Economics.

- Medium impact scenario: based on 1999 rates[54]
- High impact scenario: based on 2000 rates
- No reform scenario: based on 1996–1997 rates (for inability-to-work pensions) and 1995 rates (for loss of eligibility) without reform

The macro-economic assumptions underlying the simulations are shown in Table 13.[55]

The simulations assume continuation of the status quo in all regulations relating to old-age, survivors', and inability-to-work pensions. They also assume that indexation of pensions will be at the minimum statutory level (i.e. the annual increase in prices plus 20 percent of the annual wage increase).

The results of the simulation are presented in Table 14.

This data indicates that the reforms could result in a significant reduction in disability pensions and expenditures. The initial differences between the 'no reform' scenario on the one hand and the 'medium impact' and 'high impact' scenarios on the other are not very great, but they grow significantly over time. By 2020, the difference between the 'no reform' and 'medium impact' scenarios is approximately 700,000 pensioners (that is, 3.25 *versus* 4.06 million pensioners); and the difference between the 'no reform' and 'high impact' scenarios is 900,000 pensioners (3.16 *versus* 4.06 million pensioners). This amounts to a reduction of nearly 25 percent of pensioners over the next two decades. This effect is partially offset by an increase in old-age pensioners, but even taking this into account, the disability reform would result in a net decrease of around 600,000 pensioners under the 'high impact' scenario.[56]

[54] Rates at which inability-to-work pensions were granted by age and sex, and rates of loss of pension eligibility. In all three scenarios, the respective assumptions concerning the rate of inability-to-work pensioning and the rate of loss of eligibility were introduced in 1998.

[55] For the methodology of the simulation model, see Wóycicka (1999).

[56] This is because the decline in the number of people receiving inability-to-work pensions results in a growing number of the working population who will retire and receive old age pensions.

Table 13
Macro-economic assumptions for the projection

Year	GDP growth	Growth in labour productivity	Average annual inflation
	(in percentages)		
2001	3.8	4.8	6.2
2002	5.7	4.8	4.7
2003	5.6	4.7	4.4
2004	5.5	4.7	4.1
2005	5.4	4.6	3.8
2006	5.3	4.6	3.6
2007	5.1	4.5	3.1
2008	5.0	4.5	2.8
2009	4.9	4.4	2.4
2010	4.8	4.4	2.1
2011	4.7	4.3	1.8
2012	4.6	4.3	1.4
2013	4.5	4.2	1.3
2014	4.4	4.2	1.3
2015	4.2	4.1	1.3
2016	4.1	4.1	1.3
2017	4.0	4.1	1.3
2018	3.9	4.1	1.3
2019	3.8	4.1	1.3
2020	3.8	4.1	1.3

Source: Authors' calculations at the Gdańsk Institute for Market Economics (Instytut Badań nad Gospodarką Rynkową) based on The Social Budget Model of the Institute.

Table 14
Results of simulations under three scenarios showing possible effects of reforms of ZUS pensions for inability to work

Year	2001	2005	2010	2015	2020
Medium Impact Scenario					
Number of pensions for inability to work (thousand)	2,614	2,502	2,557	2,872	3,247
Number of old-age and inability-to-work pensions (thousand)	5,961	6,059	6,218	6,558	7,141
Spending on pensions for inability to work (mill. Zł)	24,160	29,108	35,609	44,733	56,164
Spending on old-age and inability-to-work pensions (mill. Zł)	81,384	102,112	125,244	145,771	180,342
High Impact Scenario					
Number of pensions for inability to work (thousand)	2,604	2,470	2,503	2,801	3,161
Number of old-age and inability-to-work pensions (thousand)	5,951	6,027	6,165	6,487	7,056
Spending on pensions for inability to work (mill. Zł)	24,809	28,723	34,854	43,603	54,655
Spending on old-age and inability-to-work pensions (mill. Zł)	81,276	101,726	124,489	144,640	178,833
No Reform Scenario					
Number of pensions for inability to work (thousand)	2,736	2,831	3,078	3,552	4,061
Number of old-age and inability-to-work pensions (thousand)	6,085	6,399	6,739	7,159	7,756
Spending on pensions for inability to work (mill. Zł)	26,015	32,861	42,766	55,184	70,077
Spending on old-age and inability-to-work pensions (mill. Zł)	82,502	106,023	132,440	154,700	189,261

Source: Authors' calculations at the Gdańsk Institute for Market Economics (Instytut Badań nad Gospodarką Rynkową) based on The Social Budget Model of the Institute.

As the scenarios differ only in the rates of disability pensioning and loss of eligibility, the expenditure results correspond closely to the number of pensioners. When comparing the 'no reform' scenario with the 'high impact' scenario, we can see that the latter results in a 21 percent reduction in expenditures (55 versus 70 billion Złotys), while the aggregate spending on old-age and disability pensions would fall by around five percent compared to the 'no reform' scenario in 2020 (179 versus 189 billion Złotys).

3.2.13.2. Projections for KRUS

In contrast to the results of projections concerning the ZUS reform, the projections for KRUS disability pensions indicate that there will be considerable growth in the number of pensioners.[57] Although KRUS spending will decline in relation to GDP, the system dependency ratio will continue to increase due to the combination of larger numbers of pensioners and a loss of contributors (see Table 15). This will increase the financial tensions in KRUS and require larger subsidies from the state budget.[58] These unfavorable trends would be worse yet were it not for the continuing shift from rural to non-rural employment (Wóycicka, 2001).

[57] The projection for KRUS is based on the same macroeconomic assumptions as the ZUS projection. It also makes use of data on KRUS rates of disability pensioning by age and sex from 1997, the latest year available. Since there has been no reform of KRUS pensions, we did not simulate different scenarios. (Note that while after 1995, the terminology used by ZUS is 'inability-to-work pension', it is still 'disability pension' at KRUS.)

[58] This is due to the fact that the value of KRUS social insurance contributions is very low (95 percent of the spending is covered from the state budget allocation).

Table 15
Results of the projection for KRUS

Year	1995	2000	2005	2010	2015	2020
Number of insured persons in KRUS, in thousands	1,390	1,450	1,480	1,473	1,413	1,326
Number of disability pensions in KRUS, in thousands	762	796	857	924	978	1,007
System dependency ratio	0.55	0.55	0.58	0.63	0.69	0.76
Spending on KRUS disability pensions in percent of the GDP	0.8	0.8	0.7	0.6	0.6	0.5

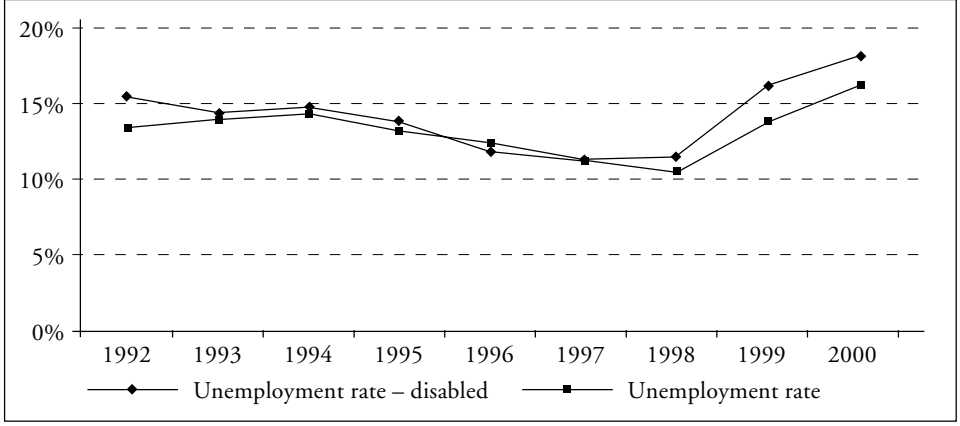
Source: Authors' calculations at the Gdańsk Institute for Market Economics (Instytut Badań nad Gospodarką Rynkową) based on The Social Budget Model of the Institute.

3.2.14. Vocational Rehabilitation

One of the largest continuing problems related to disability protection in Poland is the low participation rate of people with disabilities in the labour market. During 1992–2000, 60–65 percent of persons with disabilities were neither employed nor looking for work (see Appendix Table A12). Moreover, their rate of employment decreased in recent years, from 19.5 percent in May 1995 to 15.6 percent in 2000 (Q2). Reflecting this, their unemployment rate has been rising faster than that of the total workforce, which is a very discouraging trend (see Chart 7).

Together these indicators provide strong evidence of the ineffectiveness of vocational rehabilitation. Unlike the law on pensions for inability to work, the law on vocational rehabilitation has undergone no major changes since 1991, when: (1) SWEs (supported work establishments) were authorized by law as a replacement for the uncompetitive cooperatives of the previous era; (2) the quota–levy system was established to encourage mainstream employment of persons with disabilities; and (3) PFRON was established to use revenues collected via the levy to provide training and supported employment for disabled persons. A decade of experience reveals serious problems with each of these approaches.

Chart 7
Unemployment rate among the total population and among the disabled



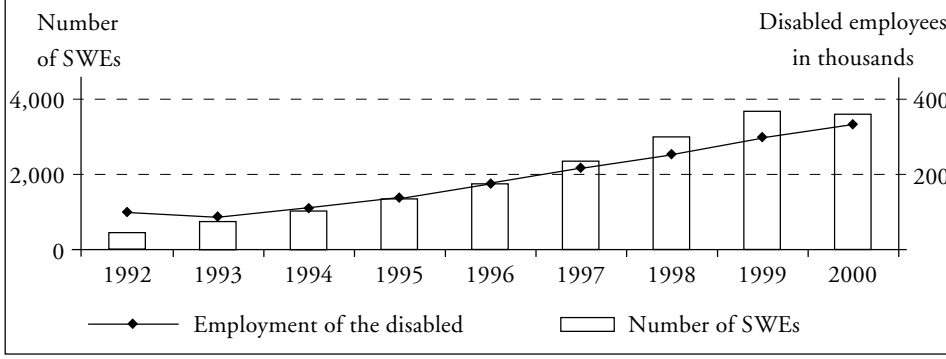
Source: Labour Force Surveys (LFS).

With respect to SWEs, there is no doubt that their establishment prevented a large drop in the number of employed persons with disabilities that would have otherwise occurred following closure of the cooperatives in the early 1990s.[59] After the enactment of the 1991 Act, the number of SWEs increased steadily from year to year together with the numbers of their disabled employees (see Chart 8).

Yet it is also quite clear that the SWEs favor employees with light degrees of disability (see Chart 9). Moreover, in the last few years, even their low rates of employment of workers with more severe disabilities has dropped. Part of this is cost-related – i.e. adaptation of the workplace to meet the needs of the severely disabled can be expensive, and their productivity is often lower than that of workers without disabilities. In addition, however, in the second half of the 1990s, changes were enacted which aimed at addressing abuses by SWEs, and these served to increase their operating costs (e.g. loss of tax preferences, see section 2.1.2.2). This, in turn, prompted the SWEs to reduce the employment of people with more severe disabilities to the lowest possible number that is required to maintain their SWE status.

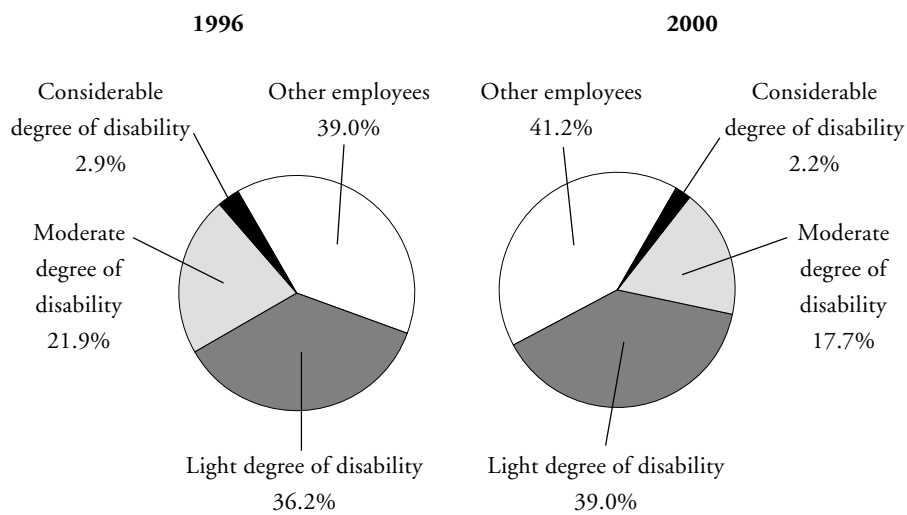
[59] An initial decline in output, skyrocketing inflation, and the removal of soft budget constraints meant that many companies were in a much worse economic situation (see section 2.1.2.2).

Chart 8
SWEs and their disabled employees, 1992–2000



Source: Barczyński (2001), PFRON (2001a).
Note: PFRON figures for employment in 2000 are lower than presented in Barczyński (2001).

Chart 9
Structure of SWE employees by disability degree in 1996 and in 2000

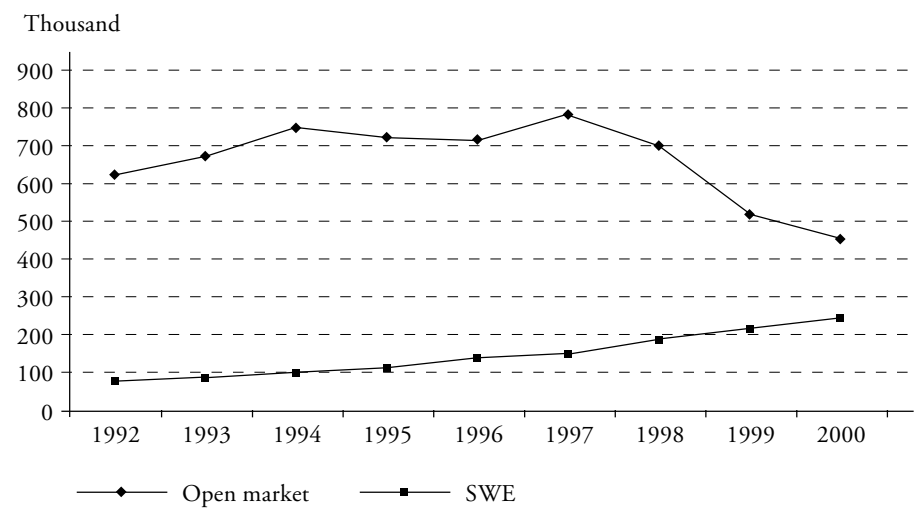


Source: PFRON (2001a, 2001b).

The quota–levy system, introduced to support the employment of disabled persons in the open market, has also proven to be largely ineffective. While

the majority of persons with disabilities work in open employment, their numbers fell progressively over the decade, while SWE employment rose (see Chart 10). In 2000, less than 50 percent of this group worked as paid employees, while 53 percent were employers, self-employed, or contributed to a family business. These latter figures indicate the difficulties that people with disabilities face in finding employment in private firms in the open market.

Chart 10
Employment of the disabled, 1992–2000



Source: Barczyński (2001), p.42.
Note: Data for first quarter, year 2000.

As for PFRON, an assessment of its budgetary outlays shows a very low number of persons undergo PFRON-financed vocational training each year. The number of disabled persons trained ranged from 1,645 in 1995 to almost 7,000 in 1996. The expenditure on this training accounted for less than one half of one percent of total PFRON expenditures (not exceeding 0.4 percent).[60]

[60] In 2000, total PFRON expenditures equaled approximately 1.5 billion Złotys (380 million USD), accounting for 0.27 percent of GDP.

The number of new work places created annually from PFRON funds was the highest in 1993 (25,168) – but then dropped considerably, stabilizing at about 14,500 in 1997–1999. Another important item in PFRON expenditures is enterprise start-up loans. Their absolute value increased steadily between 1995 and 1999, but dropped as a proportion of total expenditures. In recent years, they covered on average 1,350 small entrepreneurs (see Appendix Table A15).

These poor results leave no doubt that there is a need for improvement in rehabilitation and employment promotion. In designing such improvements, it will be important to consider the skills, aspirations, and current employment patterns of persons with disabilities. Here the results of a questionnaire added to the national Labour Force Survey in the second quarter of 2000 provide some pertinent information.

Not surprisingly, the survey shows that unemployment is concentrated among the most severely disabled – those who would have qualified for the former Group II (about 70 percent unemployed) and Group I (86 percent unemployed). Yet these individuals profess considerable flexibility as to the types of work they would be willing to accept. Over 80 percent say they would accept a job other than that for which they were trained, and 60 percent would be willing to acquire new qualifications or take a job requiring fewer skills. However, their capacity to move in order to obtain work is restricted. Only 12 percent said that they would be willing to change their place of residence (Kostrubiec, 2001).

For those who are working, the majority has a light degree of disability category (66 percent) but are permanently disabled (60 percent). More than 88 percent have a physical impairment. As shown in Table 16, those with mental or psychological impairments have a low probability of finding work.

The average monthly income of households with disability pensioners is only 79 percent of that of all households so, considering the extra costs of disability (e.g. medicines and rehabilitation), one might assume that their less favorable financial situation would act as an incentive to find at least part-time employment.[61] However, disabled persons face major disadvantages in

[61] Average income per equivalent unit according to OECD scale, see http://www.stat.gov.pl.

undertaking such efforts, including both age and qualifications. The disabled are on average older than the rest of the population (see Appendix Table A10), and age is a well-known disadvantage in the labour market. In addition, 50 percent of disabled persons have no more than primary education (compared to 33 percent in the population as a whole), and only 19 percent have secondary or vocational education (compared to 31 percent for the population as a whole).[62]

Table 16
Employment ratio by disability, sex, and place of residence in 2000 (in percentages)

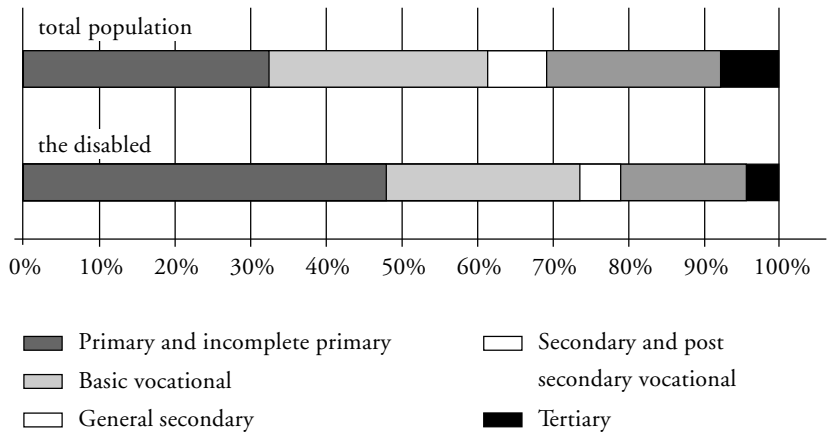
	Total	Men	Women	Urban	Rural
Total	15.6	20.0	11.4	14.0	17.9
Degree of disability					
Considerable or its equivalent	3.2	4.3	2.3	1.8	5.3
Moderate or its equivalent	12.7	17.6	7.8	11.5	14.9
Light or its equivalent	24.7	29.5	20.1	22.9	27.0
Type of impairment					
Physical	16.1	20.9	11.7	14.2	18.9
Mental or psychological	10.9	13.3	8.4	11.0	10.8
Physical *and* mental or psychological	13.0	14.9	10.8	9.8	17.4

Source: Kostrubiec (2001).

Thus, many disabled people face both age and educational disadvantages in finding employment. On average, women with disabilities have lower educational levels than men, and inhabitants of rural areas have the lowest education levels, with only 57 percent completing primary school (see Chart 11).

[62] In comparison to 1995, the educational level of disabled persons improved, but this is correlated with a generally younger age distribution. (As a result of the baby boom of the early 1980s, some 2,000,000 youths are currently entering the labour market.)

Chart 11
Education of persons aged 15 or older in 2000



Source: Kostrubiec (2001), Labour Force Survey.

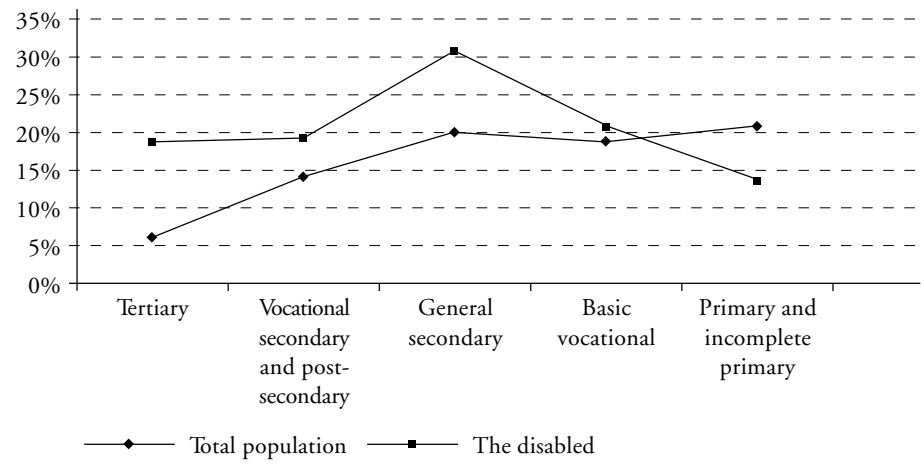
The structure of the unemployed by educational level is similar among the disabled to that of the total population. However, even at the same educational level, the unemployment rate for the disabled is higher (see Chart 12).[63] This may mean that other factors are not being taken into account (e.g. job tenure) or that there is discrimination against workers with disabilities.

Finally, disabled people in Poland tend to be heavily focused on problems of day-to-day survival. Many are unaware of their rights and/or have difficulty understanding the technical details of legal acts. In addition, there are few places to turn to for advice or help in these matters. Carefully documented in a recent study, these problems suggest the need for a broader approach to employment promotion, one that seeks to raise the awareness of people with

[63] The unemployment rate of the disabled with primary and incomplete primary education is lower than that of the total population, due to the fact that the participation rate of disabled persons with low level education is lower than that of other disabled groups (Kostrubiec, 2001).

disabilities and provides them with ongoing support in dealing with problems in the open labour market.[64]

Chart 12
Unemployment in percentage of those aged 15 or older, by level of education, in 2000



Source: Kostrubiec (2001), LFS.

3.3. Summing Up: Patterns and Constraints in the Reform Process

The first 12 years of transformation in Poland witnessed two major shifts in disability policy. In the early 1990s, reforms of the disability pension system helped to prevent even higher levels of unemployment than those that were experienced. The rise in the wage replacement ratio, the lax criteria for eligibility determinations, and the liberalization of access to KRUS disability pensions allowed a mass escape to the disability pension scheme. The sharp increase

[64] The study, entitled "Niepe nosprawni – normalna sprawa (Persons with disabilities – normal thing)" was published by *Stowarzyszenie Przyjaci 'Integracji'* (The Association of the Friends of 'Intergration') in May 2001. It was prepared by representatives of the International Commission of Jurists in cooperation with the Polish branch of the International Commission of Jurists operating at United Nations (Polish branch operates at the Law Faculty at Warsaw University), the Ombudsman Office and the Stefan Batory Foundation.

in the expenditure on these benefits was a natural consequence of these developments, giving rise to pressures for reforms aimed at reducing the unsustainable costs.

Although the reforms examined in this report have succeeded in slowing down the growth rate of pensions and reducing expenditures as a percentage of GDP, the struggle for a more effective and less costly disability policy in Poland is far from over. Several unresolved problems stand out:

- First, pressure to reduce the number of awarded pensions may be leading to unjustified denials of benefits. This is suggested by the large number of court cases concerning pensions for inability to work being resolved in favor of the claimants.
- Second, although there is some limited evidence suggesting that the impact of ZUS medical rehabilitation are positive in terms of saving social insurance revenues, there are also major coordination problems and an unclear division of responsibility among ZUS, KRUS, and the health insurance authorities. There is also a need for implementing cost-saving measures in medical rehabilitation.
- Third, the results of the reform of ZUS in the field of vocational training are highly unsatisfactory. The limited use of the training pensions indicates a need for the redesign of this new benefit.
- Finally, the sharp expansion of KRUS pensions over the decade of the 1990s is a major national problem that requires concerted attention.

Furthermore, labour force participation rates for people with disabilities are low, and consequently only a small fraction of the working-age population with disabilities is employed in Poland. Even with their low work force participation rates, the unemployment rate of the disabled is higher than that of the population as a whole. Moreover, recent years have seen a drop in employment of people with disabilities.

There are several reasons for these negative trends, including inadequate education and training for people with disabilities and consequent limitations on their ability to compete in the labour market. In addition, disabled persons often lack information on their rights. Although vocational rehabilitation of the disabled has achieved some good outcomes, it has not led to a significant increase in employment of the disabled on the open labour market.

In the early 1990s, the dynamic growth of SWEs led to a swift replacement of jobs which had been lost when the cooperatives of the previous era collapsed. This was an important achievement. However, the majority of the disabled working in SWEs are of the light degree of disability so are able to work on the open labour market if there were jobs available for them.

In the recent years, the shrinking open market employment of disabled persons (i.e. in enterprises other than SWEs) is a matter of growing concern, as is the higher unemployment rate of the disabled compared to that for the work force as a whole. This is one indication of possible discrimination against the disabled. The quota–levy system is clearly not effective in encouraging employers to hire disabled persons and has become no more than an extra tax to be paid by enterprises.

4. Conclusion

As has been shown, disability protection in Poland is characterized by three major features: a very high rate of disability pensions; low participation of the disabled in the labour market; and ineffective vocational rehabilitation. Together these features create a vicious circle: without addressing the causes of the latter, it is extremely difficult to deal with either of the other two. Thus, there is an urgent need for new polices to equip, encourage, and support people with disabilities in gaining the skills they need to enter the workforce.

Such new policies must be grounded in a thorough understanding of the current barriers to employment. As demonstrated earlier, these include a higher average age and lower education levels than the general population, as well as an environment which fails to provide adequate support for those who wish to understand and exercise their rights under the law. Added to this is moral hazard in the current benefit structure. This is one of the reasons for the sizable number of disability pensions being paid out, especially among employees with low education in rural areas (see section 3.2.3). Here the need is to prevent moral hazard by introducing a significant difference between the amount of benefit for those who can work (partially or in a different job) and the wages they are able to earn.

There is a need for significant improvement of the effectiveness of vocational rehabilitation. One possibility would be to finance job-creation schemes for the unemployed directly from the budget rather than from the quota–levy system. This could be coupled with uniform requirements for all firms to hire a certain portion of people with disabilities, with clear preferences for persons with moderate and considerable degrees of impairment. Improvements in the tools and approaches to vocational rehabilitation used in ZUS and PFRON are essential. In addition to this it is necessary to implement vocational rehabilitation in KRUS.

A replacement of the traditional, costly rehabilitation in permanent establishments (sanatoriums) with rehabilitation in out-patient departments located near the place of residence of the pensioner can help reduce costs of medical rehabilitation provided by ZUS and KRUS.

Abolition of the right to appeal on doctors' determinations to ZUS should be reconsidered, with a view toward restoring this right but at the same time minimizing the number of such appeals by greater standardization of medical assessments.

The costly disability protection system for the farmers under KRUS is a continuing problem in Poland. The priority task here is to change the liberal regulations governing farmers' eligibility for pensions so as to reduce incentives to apply by those who can work. It is also necessary to assess the quality of medical determinations by KRUS in order to be sure transferring this function from ZUS to KRUS was justified.

Finally, there is a need for greater attention to the relationships between disability policy and retirement policy, and in particular to certain unintended impacts of the 1999 reform of the latter. Two of these interrelationships are of particular importance. First, due to the reform, the new old-age benefits will be lower and therefore less attractive than inability-to-work pensions. Simulations by the Gdańsk Institute show a growing gap in benefit levels and, as a consequence, the likelihood of an increased effort to prove disability before retirement age by older workers, especially low income earners. Secondly, persons who will no longer be entitled to early retirement, due to

its gradual elimination by the 1999 reform, will apply for inability-to-work pensions, placing further financial pressures on this scheme.[65]

In sum, while there have been visible achievements of the reform of disability determinations and medical rehabilitation in ZUS, and some small successes in vocational rehabilitation, a new strategy on disability protection is called for which provides broader and more diverse types of support for return to work. This should include educational and vocational training; information on pursuit of civil rights, open market employment programs; the reform of farmers' disability protection; the reduction of incentives to remain in pensioner status for those who can work; and, last but not least, better coordination of disability protection with the old-age pension reform and universal health insurance.

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[65] At present, more than 20 percent of insured persons can make use of various opportunities for early retirement, with the result that the actual retirement age is 56 and 59 for women and men respectively, while the statutory age is 60 and 65. Under the new regulations, all entitlements to early retirement will expire in 2007. It is assumed that existing entitlements will be replaced by special schemes for the very limited number or insured who, due to the specific nature of their professions, should terminate employment earlier.

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Appendix

Table A1
The number of the disability pensioners (of working age) as percentage of working age population, 1995

Australia	4.1
Austria	3.6
Canada	1.5
Finland	9.1
Germany	2.3
Greece	1.1
Italy	1.6
Japan	1.1
Luxembourg	7.1
Netherlands	8.1
New Zealand	1.7
Norway	7.3
Poland*	10.1
Portugal	4.4
Spain	2.4
Sweden	6.6
Switzerland	2.4
United Kingdom	4.1
United States	2.4

* Poland: data for 1997.

Source: Meeting of the Employment, Labour and Social Affairs Committee at Ministerial Level on Social Policy, June 23–24, 1998; *Background documents,* OECD, Paris 1998; Polish data: estimation based on non-published KRUS and ZUS data.

Table A2
ZUS disability pensions, 1978–1988

Year	Average monthly number of people receiving disability pensions (thousand)*	Number of new disability pension entitlements (thousand)*
1978	1,433.8	208.5
1980	1,622.5	224.0
1982	1,752.1	202.3
1984	1,902.8	178.2
1986	1,979.7	181.2
1988	2,079.0	187.2

* Excluding pensions paid to professional soldiers and policemen, i.e., the 'uniformed' services.

Source: ZUS (1986, 1991), *Social Insurance Statistical Yearbook* (Rocznik Statystyczny Ubezpieczeń Społecznych); authors' calculations.

Table A3
Disability pensions for farmers, 1978–1988

Year	Average monthly number of people receiving disability pensions (thousand)*
1978	5.4
1980	147.8
1982	196.2
1984	268.9
1986	300.1
1988	368.7

* Excluding pensions paid to professional soldiers and policemen, i.e., the 'uniformed' services.

Source: KRUS (1998), *Social Insurance for Farmers* (Ubezpieczenie społeczne rolników).

Table A4
Number of newly granted ZUS disability pensions, 1990–2000

Year	Number of persons	
	In thousands	**Previous year = 100**
1990	241,4	—
1991	316,2	131.0
1992	241,2	76.3
1993	201,6	83.6
1994	205,2	101.8
1995	170,3	83.0
1996	151,6	89.0
1997	154,8	102.2
1998	141,1	91.1
1999	152,8	108.3
2000	102,4	67.0

Source: ZUS (1992–2001), *Information on Cash Benefits from ZUS and the Alimony Fund* (quarterly) (Informacja o świadczeniach pieniężnych z Funduszu Ubezpieczeń Spolecznych i Funduszu Alimentacyjnego); authors' calculations.

Table A5
Number of persons with disability pensions, ZUS and KRUS, 1990–2000

Year	ZUS	KRUS	Total	Total
	(in thousands)			(in percentage of number of employees)
1990	2,160	441	2,601	16.1
1991	2,289	517	2,806	18.2
1992	2,402	608	3,010	20.1
1993	2,463	669	3,132	21.2
1994	2,538	722	3,260	21.8
1995	2,602	762	3,364	22.2
1996	2,644	785	3,429	22.1
1997	2,677	793	3,470	21.8
1998	2,702	796	3,498	22.0
1999	2,704	796	3,500	22.3
2000	2,640	794	3,434	22.4

Source: ZUS (1992–2001), *Information on Cash Benefits from ZUS and the Alimony Fund* (quarterly) (Informacja o świadczeniach pieniężnych z Funduszu Ubezpieczeń Spolecznych i Funduszu Alimentacyjnego); KRUS (1992–2001), *Quarterly Statistical Information* (Kwartalna Informacja Statystyczna); authors' calculations.

Table A6
Expenditure on disability pensions, in percentage of GDP, 1990–2000

Year	ZUS	KRUS	Total
1990	2.2	0.4	2.6
1991	2.9	0.6	3.5
1992	3.3	0.7	4.0
1993	3.2	0.7	3.9
1994	3.5	0.8	4.3
1995	3.5	0.8	4.3
1996	3.4	0.8	4.2
1997	3.3	0.8	4.1
1998	3.2	0.8	4.1
1999	3.2	0.8	4.0
2000	3.0	0.8	3.8

Source: ZUS (1992–2001), *Information on Cash Benefits from ZUS and the Alimony Fund* (quarterly) (Informacja o świadczeniach pieniężnych z Funduszu Ubezpieczeń Spolecznych i Funduszu Alimentacyjnego); KRUS (1992–2001), *Quarterly Statistical Information* (Kwartalna Informacja Statystyczna); authors' calculations.

Table A7
Average ZUS disability pension, gross amounts, 1992–2000

Year	Average disability pension in Złotys*	In percentage of average wage in the national economy	Previous year = 100	
			Nominal	Real
1992	144.25	49.1	—	—
1993	194.52	48.7	134.8	99.6
1994	267.52	50.2	137.5	104.0
1995	351.86	50.1	131.5	102.9
1996	431.45	49.4	122.6	102.3
1997	514.88	48.5	119.3	103.8
1998	587.97	47.4	114.2	102.1
1999	654.11	45.7	111.2	103.5
2000	721.55	45.1	110.3	100.2

Source: GUS (Central Statistical Office) (1992–2000), *Statistical Yearbooks*; authors' calculations.

* Average taxable (gross) pension and wage, without social insurance contributions.

Table A8
Rehabilitation benefits in ZUS, 1990–2000

Year	Average monthly number of benefits in thousands	Expenditure in thousand Złotys	Average amount of benefit per month in Złotys
1990	17.0	6,933.0	33.91
1991	19.8	18,166.1	76.30
1992	22.6	33,088.2	121.88
1993	20.7	42,207.4	169.55
1994	22.1	58,895.1	221.94
1995	22.4	77,267.1	287.68
1996	20.7	96,076.4	386.61
1997	19.2	113,587.8	492.36
1998	21.6	154,876.4	598.14
1999	20.9	200,022.9	799.16
2000	18.8	204,540.5	907.52

Source: Unpublished ZUS data.

Table A9
Disabled people over 15 years old, according to disability status and economic activity in 1996

Specification	Total	Legally and biologically disabled	Only legally disabled	Only biologically disabled
		In thousands		
Total	*5,142.5*	*3,030.9*	*1,341.1*	*770.5*
Working	864.4	406.3	306.2	151.9
Unemployed	123.0	66.0	32.2	24.7
Non-active	4,152.4	2,558.0	1,000.4	593.9
No data	2.8	0.5	2.2	0.0
		In percentages		
Working	16.8	13.4	22.8	19.7
Unemployed	2.4	2.2	2.4	3.2
Non-active	80.7	84.4	74.6	77.1
No data	0.1	0.0	0.2	0.0

Source: GUS (Central Statistical Office) (1997), *Statistical Yearbook.*

Table A10
Legal disability ratio by age groups in 1996

Age	1996 Health Survey		LFS May 1996	
	Disability ratio	Age structure of the legally disabled	Disability ratio	Age structure of the legally disabled
Total	*14.9*	*100.0*	*15.2*	*100.0*
15–24 years	1.5	2.0	1.4	1.7
25–29	2.5	1.3	2.5	1.3
30–39	5.1	6.6	5.1	6.3
40–49	14.4	19.4	12.6	17.1
50–59	33.0	25.8	32.8	26.4
60 years or older	32.0	44.9	33.0	47.2

Source: GUS (1997), *Statistical Yearbook*; GUS (1996), *Labour Force Survey.*

Table A11
The disabled employed structure by employment status in the second quarter of 2000 (in percentages)

Specification	Total	Total of which private sector		Paid employees			Employers and self-employed workers		Contributing family workers
		Total	Of which farms in agriculture	Total	Public	Private	Total	Of which employers	
Total	100	*89.8*	39.6	*46.9*	10.2	36.6	*40.7*	3.7	*12.4*
Males	100	*90.3*	36.3	*49.3*	9.7	39.6	*43.0*	3.5	*7.7*
Females	100	*88.8*	44.6	*43.0*	11.2	31.8	*36.8*	3.7	*20.2*
Urban areas	100	*83.1*	4.7	*74.1*	16.9	57.3	*23.0*	4.4	*2.9*
Rural areas	100	*97.3*	79.7	*15.7*	2.7	13.0	*61.0*	3.0	*23.3*

Source: GUS (2000), *Labour Force Survey.*

Table A12
Economic activity of the disabled aged 15 and older, 1992–2000

LFS waves	Total disabled	Economically active population					Persons economically inactive	Activity rate	Employment rate	Unemployment rate
		Total	Employed			Unemployed				
			Total	Full-time	Part-time					
	In thousands							In percentages		
1992										
May	3,960	846	715	356	359	132	3,114	21.4	18.1	15.6
1993										
Feb	3,968	821	691	334	357	129	3,147	20.7	17.4	15.7
May	4,041	879	733	370	363	146	3,162	21.8	18.1	16.6
Aug	4,140	879	786	439	347	93	3,261	21.2	19.0	10.6
Nov	4,166	1,000	856	466	390	145	3,166	24.0	20.5	14.5
1994										
Feb	4,048	927	773	417	356	154	3,121	22.9	19.1	16.6
May	4,299	1,010	863	468	396	147	3,219	23.9	20.4	14.6
Aug	4,465	1,018	881	510	372	137	3,447	22.8	19.7	13.5
Nov	4,495	989	847	463	384	142	3,510	22.0	18.8	14.4

Table A12 (continued)
Economic activity of the disabled aged 15 and older, 1992–2000

LFS waves	Total disabled	Economically active population					Persons economically inactive	Activity rate	Employment rate	Unemployment rate
		Total	Employed			Unemployed				
			Total	Full-time	Part-time					
	In thousands							In percentages		
1995										
Feb	4,376	892	741	363	378	151	3,484	20.4	16.9	16.9
May	4,366	976	850	446	404	126	3,390	22.4	19.5	12.9
Aug	4,479	1,057	923	511	411	135	4,321	23.6	20.6	12.8
Nov	4,537	981	856	460	397	125	3,556	21.6	18.9	12.7
1996										
Feb	4,490	921	796	424	372	124	3,569	20.5	17.7	13.5
May	4,445	1,002	881	465	416	120	3,443	22.5	19.8	12.0
Aug	4,454	1,039	932	511	422	107	3,415	23.3	20.9	10.3
Nov	4,462	988	880	480	399	108	3,474	22.1	19.7	10.9
1997										
Feb	4,496	984	856	437	419	127	3,512	21.9	19.0	12.9
May	4,592	1,065	927	486	440	138	3,528	23.2	20.2	13.0

LFS waves	Total disabled	Economically active population					Persons economically inactive	Activity rate	Employment rate	Unemployment rate
		Total	Employed			Unemployed				
			Total	Full-time	Part-time					
	In thousands							In percentages		
1997										
Aug	4,651	1,069	968	547	422	101	3,581	23.0	20.8	9.4
Nov	4,692	1,029	927	507	420	102	3,663	21.9	19.8	9.9
1998										
Feb	4,532	950	838	443	395	111	3,582	21.0	18.5	11.7
May	4,533	1,010	893	467	426	118	3,523	22.3	19.7	11.7
Aug	4,628	1,051	933	514	419	118	3,577	22.7	20.2	11.2
Nov	4,600	953	845	446	400	107	3,647	20.7	18.4	11.2
1999										
Feb	4,460	879	764	393	371	116	3,580	19.7	17.1	13.2
Q4	4,467	882	710	414	296	172	3,585	19.7	15.9	19.5
2000										
Q1	4,531	869	711	406	305	157	3,662	19.2	15.7	18.1
Q2	4,139	773	644	358	286	130	3,366	18.7	15.6	16.8

Source: GUS (1992–2000), *Labour Force Surveys.*

Table A13
Selected financial indicators for the SWEs, 1995–2000

Specification	1995	1996	1997	1998	1999	2000
Current liquidity	1.60	1.50	1.23	1.19	1.23	1.15
Fast liquidity	1.10	1.15	0.78	0.75	0.80	0.80
Net profitability of sale (%)	9.98	8.17	6.93	6.00	6.40	3.13
Net profit to assets	0.14	0.14	0.11	0.10	0.10	0.04

Source: PFRON (2001a).

Table A14
Selected financial indicators for cooperative SWEs, 1995–2000

Specification	1995	1996	1997	1998	1999	2000
Current liquidity	1.65	2.39	1.86	1.64	1.64	1.58
Fast liquidity	0.97	1.43	1.15	1.03	1.11	1.11
Net profitability of sale (%)	2.88	6.57	5.29	2.99	3.19	1.57
Net profit to assets	0.03	0.07	0.06	0.03	0.04	0.02

Source: PFRON (2001a).

Table A15
Selected PFRON expenditures

Specification	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total in % of GDP	0.17	0.33	0.21	0.18	0.32	0.28	0.28	0.29	0.21
of which (in percentages)									
Creation of the new work places	15.8	36.0	20.6	16.8	21.7	16.7	16.2	19.8	7.3
Financing of wages and social insurance contributions	2.2	8.3	23.0	13.6	9.2	14.0	15.3	21.9	43.9
Enterprise start-up loans	2.3	2.9	0.8	2.5	2.1	2.0	1.8	1.8	1.4
Payments of interest on loans to SWE	3.6	1.3	4.5	4.7	4.3	5.9	5.5	6.6	8.5
Subsidies to SWE	0.0	0.0	0.0	0.0	8.9	18.6	24.4	4.3	0.0
Preservation of endangered work places in SWE	0.0	0.0	0.0	1.4	2.8	2.1	0.5	0.8	0.9

Source: PFRON.

Supplement

Table S1
Key elements of the legislation regarding the social insurance of farmers, 1990–2000

Details	Act of December 20, 1990	Subsequent Amendments
Required periods of insurance before the inability to work occurred	Any period in case of accident on the job or occupational disease. In other cases, it depends on the age when the inability to work occurred.	
Additional conditions	Termination of agricultural activity. If the agricultural activity is not terminated, the supplementary element of benefits is suspended in part or as a whole.	
Pension eligibility criterion	Long-lasting inability to work on a farm.	Additional notion of permanent inability to work on a farm was introduced.
Types of benefits	Permanent pension: when the insured is five years before the retirement age or s/he is a disabled person classified in Group I. Temporary pension: in other cases. Temporary pension is extended for one year after the ability to work has been regained, if the pensioner terminated the agricultural activity.	The same as before, but in addition: Permanent pension, when the criterion of permanent inability to work is met.

Details	Act of December 20, 1990	Subsequent Amendments
Amount of benefit	The same as in case of old-age pensions: R = contributory element (S) + supplementary element(U): S = 1% x Ep x L U = 95% x Ep when L<20; U = 95% x Ep–(L–20) x 0,5%Ep when L>20; where: R – disability pension, Ep – minimum old-age pension in the system for salaried employees, L – periods of insurance. The supplementary element of benefits is taken out as a whole or in part when the beneficiary continues the agricultural activity.	
Medical determinations	ZUS	KRUS

Table S2
Legislation changes influencing vocational rehabilitation of disabled people in Poland, 1990–2000

Date	Type of change				
	Rights, definitions, status	**Supported work establishments**	**Open market**	**Institutions**	**Other**
1990 Package of laws introducing market economy introduced on January 1.					Beginning of the economic transformation.
1991 Act of May 9, 1991 on Disabled Employment and Return to Work (Dz.U. of 1991, No.46, item 201)		Legal basis for setting up SWE: • At least 40% of employees have to be disabled, out of which 10% with Group I or II disability. • Requirements concerning rehabilitation and adapting of workplaces	Quota-levy system: All companies falling short of 6% quota of disabled employees have to pay penalty for every full-time employee below that limit. Changes in the rules of granting loans for the start-up of the enterprise or agriculture activity by the disabled	The State Fund for the Rehabilitation of the Disabled Persons (PFRON) established. Government Plenipotentiary for Disabled Persons appointed.	

	Subsidies to loans interest rate payments, investment loans, etc.	person financed by PFRON.
1992 Act of February 15, 1992 on Corporate Income Tax (Dz.U. of 1992, No.106, item 482; with amendments) introduced corporate income tax to tax system	SWEs exempted from CIT payments.	
1993 Act of January 8, 1993 on Value Added Tax and the Excise Duty (Dz.U. of 1993, No.11, item 50; with amendments) introduced new elements to tax system	SWEs exempted from VAT payments.	

Table S2 (continued)
Legislation changes influencing vocational rehabilitation of disabled people in Poland, 1990–2000

Date	Type of change				
	Rights, definitions, status	**Supported work establishments**	**Open market**	**Institutions**	**Other**
1995 Act of December 14, 1994 on Employment and Counteract Unemployment (Dz.U. No.25, item 128) came into force			Disabled persons can register as unemployed (if they have no right to invalidity pension) or non-working and job seeking; Training for the disabled registered in the labour office financed from PFRON resources.		
1997 Act of August 27, 1997 on Vocational and Social Rehabilitation and Employment of Disabled Persons	Change of disability certification system – separation of certification for social security purposes from certification for other purposes;		Companies of lower size covered by quota-levy system (25 employees). Partial subsidies up to 24 monthly salaries of the employed person	The Consultation Committee for the Disabled Persons created to act as a representative of the community with the right to give opinions	At least 65% of PFRON revenues has to be spent on employment enhancement and vocational rehabilitation.

(Dz.U. of 1997, No.123, item 776, with amendments)	Chart of the Disabled Persons Rights of 1st August 1997 issued by the Parliament.	with considerable or moderate degree of disability in smaller firms. New option to subsidize by PFRON up to 50% of the interest on the bank loan for the continuation of such activity; Additional possibilities of financing training for the disabled.	on all legal acts or draft legal acts concerning the disabled.

Table S2 (continued)
Legislation changes influencing vocational rehabilitation of disabled people in Poland, 1990–2000

Date	Type of change				
	Rights, definitions, status	**Supported work establishments**	**Open market**	**Institutions**	**Other**
1998 Act of June 18, 1998 Amending the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons (Dz.U. of 1998, No.99) Act of December 12, 1997 Amending the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons (Dz.U. of 1997, No.160)		Lowering total employment needed to be SWE to 20 full-time employed and increasing minimum operation period to 12 months; Introduction of re-granting (re-examination) a SWE status every three years.	Lowering minimum level of employment of the disabled in the quota–levy system for several types of companies (in that schools, hospitals) to one or two percent.		

1999 Administrative reform, health care system reform and social security reform came into force Act of February 6, 1997 on General Health Insurance (Dz.U. of 1997, No.28, item 153 with later amendments) Act of October 13, 1998 on the Social Insurance System (Dz.U. of 1998, No.137, item 887; with later amendments) Act of October 13, 1998 on Introduction of Public Administration Reform (Dz.U. of 1998, No.133, item 827, with later amendments)	Health care reform obligatory devoted part of PIT for health system contribution – SWEs required to pay mandatory health insurance contribution for their employees.	Subsidies to social security contributions contributions of the disabled financed by PFRON and state budget.	New levels of local governments (16 instead of 49 voivodships, over 200 powiats) with, decentralization of funds.	Some duties and funds for rehabilitation moved to local governments, which now can decide on around 47% of sources granted by PFRON. Local governments became also main partners of NGOs in field of the disabled rehabilitation.

Table S2 (continued)
Legislation changes influencing vocational rehabilitation of disabled people in Poland, 1990–2000

Date	Type of change				
	Rights, definitions, status	**Supported work establishments**	**Open market**	**Institutions**	**Other**
2000 Act of November 9, 2000 Amending the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons (Dz.U. of 2000, No.119).	Creation of legal rules for setting up occupational activation establishments.	Change in VAT exemptions. VAT payments are partially reimbursed depending on the disability level of SWE employees: one minimal wage for full-time employee with light degree of disability; two minimal wages in case of medium degree of disability; three minimal wages in case of considerable degree of disability. Liquidation of CIT exemption. PIT exemption will apply		Since 2000 *voivods* (presidents of 16 districts called *voivodships*) grant or give back status of a supported work establishment or an occupational activation establishment. Labour offices subordinate to smaller administrative units (previously *voivodships*, now *stwarostwa*).	In January 2000, the Governmental Plenipotentiary for the Disabled Persons initiated program that provides financial help for an SWE in cases where liquidity is endangered in connection with change of the VAT regulations.

exclusively to employees of SWE (previously also those who operated own business/were employer, were exempted from PIT).

Table S3
Disability certification

Certification issued by	Types of disability	Entitlements	Comments
Social Insurance Institution (ZUS).	Total work incapacity and inability to exist independently Total work incapacity Partial work incapacity and usefulness of professional retraining.	Invalidity pension, training pension financed by ZUS and other rights for those certified before 1998.	Certifications issued by medical doctor in ZUS after September 1997 are treated respectively as considerable degree of disability, moderate degree of disability and light degree of disability in case of SWE employment or quota–levy system.
Farmers' Social Insurance Institution (KRUS).	Total or long-term work incapacity in agriculture.	Invalidity pensions and other rights if they were certified before 1998.	Certificates issued before 1998 are treated respectively as considerable degree of disability and light degree of disability (there is no medium degree of disability).
Committees for Disability Certification (in *powiats* and *voivodships*).	Considerable degree of disability Moderate degree of disability Light degree of disability.	Non-pension benefits, social assistance, nursing allowance, employment purposes.	Body also for persons under 15 and those not covered by social insurance system.

The Challenges of Disability Pension Policy: Three Western European Case Studies of the Battle against the Numbers

Ilene Zeitzer

1. Introduction

1.1. Disability Policy Challenges

A country's disability programs and policies must be viewed within the context of its social, labour, and judicial policies and as a reflection of the given society's values and way of life. How a country treats its most vulnerable citizens – whether they are elderly, children, poor, or disabled – is also very much influenced by complex, and sometimes competing, goals such as a strong societal work ethic, charitable tendencies, and social solidarity. In truth, virtually no country has opted for one approach and ignored the others. Instead, in almost all countries, disability programs and policies, as well as policies towards other vulnerable groups, are an attempt to find the right balance among these competing notions. Certainly with regard to disability policy, the struggle is to develop an equitable system of deciding who should be entitled to receive benefits as well as what level of benefits is adequate.

However, the fluid nature of this challenge must also be recognized. Disability programs and policies are very much influenced by the dynamic nature of many competing factors such as demographics, changes in the labour market, technological transformations in the nature of work, economic upswings or downturns, and so forth. In short, politicians and social policy planners are constantly manipulating programmatic supports, incentives, and

disincentives in response to various external and internal factors and concerns such as: unemployment levels; numbers of people receiving or applying for benefits; program costs; influence of stakeholders like employers and trade unions; and pressure from advocates and people with disabilities themselves.

Policy-makers and others who seek to affect policy are often influenced by what is going on in other countries. The information age has resulted in rapid exchanges and sharing of major conceptual changes, as well as in the methods to affect such changes. For example, the idea of protection against discrimination as a legal right for people with disabilities is a fairly new phenomenon that had its roots in the human rights movement. Since the passage in the United States of the Americans with Disabilities Act in 1990, several countries have initiated their own version of anti-discrimination protection for disabled individuals in various domains such as employment and education. Moreover, the new right-based approach has spawned rather unprecedented interest on the part of some countries' policy-makers in the viewpoint of the consumers or clients, i.e., people with disabilities themselves, who are most affected by changing policies.

This report on three Western European countries – the Netherlands, Sweden, and the United Kingdom – that have made significant changes in their disability programs in the last 10 years, will take a comprehensive approach. In addition to describing the economic and programmatic influences that have driven the changes, other issues will also be considered such as employment promotion incentives or disincentives; the influence of the social partners and other stakeholders; the role of consumers in the policy-making process; disability rights legislation; and the government as a model employer of people with disabilities.

The research for this analysis began with an intensive review of published and occasionally unpublished studies on the disability programs of the three countries. Particular emphasis was given to analytical studies of the dominant policy issues of the last decade.[1] The second phase of the research was to collect the latest available data on each program. Most importantly, the final phase used a series of interviews conducted during the latter part of 2001 with

[1] Whenever possible, documents written in English were used including published English summaries of original language materials and/or specific translations as needed.

experts in each country, including academics and other researchers, government officials, disability advocates, physicians, and legal experts. The purpose of the interviews was to learn first-hand what specific experts in their field see as the barriers and possible solutions to the problems of their respective disability programs.

Using these various sources, this report examines the policy directions each country has chosen to resolve problems in its disability programs, in particular the large number of beneficiaries and high associated costs. The report is intended for policy makers, their social partners, and others involved in disability policy strategies, hence technical details have been kept to a minimum. Rather, the focus is on the approach to reform taken by each of the countries – the policy measures adopted, the rationale for them, and the results to the degree known. However, detailed information such as descriptions of the various programs that provide benefits to disabled individuals, benefit eligibility, related programs such as access to rehabilitation measures and data tables can all be found in the full report on each country, to be published separately.[2] After a short comparative overview, each country will be dealt with individually in sections two, three, and four, respectively. The final section, five, will suggest some possible lessons from the policy approaches taken by the three countries.

1.2. The Countries and the Problems

Over the last 20 years, the disability pension programs of the three countries have been continually plagued with two major and related problems: first, an increasing and often dramatic growth in the number of new disability beneficiaries; and second, the fact that once on benefits, few ever leave the rolls, meaning there are a large number of claimants on benefits for at least five years. As a result, particularly in the last ten years, each of these three countries has attempted to forge new policies to deal with both aspects of the disability pension problem. Although the countries are experiencing similar phenomena, the causative factors vary to a greater or lesser degree. Moreover, the approaches taken to try to resolve the problems are quite diverse, thus

[2] The publication of these reports will follow this study and will be available on request from ILO–CEET, Budapest.

the selection of the countries was driven by the fact that they represent different models of reform. In all three cases, however, it is fair to say that the national reform strategies are 'works in progress' and thus far none of the countries has achieved the degree of success desired.

The approach taken by the Netherlands depends quite substantially on enacting new rules and incentives or disincentives, either within the framework of the disability pension scheme itself, or through privatizing previously public programs or aspects of programs. It has relied heavily on reducing the public financial burden of disability pensions by tightening eligibility rules, shifting to privatization, and cutting benefit levels.[3] The singularity of the Dutch efforts, in the sense that they are heavily within the confines of the pension system itself, stands in contrast to the changes made in Sweden and the United Kingdom. Reform efforts in both of these countries, and in particular in the United Kingdom, have tended towards a greater combination of pension reform, employment supports, and civil rights aspects.

The Swedish reforms attempt to affect the disability pension program indirectly through changes in the sickness benefit program that is the entry into disability benefits. Sweden also provides an example of how the disability program can be abused as an early retirement scheme, which can adversely affect the number of benefit recipients and the cost of the program. The reforms in Sweden continue to endorse the notion of social welfare within the context of strong labour market supports, but increasingly these two underlying principles are requiring rebalancing, as the country tries to respond to very strong demographic and economic pressures. Sweden has also begun the process of ensuring civil rights and access for people with disabilities, but that aspect is still in progress.

In the United Kingdom, recent efforts have involved a shift from reliance on tightening the disability pension rules that was begun by previous governments, to a more multidisciplinary strategy which includes streamlined and coordinated government programs aimed at helping people with disabilities stay in work or find new work; demonstration and pilot projects with a strong emphasis on

[3] Where the Dutch government has gone beyond this approach, the resulting reforms have mostly imposed new requirements on employers for ensuring workplace health and safety through employing new teams of physicians and health care specialists.

evaluation and lessons learned; increased consumer choice as a tool for improving service delivery; and new civil rights regulations and authorities to address discrimination and barriers.

1.3. Statistical Comparisons

Some brief statistics may provide a baseline for comparing the countries and serve as a backdrop for the analyses. These are drawn from an OECD report, *Transforming Disability into Ability,* which was in final draft at the time of this publication.[4]

Among the three countries analyzed in this study, the Netherlands has the highest proportion of people receiving disability benefits. Approximately nine percent of persons aged 20–64 receive some kind of benefit; next is Sweden with a little more than eight percent; and the United Kingdom has about 6.5 percent, just above the OECD average (six percent).[5]

Public expenditure on disability-related programs (disability benefits, sickness cash benefits, work injury benefits, and employment-related programs for disabled people) is highest in Norway, but Sweden and the Netherlands share the second place among the most industrialized countries with 4.64 percent (Netherlands) and 4.66 percent (Sweden) of GDP, each. At 1.54 percent, the United Kingdom is well below the OECD average (2.42 percent). As a portion of total social expenditures, disability-related programs comprise 19 percent in the Netherlands, 15 percent in Sweden, and six percent in the United Kingdom (see Table 1).

In terms of economic integration of people with disabilities, Sweden and the Netherlands are the two top countries: the average income of households with a disabled member is 96 percent of that in households without disabled people. The United Kingdom's 78 percent rate is comparably low in relation to the OECD average (86 percent).[6]

[4] See OECD (2002).

[5] OECD (2002), Chart 3.13.

[6] Concerning the source of this income, the three countries are similar in that income from work represents about half of the total amount. In case of the Netherlands, the second most important source of income is disability benefits; in Sweden, retirement benefits; and in the United Kingdom, other benefits, such as family and lone parents benefits. See OECD (2002), Chart 3.2.

Table 1
Public expenditure on disability-related programs (1999)

	All disability-related programs	
	As a percentage of GDP	**As a percentage of total public social expenditure**
Netherlands	4.64	19
Sweden	4.66	15
United Kingdom	1.54	6
OECD (20)	2.42	11

Source: OECD (2002), Table 2.1.

Sweden is the most successful country in getting people with disabilities involved in various (subsidized, supported, or sheltered) employment programs: 1.6 percent of the population is employed in publicly financed programs. This figure is 0.92 percent for the Netherlands, which relies most heavily on segregated employment in a protected environment. In the United Kingdom, 0.12 percent of the population is employed in publicly financed programs.[7]

Similarly, public expenditure on employment-related programs for persons with disabilities is the highest in Sweden (about 14 percent of all disability-related expenditure), also high in the Netherlands (near 11 percent), while very low in the United Kingdom (1.5 percent). The OECD average in 1999 was 6.5 percent (see Table 2).

[7] See OECD (2002), Table 5.3.

Table 2
Expenditure on employment-related programs
(as a percentage of total disability-related expenditure, 1999)

	Expenditure on employment-related programs as a percentage of total disability-related expenditure
Netherlands	10.8
Sweden	13.8
United Kingdom	1.4
OECD (7)	6.5

Source: OECD (2002), Chart 5.3.

2. The Netherlands

2.1. Introduction: Combating the Dutch Disease

Of all the countries in Western Europe that have tried to reform and revamp their social insurance disability programs, none has made a more vigorous, sustained effort than the Netherlands, and with good reason. Out of a total population of 15.5 million inhabitants, of whom less than seven million are in the labour force, some 924,000 people claimed disability benefits in 1999. Dutch experts are expecting that the threshold of one million will be crossed in 2003.[8] Simply put, the number of disability beneficiaries relative to the number of people in work is too high. In addition, the Netherlands also has an extremely large number of individuals receiving wage payments during sickness. In 1993, when the total cost of benefits just for sickness absence and disability amounted to 35 billion guilders, the then Prime Minister declared, "The Netherlands is sick."

[8] Van Oorschot and Boos (2001: 54).

2.1.1. Labour Market and Demographic Factors

It must also be acknowledged that the Dutch are among the hardest workers in Europe. In fact, the size of the Dutch working population increased significantly in the 10 years between 1988, when it was 5.8 million, and 1998, by which time it had risen to 6.9 million. Much of this growth can be attributed to a rise in work participation rates (i.e., the number of employed workers as a percentage of the total population aged 15–64). While in the middle of the 1980s, 70 percent of Dutch men and 35 percent of Dutch women were active earners, the participation rate increased to 76 percent among men and 53 percent among women by the year 2000. For men, this growth is most dramatic in the age groups of 25–35 and 45–55 with six to seven percent, while for women, there is an approximately 20 percent increase across practically all age groups.

Coinciding with this increase is an equally unprecedented expansion of part-time work.[9] Currently the Netherlands has the highest share of part-time jobs among the industrialized countries with 36.5 percent, followed by the Scandinavian countries. One explanation for this is that in the Dutch practice, 35 hours or less per week is considered part-time, as opposed to Canada, for example, where this threshold is 30 hours per week. But a more significant incentive for employees to chose part-time jobs is that no discrimination is allowed between part-time and full-time employees in the Netherlands. Thus part-time workers are entitled the same hourly rates and benefits as full-time employees.

Given this advantage, it is not surprising that part-time jobs are popular among Dutch women and men. Today over 75 percent of part-time jobs are held by women, or taken from a different perspective, 68 percent of employed women work part-time. Dutch men are also taking advantage of the opportunity to work part time; 20 percent of male employees already work part-time, which is quite high by international standards.

The Dutch are also highly productive. Although the Netherlands ranks 55th in population, its economy ranks 12th in the world.[10] Thus, it is despite, or perhaps because of, their high productivity that their sickness absence and disability rates are among the highest of the industrialized countries. Some

[9] Hayden (1999).

[10] Geurts *et al.* (2000: 81–82).

argue that high productivity in the Netherlands has resulted in higher levels of stress that is manifest in more sickness absenteeism and in higher claims for disability. Despite this manifestation in claims applications, health statistics for the country, for example concerning morbidity rates, are very much in line with their Western European neighbors.

2.1.2. Disability Programs within the Social Security System

Unlike disability insurance in most other Western European countries, the Dutch system does not make a distinction as to the cause of the disability, i.e., between whether it occurred on the job *(risques professionnels)* or somewhere else such as sports injuries *(risques sociaux)*. In other words, the Dutch disability schemes cover every health contingency that results in a loss of earnings capacity, whatever the cause. Solidarity has also been achieved by setting the threshold, i.e. the minimum level of loss of work capacity for access to benefits, at a very low level (at 15 or 25 percent, depending on the program). At the same time, the state's constitutional responsibility to protect its residents from poverty no doubt helped contribute to the establishment of very generous replacement levels for the disability program, although the Netherlands is not unique among Western Europe countries in this respect.[11]

The main disability scheme is the WAO (*Wet op de Arbeidsongeschiktheids-verzekering*), which covers all employees. Self-employed persons and those who were disabled in childhood are covered by two separate schemes, called WAZ and Wajong, respectively.[12] If an employee has been on sick leave for 52 weeks, he or she may be found eligible for disability benefits under the WAO.[13] However, in a manner that seems unique among social insurance

[11] In addition, originally, entitlement to coverage for both the sickness and disability programs did not require a minimum number of years of work history nor contributions – i.e., all members of the population at risk were covered in full. Aarts *et al.* (1996: 23).

[12] The *Wet Arbeidsongeschiktheidsverzekering zelfstandigen* (WAZ) is for self-employed people, and the *Wet Arbeidsongeschiktheidsvoorziening jonggehandicapten* (Wajong) for people who are disabled at their 17th birthday, or were students at the time they became disabled.

[13] At 38 weeks on sickness benefit, the claimant's OHS physician is supposed to send a report to social insurance that the claimant is likely to be applying for disability benefits. The claimant must then apply, an exam is scheduled, and his/her eligibility for benefits is determined.

schemes, at no point in either the sickness or disability application process under the WAO is any type of medical certification or treatment documentation required. There are seven categories of disability, ranging from 15 percent, as noted above, to 80–100 percent for the fully disabled. Today the maximum benefit (for people who are 80–100 percent disabled) is 70 percent of previous wages. The WAO is financed by social security contributions from employers, which are experience-rated so that those with higher rates of disability among their employees make higher contributions.

2.2. Policy Challenges and Reforms

While easy access to benefits and generous benefit levels are undoubtedly factors in the high rate of disability benefits in the Netherlands, it was the Dutch reaction to the oil embargo and subsequent worldwide recession of the late 1970s and early 1980s that catalyzed many of the problems being experienced today. Faced with unemployment levels that reached over 12 percent in the early 1980s, Dutch politicians opted to divert many of the unemployed, especially older workers, to the disability program. This strategy was seen as a far more politically acceptable alternative, especially as unemployment benefits were time-limited and potentially could run out in individual cases before the recession ended. This politically expedient solution resulted in a steady increase in WAO beneficiaries, from 215,400 in 1970 to 763,500 by 1985.[14] However, the high numbers of persons on disability benefits were counterbalanced by the relatively low numbers of individuals on unemployment benefits.

Since this time, the Dutch government has made many attempts to cut back on the generosity of benefits and to tighten the eligibility rules. However, the number of beneficiaries has remained high and, with the exception of a few years in the mid-1990s, has continued to climb (see Table 3).

The reforms adopted by the Dutch government in an effort to reduce the numbers of beneficiaries are described below.

[14] LISV (2000: 98), Table 5.1. "Kerncijfers Arbeidsongeschiktheids-wetten."

Table 3
WAO Disability Beneficiaries[15]

Year	Current	New	Ended
1990	731,300	101,200	71,900
1991	750,500	103,300	83,900
1992	757,300	88,600	82,400
1993	763,400	93,000	87,200
1994	736,200	70,600	96,700
1995	702,200	64,000	97,300
1996	697,200	73,900	78,600
1997	701,300	78,100	70,100
1998 (a)	728,800	99,900	80,500
1999	744,100	91,500	72,100
2000 (b)	767,000	95,700	72,900

(a) From 1998 on, includes public employees.
(b) 2000 data are estimates.

Source: Derived from LISV (2000: 100), Table 5.2.

2.2.1. Cash Sickness Benefits

2.2.1.1. The Original Scheme

As is the case in most European countries, Dutch workers who became ill or otherwise impaired were eligible for cash sickness benefits that were, until the privatization that will be described shortly, paid through a national system, the National Sickness Benefits Scheme (ZW). Eligibility for benefits was measured relative to the employee's ability to perform the work 'normally

[15] As explained, WAO beneficiaries are insured by virtue of having been employees. Self-employed individuals and those disabled since childhood are covered by separate disability programs.

done', and no medical certification was required. Sickness benefits were payable from the first day of illness or incapacity for up to a one-year maximum. Benefit levels were based on a percentage of previous wages with 70 percent being the maximum. However, it was common for collective labour agreements to supplement this up to 100 percent.

A comparative study conducted in 1990 found that the Netherlands had both a higher incidence and a longer duration of sickness absence than did Belgium or Germany, owing perhaps to certain key factors: (1) medical certification was not needed in the Netherlands; and (2) most Dutch workers received full income replacement from the first day of illness on, whereas in Belgium the wage replacement rate at the time dropped to 60 percent after four weeks of absence and in Germany to 80 percent after six weeks of absence. Another significant factor was that the income replacement in case of transfer to the disability scheme in these countries was substantially less favorable than in the Netherlands. Finally, employers in Belgium and Germany had more disciplinary measures at their disposal (including dismissal) than did their counterparts in the Netherlands.[16]

2.2.1.2. Privatization

Concerned about the high rate of sickness absenteeism, the Dutch government made significant changes to the ZW in 1994 through the Act on Reducing Sickness Absence (TZ). The goal was to shift the responsibility to individual employers (with 16 or more employees) to pay at least 70 percent of the wages of sick employees for the first six weeks of absence.[17] This shift of responsibility was intended to give employers a financial incentive to try to reduce sick leave. In the preexisting contribution structure, rates were differentiated based on the risks associated with specific types of industry but were not experience-rated for individual firms. Hence, the government felt there was no incentive for individual employers to discourage or prevent sickness absence. The TZ meant that employers either had to pay the absent workers directly or purchase

[16] Prins (1990).

[17] The co-insurance period was two weeks for employers with 15 or fewer employees.

insurance from a private insurer to cover this liability. In addition to shifting the financial burden to the employers, the TZ also required them to develop and institute new policies to control sickness absence.[18]

This partial privatization of sick pay insurance initially had the desired effect: the number of sickness claimants dropped from 345,000 in 1993 to 175,000 in 1994; while the total number of sick employees fell from 345,000 to 290,000.[19] In March 1996, the government, hoping that further privatization would encourage an even greater decrease, extended the period of employer responsibility for payment of cash sickness benefits from the initial six weeks to 52 weeks.

However, the second measure had no extra beneficial result. This is apparently because the behavioral effect of the first measure had already occurred, namely that it caused 80 percent of all employers to reinsure this risk with a private insurance company. The Dutch social policy experts consulted for this study are in agreement that, in more recent years, the number of sickness beneficiaries and the duration of absenteeism are climbing back up again.[20] A very recent study shows that the trend is again rising but with a net overall decline of 25 percent since the early 1990s.[21]

It is noteworthy that the one-year period on cash sickness benefits corresponds to the formal waiting period before a claimant may qualify for disability benefits. Hence, the sickness benefit system feeds into the disability program because long-term beneficiaries are quite likely to file for disability benefits close to completion of the year.[22]

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[18] Specifically, the Act on Working Conditions (1994), passed along with the TZ, and to be described subsequently, required employers to contract with a private provider of occupational health services to help manage absenteeism.

[19] Van Oorschot and Boos (2001: 58).

[20] However, owing to the shift in responsibility from the public sector to the employers, it is now much more problematic to collect such data.

[21] Veerman and Besseling (2001: 89).

[22] However, the results of the 2002 elections are likely to change this. The government has already announced its intention to increase the period of employer responsibility for sickness absence from the current one year to two years.

2.2.2. Working Conditions Act

In 1994, a new Working Conditions Act was introduced in conjunction with the TZ. It made employers responsible for preventing sickness and disability among their workers. The law required employers to create a safe and healthy work environment and to develop a specific anti-absenteeism policy. It also obliged them to hire the services of a certified private occupational health service company (OHS), called *arbodienst*, or to employ their own. The initial Act was followed by revisions that further increased employers' responsibilities in these regards. The rationale behind these laws was a belief that the high levels of sickness and absenteeism were a result of too great a focus on provision of benefits and not enough on prevention and work reintegration.

The health service companies (OHSs) are supposed to have multi-disciplinary teams with expertise in occupational medicine, occupational safety, hygiene, and labour issues. The Netherlands is the first country using this approach to require that organizational psychologists with a specialty in labour issues be part of the teams. They are tasked with improving the level of safety and health in the workplace to ensure the workers' well-being. The Act emphasizes psycho-social risk factors and organization-based preventative measures, rather than individual curative measures.[23] Employers are obliged to systematically conduct an inventory and assessment of the risks to the safety, health, and well-being of employees at work. They are also obligated to get professional OHS assistance that offers at least four services (minimum contract): the above-mentioned systematic risk assessment; socio-medical guidance and rehabilitation of sick employees; voluntary periodic medico-psycho-social examinations; and weekly open 'office hour'.[24]

2.2.3. Long Term Disability Benefits

Just as concerns about the high numbers of individuals on cash sickness benefits led to efforts to retrench that program, so did similar concerns contribute to new efforts to control expenditures on disability benefits. The first steps along these lines were enacted in 1985 when the wage replacement rate was lowered

[23] Geurts *et al.* (2002: 88).

[24] Geurts *et al.* (2002: 89).

from 80 percent to 70 percent, up to a maximum benefit amount. However, as a result of collective labour agreements, many workers still receive 100 percent of prior wages, at least for a restricted period.[25] Hence, this measure had very little effect on trimming the number of disability applicants or recipients, so stricter measures had to be adopted.

In 1987, a provision was abolished that pertained to partially disabled individuals who were not working. Prior to this abolition, such individuals were entitled to a full earnings-related disability benefit for as long as their disability lasted. The rationale was that, because of their impairment, their prospects on the labour market were very low. This liberal policy induced demand by such individuals to claim disability benefits instead of unemployment benefits for two reasons: (1) the former were more lucrative, and (2) they were not time limited.[26] Since the 1987 change, partially disabled workers who are jobless are entitled only to a partial, rather than a full, wage-related disability benefit; and that has to be combined with a time-limited unemployment benefit. When the latter runs out, partially disabled claimants then have to claim means-tested social assistance, which often results in a significant decline in income. Unfortunately, neither of these measures had the desired effect of reducing the number of disability benefit claimants, so the government had to take more drastic steps.

In March 1992, the Reduction in the Number of Disability Benefit Claimants Act (TAV) went into effect. Its purpose was "to stimulate both employers and employees to prevent sick leave whenever possible and to keep partially disabled persons at work or ensure their return to work."[27] The idea was to offer incentives to employers who helped reduce disability benefit claims and to penalize those who contributed to the growth in the rolls. In essence, a bonus-malus system was introduced that provided for 20 percent subsidies to employers who recruited disabled workers for at least one year but which also imposed

[25] Bloch and Prins (2001: 17).

[26] The maximum period of time one can collect unemployment benefits is 4.5 years depending on previous employment, while the average period of time for most people is between 2 and 2.5 years.

[27] International Social Security Association (1995: 23).

fines on employers who terminated workers when they developed a disability. The fines were unpopular with employers and administration proved burdensome, so the measure was abolished in 1995.

In August 1993, a second piece of legislation, the Act on Reducing Disability Claims (TBA) was passed. The TBA has a number of provisions that act to restrict eligibility to benefits as well as to limit the duration and level of compensation. Specifically the TBA:

1. *Broadened the definition of "suitable work"* (taken into account for determining the degree of incapacity for work) to include any kind of 'generally accepted work' that can actually be undertaken by the beneficiary, regardless of levels of education, skill, former occupation, and labour-market conditions. Prior to this legislation, claimants were not expected to take work that was very much beneath their education, skill, or occupational level. Thus, the new law rendered many people either ineligible for benefits; eligible for only partial rather than full benefits; or eligible for a lower rate of partial benefits because more jobs were taken into consideration than previously;
2. *Required that the relationship between a person's disability and his/her work incapacity must be direct and objectively established.* In other words, the incapacity for work has to be a direct, medical result of a sickness or impairment. This was an attempt to limit what was thought to be excessively generous subjectivity by the disability examiners;
3. *Awarded disability benefits on a temporary basis with entitlement dependent on the outcome of periodic examinations.* The duration of benefits is provisionally restricted to five years, after which a new claim can be submitted and a new assessment is then required;
4. *Required that all persons under age 50 who were already receiving disability benefits on August 1, 1993, had to be reassessed on the basis of the new criteria;*
5. *Linked the amount and duration of the disability benefit, for workers under age 50, to the claimant's age and previous employment periods.* For example, after a certain period where the benefit level is 70 percent of the last earned wage, it is reduced through a complex formula to somewhere between the previous benefit and 70 percent of the statutory minimum wage, depending on the age of the claimant. When the earnings-related benefit expires, people receive a lower level 'follow-up benefit' for as long as

their disability lasts. The difference between the previous replacement level of 70 percent and the age-related follow-up benefit became known as the WAO-gap. For about 80 percent of employees, collective labour agreements have been used to 'repair' the gap through private insurance. For people over age 58, the duration of benefits is limited to a maximum of six years, after which they are entitled to the state pension.

Initially, the much stricter rules of the TBA achieved the goals desired, namely cutting the number of disability beneficiaries from the rolls and reducing program expenditures. For example, in 1994, a study conducted by the Social Security Supervisory Board found that, of the first group of disability beneficiaries under age 50 who were reassessed under the new standards, 47 percent lost their benefits entirely or had them lowered. The savings for that year alone amounted to 330 million guilders or 1.5 percent of expenditures.[28] The tightening of procedures and entry requirements also resulted in measurable reductions in the probability of receiving a benefit – from about 85 percent before 1993 to 71 percent after 1993. In addition, these restrictions caused a reduction in the average degree of disability from about 70 percent before 1993 to about 58 percent thereafter.[29] The savings continued into 1995–96 but by 1997, the number of new disability claimants once again was greater than the number leaving the rolls (see Table 3 above). However, because the size of the working population was increasing in the middle of the 1990s, disability beneficiaries as a percentage of the working population decreased from 13.5 percent in 1993 to 11.9 percent in 1997.

2.2.4. Premium Differentiation and Market Regulation Act (PEMBA)

Given the rising numbers, once again, legislation was introduced to try to control the influx of new disability claimants. In 1998, the Premium Differentiation and Market Regulation Act (PEMBA) was passed. Its goal is to reduce the number of disability claimants by making employers responsible for disability prevention and reintegration of disabled workers. Under this new legislation,

[28] International Social Security Association (1995: 25).

[29] Doeschot (2001: 8).

they are held more individually responsible because their contributions to the WAO, which previously had been the same for all employers in the same industry, are now linked to their industry risk as well as their own experience. Therefore, individual firms as well as industrial sectors that generate more disability claims, pay higher contribution rates.

The law also allows employers to reduce their costs by preventing disability claims. Such prevention can be achieved by improving working conditions or by adapting the worksite in order to hire workers with disabilities. In addition, the PEMBA allows employers to opt out of the WAO scheme for the first five years and instead to assume financial responsibility for all disability claims by their employees. The Dutch government expects that this provision of the PEMBA will cause a 10–15 percent reduction in the number of new long-term disability claims. However, a study published in 1999 found that only eight percent of employers felt that the PEMBA would lead to improved employment outcomes for people with disabilities, while 60 percent thought it was a reason for increased scrutiny of new employees as possible health or disability risks.[30]

Anticipating that employers might react with risk-adverse selection tactics (i.e., decline to hire people with disabilities), the government passed the Act on Medical Examinations in 1998. The Act stipulates that job applicants may be subject to medical examinations only when special fitness demands are a requirement of the job. Nevertheless, the study cited above found that "44 percent of employers said that medical examinations and questions about health status are, in effect, standard procedure," meaning that they are using them to screen out applicants with health problems or disabilities. Thus, while PEMBA may reduce the aggregate costs of disability insurance, it seems unlikely to have any positive effects in helping workers with pre-existing health conditions or disabilities to find new jobs.[31]

[30] Cited in van Oorschot and Boos (2001: 58).

[31] This is also the conclusion reached by van Oorschot and Boos (2001: 57).

2.2.5. Work Reintegration Measures

2.2.5.1. Past Efforts

Typically the use of stringent policies aimed at stemming the influx of new disability claimants is counter-balanced with efforts to help people with disabilities enter or return to work. Therefore, countries wishing to improve the climate of disability policy usually also actively pursue measures to reintegrate workers with disabilities into the labour force, lest they merely trade one type of dependency for another, such as unemployment benefits or social assistance. However, among the industrialized countries, the Netherlands has been a fairly late-comer concerning promotion of policies to encourage workers with disabilities to work in the open economy. The first such policies were not introduced until 1986 when the Work for Disabled Workers Act (WAGW) was linked to the 1987 revision of the WAO. Even then, the WAGW, while affirming the rights of people with disabilities and societal responsibilities to promote equal opportunity, solidarity and so forth, contained little in the way of specific measures. Instead, it made labour unions and employers responsible for promoting equality of opportunity and developing strategies for retaining and/or retraining workers who developed disabling conditions. It also set quotas of between three and seven percent, depending on the type of industry (the higher quotas applied to white collar work), but the quotas were never completely implemented.

While the effectiveness of the WAGW as a reintegration measure was minimal, it was important because it marked the first time that the government acknowledged: (1) a concern over the growth in the number of disability claimants; and (2) the limited labour market prospects of people with disabilities in times of high unemployment and the need for interventions to assist them.

2.2.5.2. Recent Reintegration Efforts

In 1998, the Reintegration of Handicapped People Act (REA) provided new incentives for both employers and workers. On the employers' side, it allocated fixed amounts of money to help them recruit people with disabilities by paying for worksite accommodations or improved access. If the actual costs come in under budget, the employer can keep the difference; however, if actual costs exceed the fixed amount, the excess is covered. In addition, cash sickness benefits for recruited disabled workers are paid by the national sickness fund,

not by the employer, a measure that effectively neutralizes any concerns that such recruitment would create additional payroll costs. If employers pay more than five percent of their total wage costs to employees with disabilities, they are then eligible for a reduction of the WAO contributions. The REA also provided incentives to people with disabilities to increase their employment possibilities. An experimental 'person-related budget' is provided to individuals with disabilities to enable them to purchase services to improve the likelihood of employment.

2.2.6. Act on Civil Servants under Employee Insurance

In 1996, a process was begun whereby employees in the public sector were gradually brought under the same social security arrangements as insured workers in the private sector. The equalization of social security arrangements for private and public employees was completed in January 1998. While the inclusion of new workers would be expected to result in new claims for disability, there is evidence that public sector employees have contributed disproportionately to the growth in the WAO rolls. The reasons for this will be discussed in the next section.

2.3. Why the Renewed Growth in Disability Benefits?

As can be observed in Table 3, the number of Dutch disability pension beneficiaries dropped in the mid-1990s in apparent response to the reform measures. In the late 90s, however, the numbers started to climb again and now exceed the level of ten years ago. Thus, the Dutch government continues its battle to reduce disability-spending levels that are widely regarded as excessive. The reasons for this latest rise are complex and still not fully understood. However, close observers of the WAO scheme have important insights and hypotheses. Based on the interviews conducted for this study, this section highlights some possible reasons for the apparent short-lived effect of the reforms. Starting with factors that are widely acknowledged, the section then moves on to include several more speculative hypotheses, some of which are now under research.

2.3.1. Employer Reinsurance of New Risks

In enacting the 1994 reforms which required employers to finance the sick pay of their own employees, the Dutch government expected that this would make the cost of sickness benefit more transparent for employers than previously,

when sickness costs were merged with other public program costs and contribution rates spread the risks across all employers. It was further expected that employers would be more vigilant and interested in reducing their costs in this area. However, most employers seem reluctant to conduct surveillance on their own workers. Rather, they prefer to reinsure their liability with private insurers, thereby treating it as just another cost of doing business.

In addition, in the early years of the shift to privatization, the insurance companies were in fierce competition to attract employers. Therefore they set the premiums very low, in some cases lower than under the old collective system. Now the premiums are starting to be more closely linked to an employer's actual experience and consequently, premiums are beginning to rise for many employers. However, the effects of these changes will take some time before they are felt.

2.3.2. Risk Aversion in Hiring Practices

The shift of the financial responsibility for the cash sickness program to the employers also had an unintended negative policy consequence. As noted previously, some Dutch employers are reportedly taking various steps to try to minimize their financial risks of sickness absenteeism by screening new employees' health status more closely. As a result, people who are chronically ill or partially disabled are having greater difficulties finding new employment; and the chance of workers with poor health status being fired have increased.[32] In addition, it seems likely that employers' concerns over sickness absenteeism have contributed to their significantly increased use of temporary labour contracts and hiring through employment agencies. Specifically, the number of temporary labour contracts, which are used as a means of screening employees' 'sickness leave behavior' nearly doubled (from 11 percent to 20 percent of all labour contracts) between 1993 and 1995. Employers' practice of hiring workers through employment agencies to reduce their responsibility for sickness pay also rose (from four to nine percent) in this period.[33]

While such risk adverse behavior may reduce employers' costs in the short term, it is highly counterproductive as a way of integrating disabled people

[32] Van Oorschot and Boos (2001: 58) and the original sources: Sociaal en Cultureel Planbureau (1996, 2000).

[33] Van Oorschot and Boos (2001: 58) and original sources as above.

into the labour market. With restricted access to employment, these individuals will have no alternative but to rely on public support of one form or another. Thus, this reform appears to be at odds with the only viable long run solution to high disability costs.

2.3.3. Growth in Claims Based on Mental Disabilities

In recent years, it appears that part of the reduction achieved in claims based on physical problems has been offset by increased numbers of claims based on mental impairments. Today disability due to mental impairment is the major basis for benefit awards in the Netherlands and generally results in full benefits. The incidence of mental disabilities is not only considerably higher for Dutch workers than for workers in other European countries; they also differ in the extreme for disability due to mental illness, especially among female workers.[34]

In the last few years, Dutch experts have begun to probe the causes of this phenomenon. Recent research shows that much of the growth in those claiming WAO disability benefits has come from public sector employees. In 2000, the number of WAO claimants from this sector grew by 18.5 percent, with most of the increase coming from the education, government, and police sectors. As in the recent past, the healthcare sector continued to account for the largest overall number of WAO claimants.[35]

Another recent study emphasized the important dimension of gender differences in this development. It found that, in general, over 30 percent of the difference in work disability risk is explained by work characteristics that are more prevalent among female workers (that is, working in the healthcare branch, having fewer career opportunities, having little job autonomy, and being exposed to unhealthy work pressure, such as high work pace).[36]

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[34] In both male and female insured, the number of benefit allowances due to mental disorders in 1996 was the highest for the Dutch population in comparison to those in Sweden, Germany, and Belgium. Among female employees, the number of new disability recipients for mental disorders was two to four times higher than in the other countries. See Veerman *et al.* (1998).

[35] LISV, the National Social Security Institute, and the CTSV, the Social Security Supervisory Board. See Nesbitt (2001).

[36] Van der Giezen (2000).

Yet a third recent study found that the higher disability rate of women originated mostly from the higher sickness absence incidence of women compared to men.[37] Once on sickness benefit, the differences between men and women as to recovery rate or disability rate did not differ very much. The gender difference in sickness rate was, however, also strongly influenced by the labour sector – the sickness rate is much higher in the health care sector and education sector in comparison to business-related sectors for both men and women. But also within labour sectors, sickness and disability rates are structurally higher for women compared to men.[38] "Over one third of all [Dutch] women are working in health care or educational jobs, but this is true only for ten percent of all [Dutch] males."[39] The serious problems in the working conditions in these sectors are considered to be one of the major contributing reasons for why Dutch women are more likely than men to be on sickness pay leading to entry on to disability benefits.[40]

2.3.4. Subjectivity in Disability Determination

Another factor which may have dampened the impact of the reforms enacted in the 1990s is continuing subjectivity in the Dutch disability determination process. Theoretically, the Dutch process of adjudicating claims relies on recognized best practices and sophisticated methods for assuring, as much as possible, that individuals are fairly and accurately assessed both for entitlement to and level of benefits. Unlike most countries that rely solely or predominantly on reviews of claimants' paper applications, the Dutch system actually uses social insurance physicians, who are the appropriate specialists, to examine every individual applicant. Beyond their normal medical training, these physicians receive training in the specifics of disability program

[37] Van der Giezen, Cuelenaere, and Prins (1998).

[38] Van der Giezen, Molenaar-Cox, and Jehoel-Gijsbers (1999).

[39] Van der Giezen and Geurts (2001).

[40] In 2001, the social security minister agreed to revise that clause in the law, so now a new law is in preparation that will allow the government to publish the list of employers who send high numbers of their workers to the disability program – or the 'big polluters', as the Dutch themselves say, of the WAO pool – and require steps be taken to improve the situation for their workers.

requirements. Each claimant is examined to determine his/her remaining functional abilities, and the physician completes a form that describes this. The assessment is then passed on to a vocational specialist who searches a computer bank of jobs (not necessarily actual vacancies) to see if there are sufficient numbers that the person could still perform given his/her remaining capacity.[41]

However, interviews with physicians and medical experts within the National Social Security Institute and the Social Security Supervisory Board suggest that, in actuality, the system is operating quite differently. While the social insurance physicians have the legal authority to order any tests or investigations or to consult with the treating physician of the claimant if they feel it is appropriate or necessary, in practice they almost never exercise these options.[42] Instead, all those interviewed commented that the social insurance physicians reach their decisions based almost solely on what claimants tell them about their condition and do not make any attempts to verify it.

In addition, there is a lack of quality control concerning accuracy of the decisions made in this manner. Internal reviews have found great variability in allowance rates among the social insurance physicians, with some finding 15 percent and others 60 percent of their claimants totally disabled.[43] Reflecting a growing recognition of this problem, measures have been introduced to improve the quality of the decision-making, for example, by making standards and protocols for assessment.[44] Some observers attribute this lack of concern to a much greater emphasis placed by management on productivity – that is, on the number of claimants seen, on time spent in interviews or examinations – often at the expense of the quality of the decisions.

[41] In theory, the decision to allow or deny benefits is determined by the vocational expert, after receipt of the examining physician's report. In practice, however, those interviewed stated that the physician's report is almost never questioned.

[42] This seems to be due to the Dutch societal preference for a clear delineation between treating and administrative physicians.

[43] The physicians are all trained on the same set of standards, but the variations are thought to stem from an acknowledged lack of controls over how those standards are applied.

[44] However, it also appears that some existing protocols go unused.

2.3.5. Greater Part-Time Work by Disabled Beneficiaries

While the reforms examined in this study have not had the desired long-term effect in reducing the number of WAO beneficiaries, there is some evidence that they are leading to greater part-time work. Thus, while people with disabilities continue to collect benefits, they are entering the work force on a limited basis in greater numbers. One study found that, as of February 2000, 22 percent of disability beneficiaries were employed part-time.[45] Of those, 52 percent were persons with partial disability benefits and 10 percent were on full disability benefits. Moreover, this trend is particularly evident among new program entrants. Among those coming on to the rolls in the late 1990s for partial disability benefits, 60–65 percent were also working: for those receiving full disability benefits, 12–20 percent were working.

Thus, it would seem that for some workers, the partial disability benefit is functioning as a wage subsidy that allows them to remain in gainful part-time employment, whereas in other countries, they may have been dismissed and live on social assistance or unemployment benefits.[46]

The new Dutch government, however, is considering moving to a very strict disability program that would pay benefits only for total and permanent disability.[47] If they do so, they will lose the flexibility that their partial system affords, which currently encourages people with disabilities to work part time even if they feel they cannot work full time.

2.3.6. Consumer Involvement in Developing Reforms

Throughout the referenced literature and during the interviews conducted for this study, researchers and public officials frequently mention consultations with the social partners and other stakeholders with a vested interest in improving the current operation of the Dutch disability program. However, representatives of disability organizations contend that they are at the periphery of such

[45] Bruinsma and de Jongh (2000: 164–166).

[46] R. Prins, in written commentary on review of draft manuscript.

[47] The Donner Commission, appointed by the last government to study the problems of the disability program, recommended changing to one that pays benefits only in the case of full and total inability to work and which is based on medical listings.

negotiations at best. To be sure, the Netherlands has many organizations of people with disabilities (so-called client organizations or consumers) who are quite active and vocal. However, many of them perceive that they have no place at the table when policies affecting their lives are being formulated, except in some consultative ways.

Client input is basically limited to occasional opportunities to review and comment on proposed legislation. However, various members of organizations within the Dutch Council of the Handicapped believe that the Dutch government sees the disability policy problems, such as growth in the number of beneficiaries, high expenditures, and the need for stronger labour market reintegration measures, as problems that it should solve alone or in conjunction with the social partners. In addition, they feel that the government fails to perceive a linkage between the problem of high disability expenditures on the one hand and the need for stronger labour market reintegration measures on the other. Van Oorschot and Boos confirm this dichotomy:

> One might wonder how there could be a continuing public and political debate on disability, yet so little development in the field of reintegration of handicapped people. Part of the explanation lies in the fact that, in the Netherlands, the "disability problem" (*het arbeidsongeschiktheidsprobleem*) is seen as something quite separate from the problem of the social and economic integration of handicapped people. The first is viewed as a major socio-economic and budgetary problem in the field of social security, the second as a quite specific, socio-medical and socio-cultural problem for a relatively limited group.[48]

Thus, while government provides disability organizations with the funds to operate and consults with them on proposed legislation, they have not attained the status of full stakeholders in the debate on measures to deal with high disability costs. Not only do disabled people stand to be strongly affected by these policies; in addition, their views on the types of support that would be most likely to encourage greater labour market participation could have a profound impact on the success of such efforts.

[48] Van Oorschot and Boos (2001: 53).

2.3.7. The Role of Government

A key issue in controlling disability pension costs is: how good is government at serving as a model employer of people with disabilities? This question was asked of social insurance administrators, researchers, and disability advocacy organizations and no matter the source, the answer was the same – the Dutch government has thus far not done much in its own right to set the tone for others to follow. Governments are in a unique position to use their position to be a 'bully pulpit' to advocate for reform. But if they also lead by example, their deeds actually match their words and serve as more convincing guideposts for others to follow. In the case of the Netherlands, the situation goes beyond the government's relatively passive posture toward hiring and retention of workers with disabilities. As has already been mentioned, the public sector workers, especially health care and education workers, are the ones significantly contributing to the expansion of the disability rolls, of late. In both these sectors, the relatively poor labour conditions such as heavy workloads, high stress, weighty responsibilities, but little autonomy (as mentioned with regard to the gender differences) are strongly associated with this rise. Further contributing to the problem is that in a separate measure a repair of the cuts in disability pensions was provided for public sector employees[49] with the result that the income loss caused by disability is minimal both for low and high income public employees.[50] Thus, there is a key role for government to play in the Netherlands, both in limiting its own role in rising disability costs and in setting an example for hiring of persons with disabilities.

[49] The benefit cuts affected public sector workers when they were absorbed into the WAO program that began in 1996 and was completed by 1998. However, the government has "privately repaired" those cuts because public workers under the previous system would have enjoyed higher benefit levels. No such repair has taken place for private sector workers who are now considerably worse off.

[50] Van der Giezen, Fiseler, Nool, and Ramakers (2001).

3. Sweden

3.1. Introduction: Challenges to the Universal Welfare State

For the last several decades, Sweden has epitomized the successful universal welfare state in which citizens enjoy a comfortable standard of living, secure in the knowledge that the state will provide protection against most of life's contingencies. At the same time, Swedish social policy has placed a very strong emphasis on employment and the concept of 'work before welfare'. This philosophy is manifest in a wide array of training and retraining programs, as well as in direct government support for job creation. These two features of Swedish social policy – generous benefits on the one hand and strong support for employment on the other – coexisted for many decades without obvious conflicts or trade-offs, in part because of the high level of prosperity in Sweden. Beginning in the 1990s, however, the government has been forced to rebalance these priorities under the dual pressures of higher unemployment and the prospect of rapid demographic aging. As will be shown, the resulting reforms have so far been modest in scope, leaving Sweden's universal welfare system very much intact. However, as with the Netherlands, the Swedish reform is a work in progress whose dimensions are still taking shape.

3.1.1. Demography and Labour Market Characteristics

While many developed countries are currently experiencing, or will soon begin to experience, the problem of aging populations, the Swedish situation is among the more acute examples of this trend. According to projections by the National Social Insurance Board (RFV) and the Central Bureau of Statistics (SCB), the number of Swedes over 65 will make a steep upturn around the year 2010, when the large generation born in the 1940s starts turning 65. As a result, the ratio of workers to pensioners is projected to fall from 2.1 in 1999 to 1.9 in 2010, 1.7 in 2020, and 1.5 in 2030.[51] This problem is exacerbated by the Swedes' increasing average life expectancy. In comparison to many other developed countries, Sweden has a considerably higher percentage of the 'oldest old', that is, those aged 80 or older. Moreover, average life expectancy

[51] National Social Insurance Board (RFV) (2000: 16).

at age 65 is projected to increase by roughly one year every 10 years. Therefore, with a general pension age of 65, by 2010, there will be 200,000 more pensioners; by 2020, 500,000 more; and by 2030, 700,000 more.

A third worrisome trend is the high proportion of workers who leave employment before the general pension age of 65. In a recent study, the RFV found that among men born in 1935 who were in the labour force at age 50, the average age of retirement is 62.1 years, or almost two years younger than the average retirement age for men 20 years older.[52] This trend toward early retirement is advantageous to employers, at least in the short run, and enjoys the support of trade unions, which tend to be concerned about jobs for younger members. Yet as the RFV points out, it is quite costly for society as a whole. The RFV is also concerned about the use of disability benefits as an early exit from the workforce for older workers – a practice which it also sees as implicitly supported by employers and trade unions. It notes that despite steady improvements in public health since the mid-1970s, approximately 200,000 people have exited the labour force with disability.[53] As a result, in the age group 60–64, today almost half of the women and one third of the men receive a permanent disability pension.[54]

3.1.2. Disability Programs within the Social Security System

In Sweden, permanent or temporary disability pensions are granted to persons aged 16–64 whose work capacity is reduced by at least 25 percent because of a medical impairment, either permanently or for a long period of time.[55] In both cases, compensation is paid in the form of a basic universal pension and an earnings-related supplement, known as ATP. The latter is calculated in a manner similar to the old-age pension and, for a person who is totally disabled, replaces 80 percent of lost wages. Those who are partially disabled

[52] The corresponding average age for women who were born in 1935 who were in the labour force at age 50, is 61.7 years. See RFV (2000: 70).

[53] RFV (2000: 45).

[54] National Social Insurance Board (RFV) (2001: 21).

[55] A temporary disability pension is payable when a person's capacity to work is reduced for a long period but not permanently (normally one to three years).

may receive 75, 50, or 25 percent of this full rate. People who have a low earnings-related pension (ATP) or none at all are eligible to receive another type of supplement and a housing allowance.[56]

When the Swedish government reformed the old-age pension system in the late 1990s, it completely separated its financing from that of the disability pension program. Disability pensions are now financed by a combination of employer contributions and general taxes, and scheme revenues and expenditures are included in the central government budget. In terms of administration, disability pensions are now included in the sickness benefits part of social insurance. Both administratively and philosophically, this is a major change in that it was partly done to support the idea of rehabilitation to work, which thus far, has not been very successful. However, the rules concerning eligibility for disability benefits and calculation and indexing of benefit amounts is much the same as before the financing changes. The projections are for only a very small reduction in costs stemming from the adjustments made in how disability benefits are calculated.[57]

In addition to disability pensions, special allowances are provided for a wide array of disability-related costs, including durable medical equipment, attendant care, and even an adapted automobile. These allowances are provided as a right under the social insurance system and are therefore subject to appeal. People with disabilities may also qualify for needs-tested social assistance services under the Social Assistance Act.

Sweden also has a national program for sickness benefits, financed by a flat-rate employer contribution of 8.75 percent of each employee's wages. After a one-day waiting period, a sick worker is eligible for 14 days of benefits paid directly by the employer, after which the public program commences paying benefits. As with the disability pension, the full benefit rate is 80 percent of wages; and benefits may be paid at 25, 50, 75 or 100 percent of this rate,

[56] Persons with no ATP receive a full pension supplement. For others, the pension supplement is reduced according to the amount of the ATP.

[57] In contrast to disability pensions, old-age pension revenues and expenditures are now separated from the central government budget. (From personal correspondence with Ole Settergren at RFV, dated September 12, 2002).

depending on the severity of the illness. Following one year of sickness benefits, claimants who are still unable to work can apply for temporary or permanent disability pension.[58]

3.2. Policy Challenges and Reforms

The reforms enacted in Sweden fall into three broad categories: benefit changes, adjustments in employment policy, and provision of new civil rights-based support. As noted previously, all the changes are incremental and may be regarded as fine-tuning of Sweden's universal welfare policies. As Lindqvist has observed:

> … all of the major social partners and all the political parties still subscribe to the idea of universal welfare policies. However, beneath the surface, there have been some important shifts towards more selective services and a stronger emphasis on civil rights, especially in disability policies.[59]

3.2.1. Benefit Changes

Policies concerning sickness benefits are critical to what happens with disability pension programs because sickness benefits are the gateway into disability. Privatizing the costs for a portion of the sickness phase saves public systems significant expenditures. However, ultimately the real question is whether the time period that a worker spends on sickness benefits is used effectively to identify strategies to keep him or her in work, or the situation is allowed to develop into the acute phase where the worker needs a disability pension. The Swedish Government, recognizing the importance of this linkage, has been working for some time to use the sickness benefit program more effectively. In the late 1980s, the government responded to rising rates of long-term sickness with regulations creating a "new work line", which authorized social security offices to purchase rehabilitation services aimed at returning those on extended sickness leave to their previous employment. At the same time,

[58] However, if the social insurance office believes that the condition is likely to last for at least a year, the claimant might be considered for a temporary or permanent disability pension before the full year of sick benefit is completed.

[59] Lindqvist (2001: 115).

it required the offices to make direct personal efforts to encourage return to work.[60]

In the early 1990s, a nationwide recession provided the impetus for several changes in the level of benefits and payment conditions. Sickness benefits were reduced from 90 to 75 percent of covered wages, but this reduction was partially restored in 1998, to 80 percent. The government also shifted financial responsibility for the first two weeks of sickness pay to individual employers (1992), a measure intended to control costs and to encourage employers to monitor absences. The number of sick days for which employers were directly responsible was increased briefly to 28 in 1997, but this was reduced again to 14 in 1998. In 1993, the government established a one-day waiting period for sickness benefits, a cost control measure whose incentive effect was aimed directly at workers.

Table 4
Sickness and disability benefits in Sweden, 1991–2001

Year	Total number of sickness benefit days	Sickness cash benefit rate	Number of disability pensioners
1991	—	—	373,000
1992	—	—	390,000
1993	64,000,000	12.3 %	414,000
1994	60,000,000	11.2 %	422,000
1995	57,000,000	10.6 %	420,000
1996	51,000,000	9.7 %	419,000
1997	47,000,000	9.6 %	423,000
1998	58,000,000	11.9 %	422,000
1999	72,000,000	14.8 %	425,000
2000	88,000,000	18.2 %	438,000
2001	102,000,000	21.1 %	456,000

Source: National Social Insurance Board at http://www.rfv.se/English/stat/sick/sjukp.htm, visited on July 25, 2002.

[60] They were required to make contact with those who had been out of work 30 days and, after 90 days, to visit the employer to see what could be done to facilitate return. As a result, the use of rehabilitation in long-term sickness cases increased substantially, peaking at 24 percent in 1994.

As shown in Table 4, these changes appear to have had a positive short-term effect on sickness and disability scheme costs. For sickness benefits, the number of days for which benefits were paid declined steadily during 1993–97, from 64 to 47 million. Over this same period, the portion of those in receipt of benefits dropped from 12.3 to 9.6 percent of the covered work force. There was also a slowing of growth in the disability pension program in the mid-1990s and, in several years, small declines in the numbers of beneficiaries.

However, as can also be observed in Table 4, these trends were relatively short-lived. The use of both sickness and disability benefits began to increase again in the late 1990s, and both have experienced very sharp growth in the last two years. Given this resumption of program growth, additional benefit reforms are now under consideration in Sweden. These will be described in section 3.3.

3.2.2. Employment Policy

Swedish disability policy has long held to a philosophy of 'work before welfare' while, at the same time, providing a generous level of benefits. Not surprisingly then, the government has a history of policies that encourage and financially support work by people with disabilities. *Samhall*, a state-owned company, has existed for several decades to provide employment for people with what are referred to as 'occupational disabilities'.[61] Indicative of Sweden's strong support for employment, *Samhall* is a massive operation with about 29,000 employees working at 300 locations to produce a wide variety of goods and services for large companies.[62] According to its promotional literature, 90 percent of its employees have one or more types of occupational disability, 60 percent of them manufacture products, and the remainder work in the service sector.[63]

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[61] These include people with physical or functional impairments, medical problems, mental disabilities, retardation, allergies, or drug or alcohol addiction.

[62] In addition, *Samhall* has a subsidiary group that markets its expertise in rehabilitation services and personnel development to public entities such as social insurance offices, state employers and municipal and county governments.

[63] *Samhall* website, "Facts about *Samhall*," http://www.samhall.se/ViewDocEng.asp?TreeID=1947.

The impetus for change at *Samhall* in recent years has been twofold. First is a concern that it is preparing too few employees to obtain jobs in the open economy. In the view of critics, Samhall is essentially a sheltered workshop model providing jobs for persons with disabilities in a segregated setting. Sensitive to this criticism, *Samhall* officials have put greater effort into preparing employees for other jobs. Now, approximately three to four percent of the employees leave for other employers each year, but the disability organizations still see those rates as far too low.

A second impetus is financial. In theory, *Samhall* is supposed to become self-sustaining over time but in fact, the government has thus far always had to subsidize its operation. The standard reason given for the subsidy is to cover the additional costs of allowing the company to fulfill its employment objectives while adhering to a policy of no redundancies in the event of recessions or structural changes. For many years, the government seemed content to provide the subsidies as long as the company's profits increased, but since the mid 1990s, it has put a much greater emphasis on *Samhall's* profitability with the result that there has been a shift in its focus. One observer described the results:

> Because of this emphasis on profit-making, Samhall now has to hire those who are skilled enough, so those with severe disabilities are excluded. They have turned more towards people who are more socially disabled like those who misused drugs or are alcoholics and so on who are on the path back, but it's not the persons with traditional disabilities anymore. We found out that only one percent of the labour force at Samhall is blind or visually impaired and most of them are refugees and have multiple disabilities, so they are really not expected to do anything. Those who are really productive for Samhall are those with no disabilities at all.[64]

Swedish disability organizations are in agreement that the government's increased demands for productivity have unfairly forced *Samhall* to hire non-disabled people to meet the production requirements. If they do take persons with severe disabilities, they no longer have adequate time to devote to teaching them actual job skills. The disability community would prefer to see much

[64] Kicki Nordström, President, World Blind Union; personal interview held on November 14, 2001.

of the financial support that the government has long been providing to sustain *Samhall* and the sheltered workshop model be channeled instead into support of individuals in the open labour market.

The irony is that if the government continues making cuts in *Samhall's* subsidies, they may resolve the disability community's dilemma over whether it should be closed down or not.

3.2.3. Civil Rights-Based Support

An important step in the direction of greater civil rights protection for people with disabilities was the creation of the office of the Disability Ombudsman on July 1, 1994. The Ombudsman is a uniquely Swedish approach to the complex question of how to change societal attitudes towards people with disabilities from a perspective of well-meaning paternalism to full equality as a civil right. The office grew out of a state investigation that examined social rights for people with disabilities. The United Nations Standard Rules concerning people with disabilities were passed in December 1993, at which time there was no law of any kind in Sweden that prohibited discrimination against the disabled. Therefore, one of the main functions of the new office of the Disability Ombudsman was to oversee how the Standard Rules would be implemented. The Ombudsman's mandate is quite broad in that he/she is supposed to safeguard the rights and interests of people with disabilities, with the goal of ensuring their full and equal participation in society. However, because Swedish civil rights protection thus far pertains only to discrimination in the employment sector, the domains that the Disability Ombudsman's office is involved in are limited in practice.[65]

The Ombudsman has the right to hold both national authorities and local municipalities accountable for any discriminatory policies. This is done through individuals filing claims with the Ombudsman's office as well as initiating its own investigations into how the Standard Rules are being implemented. The latter is rarely used, however, because of limited resources. Instead, the typical process is that an individual brings a complaint to the Ombudsman,

[65] There is as yet no civil rights legislation pertaining to sectors such as public access, transportation, telecommunications, and so forth.

either in writing or via the telephone because of his/her perception of being discriminated against, for example, during a job application. If the individual is a member of a trade union, he/she is supposed to direct the complaint to it first. Only if the trade union refuses to handle the case or if the individual is not a union member, does the Ombudsman become involved. The office then investigates the claim and tries to resolve it with the employer or national company. If those tactics do not resolve the issue, then the Ombudsman office can take the employer to court.

According to the Ombudsman, the main issues being dealt with by the office are not so much problems of workers retaining their jobs if they develop disabling conditions because protection against dismissal is very strong in Sweden.[66] Rather, the big problem for people with disabilities is "finding [their] way into the regular labour market, because there are so many things that hold [them] back."[67] These impediments include the generosity and easy availability of disability pensions, employers' demands for people with high levels of education, problems with accessibility (e.g., barriers to use of public transport), societal attitudes, and so forth. In short, the issue for people with disabilities in Sweden is one of *initial access* to the labour market and competing incentives and disincentives.

As Sweden is expanding its civil rights protections, the office anticipates a proportionate increase in responsibilities. For example, new civil rights legislation concerning higher education was introduced on March 1, 2002 in the Equal Treatment of Students at Universities Act.

In addition to its legal functions, the office also serves as a 'bully pulpit' to push for stronger civil rights, for example, by issuing reports on how Sweden compares to other countries on various issues. In this way, it serves as a kind of catalyst to further the disability rights agenda.

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[66] The employer must have a very good reason to dismiss a worker who develops an impairment or disabling condition and if not, is expected to find another job for the worker if s/he can no longer perform the functions of the old job or to make other types of accommodations. In short, the onus is on the employer to make every effort to retain the worker.

[67] Hans von Axelson, Administrative Director, Office of the Disability Ombudsman; personal interview held at the Office of the Ombudsman on November 16, 2001.

3.3. Current Issues

3.3.1. Renewed Growth in Sickness and Disability Caseloads

As noted previously, the drop in the numbers of sickness and disability beneficiaries, which occurred in the mid-1990s, was not sustained (see Table 4 above). The rise in sickness absenteeism appears to be particularly acute in the northern part of Sweden, where there are indications that benefits are serving as a more lucrative substitute for unemployment insurance.

In an effort to identify the causes of this trend and to develop new policy measures, the government appointed a special Health Insurance Commission, chaired by Jan Rydh. In an interview granted for this study, he explained that the current increase is particularly puzzling since, "there are no new diseases and no changes as far as the public's general health is concerned."[68] Instead, from the data, the Commission has identified two patterns which point to poor working conditions as a likely cause. First, the Commission's research shows that most of the growth in the rolls is from women workers in public sector jobs. Rydh explained:

> It is in the public offices, local authorities, cities, municipalities, regional offices in the health care system, and the child care system where you have a lot of women employed, [and these are] producing the highest use of sick leave. Ten years ago, it wasn't the case, then it was the private sector that produced greater use of sick leave by women. However, there have been very substantial reductions in resources to this very important area [public sector jobs]. This [increase in sickness absence] is particularly true of women aged 50 and older – they're really tired, their bodies hurt, their backs hurt, but if they could have better working facilities, I'm quite sure that they could stay in work longer.[69]

This problem has also been recognized by the RFV, which stresses the need for improvements in many of the typical female workplaces in order to convert them into good modern work environments.[70]

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[68] Jan Rydh, Chairman, Health Insurance Commission, Government Department of Health and Work; personal interview held on November 13, 2001.

[69] Jan Rydh, interview as cited.

[70] RFV (2000: 46, 48–49).

Second, the Commission found that most of the problem emanates from a small number of employers. "Seventy-five percent are good employers and account for levels [of sick leave] below the average. However, among the other 25 percent of employers, the worst of them account for more than 50 percent of all the sickness absence."[71] Given this skewed pattern, the Commission is considering an increase in employer liability from the current 14 days to 60 days of sickness absence. Since two-thirds of all sickness benefit claims are for less than 60 days, this would provide major administrative and financial relief to the social insurance system and would leave it free to concentrate on the longer, more complicated cases. In addition, those employers who send fewer workers on to sickness absence would wind up paying less, so the Commission believes that ultimately it might force the employers with poor working conditions to make improvements.

As for the danger that this reform could lead to discrimination against workers with chronic health problems, Rydh holds that the shortage of qualified workers in Sweden will discourage this; and he points out that if employers laid off such workers, their contributions to the unemployment program would be increased. Finally, Rydh believes that the trade unions are "guilty of an understandable double standard" because they support better working conditions but they do not want too much of a burden on the employers. He says the unions warn that "the employers will react by selecting people, so don't push them too hard."[72] Rydh concedes that it is a valid, serious argument, but he feels that it is already happening with older workers. "More than 100,000 people in Sweden have been on sick leave for more than one year. More than 50,000 are on early retirement due to sickness. That means that 10–15 percent of the population who could have been at work based on their age are selected out of work due to the system today."[73]

[71] Jan Rydh, interview as cited.

[72] Jan Rydh, interview as cited.

[73] Jan Rydh, interview as cited.

3.3.2. The Role of Government

While Sweden is a model country in providing generous benefits for persons with disabilities, the government itself has so far done little in the way of affirmative action in hiring. Whether public employees or disability client organizations, all those interviewed for this study agreed that this is the case. The National Social Security Board officials struggled to think if there was one person they knew who worked there who had a visible disability. The one bright spot seems to be the Ombudsman's office where there are a few individuals with visible disabilities and where an effort is being made to hire more.[74]

The government has also so far not yet enacted civil rights legislation ensuring disabled people of access to public buildings, the public communication system, or the public transportation system. For many people with disabilities, this is a major obstacle to employment. Several of those interviewed for this study characterized these problems:

> They changed the trains just two years ago, but they are not accessible for wheelchair users. The trains are totally modern but the gap between the platform and the train is so wide that it makes it impossible for wheelchair users to board the trains without help.[75]
>
> I once had a guide dog who fell between [the platform and the train]… As a blind person, how could I lift her up and not strangle her, and all the while I was afraid that the train would start up again. Thankfully, someone came and rescued her, but it shouldn't be like that, there was at least half a meter's space.[76]
>
> In America, you have to buy your own wheelchair, but then you can go anywhere. In Sweden, the government buys you the wheelchair, but then you can't go anywhere![77]

[74] The direction of that office says part of the problem is that it is hard to find qualified individuals with disabilities who have higher levels of education. This would seem to indicate that Sweden has problems concerning access to institutions of higher learning and indeed, Hans von Axelson mentioned a state inquiry on that subject (see footnote 67).

[75] Christina Welander, World Blind Union; personal interview held on November 14, 2001.

[76] Kicki Nordström, interview as cited.

[77] Hans von Axelson, interview as cited.

There are some important new initiatives on the horizon, however. The Parliament has decided that all public authorities including buildings, information, etc. must be made accessible to people with disabilities. The authorities have to report by 2004 what they have done to achieve this goal and, depending on which authority, most have until 2010 to complete the process. So, the Swedish government seems to be aware of the crucial importance of accessibility for people with disabilities and committed to an agenda that moves forward toward concrete measures to improve it.

4. The United Kingdom

4.1. Introduction: A Multidimensional Reform

Since coming to power in May 1997, the British Labour Government has pursued policies for persons with disabilities that are in keeping with its *welfare to work philosophy*, namely "work for those that can, security for those that cannot." The reform has been labeled the New Deal for Disabled People (NDDP).[78] It was motivated in part by earlier household surveys showing that up to one million people with serious health problems would like to return to work if they were given the right assistance. Thus, it is predicated on removing the traps and barriers that discourage people on disability benefits from seeking employment.

Two unique characteristics of the UK should be noted at the beginning. First, of the three Western European countries examined in this study, only the United Kingdom has an 'all or nothing' disability benefit system: that is, only a *total* disability pension but not any type of a *partial* benefit scheme. The inflexibility of such a system makes it problematic for people who cannot work full time and who may become discouraged from looking for work because of difficulties with covering a wide range of costs. In this context, reforms aimed at encouraging work are all the more challenging.

[78] The NDDP is for individuals on disability benefits and thus excludes those who are classified as capable of work and eligible for the Job Seekers Allowance. However, it is part of a broader New Deal program based on this philosophy, which covers other groups as well, such as young people and single parents.

A second noteworthy feature of the British reform is that it was devised in close consultation with disabled persons who had indicated an interest in employment. As will be shown, it reflects their perceptions of the programmatic supports, financial incentives, and new civil rights needed to ensure higher levels of employment among disabled people. These protections are embodied in legislation as well as in a variety of new programs and mechanisms to carry it out.[79]

The following section provides background on the situation that led policy makers to try to resolve the disability problem with this multidimensional approach.

4.1.1. Demography and Labour Market Characteristics

Between 1979 and 1997, the number of people of working age who claimed benefits because of long-term health problems or disability trebled to over 2.5 million, and expenditures on sickness and disability benefits quadrupled to GBP 24 billion.[80] In 1997, benefits for ill health/disability accounted for one-quarter of all UK social security spending and grew at an annual rate of six percent, faster than spending in any other area.[81] Moreover, in a pattern similar to that of Sweden, the growth in the disability benefit rolls is being strongly affected by the demographic pressures of an aging population. To be sure, the British situation is not as acute as the Swedish one but nevertheless, the number of elderly in the population is already significant and is expected to grow quite rapidly, especially between 2015 and 2030. For example, the percentage of the population over age 65 that was 15.7 in 2000 is expected to grow to 18.4 percent by 2015 and to 23.5 percent by 2030.

In addition, growth in the number of disability beneficiaries has been exacerbated by certain features of the disability program itself that made it more financially attractive than collecting an old-age pension. Floyd and Curtis note, specifically, that of those approximately 975,000 men receiving

[79] In its March 1998 Green Paper, the government articulated its three-point strategy to introduce "comprehensive and enforceable civil rights."

[80] Floyd and Curtis (2001: 18).

[81] Kuptsch and Zeitzer (2001: 205–230).

the disability benefit in 1991, "over 200,000 over the age of 65 opted to take advantage of the possibility to receive the disability benefit for up to five years after reaching retirement age, instead of an old-age pension because the disability pension was not taxable."[82]

4.1.2. Disability Programs within the Social Security System

The British benefit system has evolved over the years into four basic tiers. The first is *compensatory benefits*, provided to individuals who become sick or disabled as a result of 'serving the nation' whether in the military or simply in an ordinary occupational capacity (industrial disablement pensions). They are tax-free and not means-tested, although some are taken into account when assessing income for means-tested benefits.

The second level consists of *earnings replacement benefits* that provide income to individuals who are unable to work, either short-term or long-term, as a result of sickness or disability. Originally tax-free, they are now mostly taxable. There are four types of earnings replacement benefits: (1) Statutory Sick Pay; (2) Incapacity Benefit, or IB (originally called the Invalidity Benefit, or IVB); (3) Severe Disablement Allowance (being phased out); and (4) Invalid Care Allowance.

The third tier is *means-tested benefits* that are paid as special premiums to low-income disabled adults and children. Individuals who qualify for social assistance, called Income Support, may receive these additional payments, depending on the severity and duration of their disability.

The last tier of benefits, called *extra cost benefits*, provides compensation for the costs associated with a disability. The main benefit, called the Disability Living Allowance, is paid to people who are severely disabled and who, as a result, have personal care needs, mobility needs, or both. In addition, there is a Disabled Student's Allowance that provides extra funds for students in higher education. Recipients are free to spend the money according to their own needs and priorities.

Thus, the British approach represents a type of 'cafeteria plan' providing an array of benefits geared to a variety of needs, such as mobility or personal

[82] Floyd and Curtis (2001: 20).

attendant care. Often payment levels are linked to the degree of extra expenses that the condition entails. This gives the system flexibility and creates the ability to provide differential treatment for those with higher cost needs, a situation that is highly unusual in most 'all or nothing' disability benefit systems. However, it must be noted that critics see this differentiation as potentially confusing to claimants and beneficiaries.

4.2. Policy Challenges and Reforms

4.2.1. Reforms Prior to 1997

For 45 years after it was enacted, the Disabled Persons Employment Act of 1944 constituted the main legal basis for British employment policy *vis-à-vis* the disabled.[83] There were two main aspects to this law:

- a quota system requiring that the workforce of all non-governmental organizations with 20 or more employees include a minimum number of registered disabled people. Initially this quota was two percent but was raised to three percent soon after the law was implemented; and
- provision of employment in sheltered workshops for those deemed unlikely to obtain 'open' employment, i.e., employment in the open market.[84]

Beyond this, this Act placed little emphasis on rehabilitation, training, and job placement for people with disabilities.

In fact, typically only people on Job Seekers Allowance (JSA), or unemployment benefit, received such support. Attempting to use this Allowance was quite risky for persons with disabilities. Floyd and Curtis explain the dilemma:

[83] However, there were other laws that came into force during this time period concerning disability benefit policy. For example, in 1970, The Chronically Sick and Disabled Person's Act had a major impact in social welfare provision for disabled people; and there were new laws that decade concerning education for people with learning disabilities.

[84] In 1990, there were about 14,000 disabled people working in these sheltered workshops, which were run mainly by the quasi-governmental organization *Remploy*. See Floyd and Curtis (2000: 304).

> … disabled people seeking rehabilitation, training, and placement had to come off IB and start claiming JSA. This not only meant a lower level of benefit, but the risk of not being able to go back to claiming IB if attempts at rehabilitation were unsuccessful.[85]

Over the years, numerous studies showed that once on disability benefits, almost no one ever returned to work.[86] The problem of long duration on benefits was particularly acute among older men (aged 55–69), where disability applicants were significantly related to unemployment rates. However, even when unemployment fell in the latter part of the 1980s, the invalidity benefit (IVB) trend continued upward. The standard explanation was that, once on IVB for a few years, the claimant lost all contact with the labour market, his skills may have become obsolete, he lost confidence in his abilities, he became less attractive to employers, and so forth. Added to these negative aspects of returning to work was the fact that the IVB, plus the allowance supplement, was 50 percent greater than the basic unemployment benefit.

The Conservative government made extensive changes to both the short-term and the long-term disability benefits to tighten eligibility and thus achieve savings in benefit payments. The main ones involved:

- eliminating the authority of General Practitioners to find claimants eligible for IVB and instead charging doctors employed by the Benefit Agency's Medical Service with this task; and
- introducing an 'All Work Test' to determine a claimant's functional capacity. On this questionnaire, each level of incapacity was assigned a certain number of points, with the sum total determining if the individual was incapable of work.

The stated rationale for these changes was to reduce the number of people on IVB and ensure that only those who were genuinely incapable of work received benefits.[87]

[85] Floyd and Curtis (2001: 16).

[86] Lonsdale and Aylward (1996: 102–104).

[87] Floyd and Curtis (2000: 303).

In 1987, a highly critical report by the National Audit Office stressed the need for further change. This report prompted new government proposals in 1990, which aimed at moving away from workshop-based programs of assessment and rehabilitation by closing down most of the various types of centers that engaged in sheltered work. They also provided for contracting out the actual provision of rehabilitation services to voluntary and other non-governmental organizations.

Thus, by the time the Labour Government took power in 1997, its predecessor had made extensive efforts to tighten eligibility for disability pensions, as well as to narrow the scope of sheltered employment.

4.2.2. The New Deal for Disabled People

The Labour Government's New Deal for Disabled People (NDDP) is part of a larger employment initiative for specific social groups, including not only persons with disabilities, but youth, unemployed people, and single parents. It is being administered by a newly formed Department for Work and Pensions (DWP), which replaces the former Department of Social Security and the Department of Education and Employment (now called the Department for Education and Skills).[88] The impact of this reorganization is that for the first time, Work and Social Security are in the same Department, potentially a very significant change. In its provisions for persons with disabilities, the New Deal builds on previous pilot projects that were aimed at helping people on IB to return to work. It is entirely voluntary for beneficiaries and is open to those who are on Incapacity Benefits (IB), Severe Disablement Allowance (SDA), or Income Support and who want to try some paid work while retaining the benefit(s).[89] Its experimental and research-oriented character is reflected in its diverse elements, described below.

4.2.2.1. Job Brokers

A central part of the new effort to help the various target groups find work involves the use of *Job Brokers*. So-called 'customers' of the DWP in England,

[88] The new Department was established on June 8, 2001.

[89] The program is also open to those who are ineligible for Incapacity Benefit but receiving National Insurance Credits toward an old age pension for the period they are ill.

Scotland, and Wales have access to a network of seventy-five Job Brokers who are drawn from the private, public, and voluntary sectors.[90] The aim is to give the customers a choice by having at least two Job Brokers in every area. Brokers help their customers understand the implications of moving into work by providing them with calculations of the work benefit and tax credit (to be discussed later), so that they know what the financial impact of work will be. They also help them understand the local labour market and how to compete in it; they work with employers to help match actual vacancies to the skills that their customers have; and they promote the advantages of employing disabled workers.

The previous NDDP pilot projects provided a great deal of information that was used in designing the Job Broker's role. For example, the pilots found that many customers needed considerable support over a long period of time to find and retain work. Therefore, once customers register with a Job Broker, there is no fixed limit to the time during which the Broker will work with them. Instead, the Job Broker and the customer decide together how much time will be required based on the customer's needs and their plan for how they will be met. Job Brokers are also required to support all customers during their first six months of employment to help them make the transition, and the funding arrangements for the program allow for this.[91] Payment to Job Brokers is entirely based on outcomes, with half paid at the time of the customer's entry into a job and the other half after six months of sustained employment.

4.2.2.2. Gateway Interviews

Entry into the New Deal programs involves a mandatory *Gateway Interview* with an adviser. The adviser is supposed to have a broad initial discussion with the customer of how best to proceed in pursuing employment. If a suitable job is available and the adviser feels that the customer is ready for work, the

[90] Customer is the term preferred by the DWP for claimants on types of benefits that qualify them for this program.

[91] Funding for NDDP Job Brokers is budgeted at £120 million over the three years to 2004.

advisor might suggest that the person apply right away. In the alternative, the advisor would encourage the customer to register with the Job Broker in his/her area.

4.2.2.3. Permitted Work

So-called *Permitted Work* is an option available to those receiving Incapacity Benefits, Severe Disablement Allowance, Income Support, or National Insurance Credits[92] because of an illness or disability. This new option allows a disabled person to try some paid work without the need for prior approval from a doctor, as was previously required. The disabled beneficiary must inform the DWP office that pays his/her benefit before starting work. He/she is then permitted to work for up to 16 hours a week, on average, with earnings up to £66 a week for a 26-week period.[93] The period can be extended for another 26 weeks if a person is working with a Job Broker, Personal Adviser, or Disability Employment Adviser who agrees that the extension will help promote work of more than 16 hours a week. Thus, Permitted Work can extend for up to one year. There is no limit to the number of times someone can do *Permitted Work* during the currency of a claim, but there must be a gap of 52 weeks between periods. Any subsequent periods can also last for up to 52 weeks and a Job Broker, Personal Adviser or Disability Employment Adviser must support the work from the outset.

Permitted Work does not affect the amount of the IB or SDA benefit. However, if the disabled person is also receiving Income Support, Housing Benefit or Council Tax Benefit (a local benefit that provides additional financial help), the amount of those means-tested benefits might be affected.[94]

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[92] These credits toward pension eligibility are provided to some people who are sick or disabled but do not receive a cash benefit.

[93] The same earnings rules of £66 apply to *Supported Work*, which is work done as part of a hospital treatment program or in the community with ongoing support or supervision from a caseworker (employed or engaged by a public body or voluntary organization, including work done in a sheltered workshop).

[94] Department for Work and Pensions (DWP) website, "New permitted work rules for people receiving incapacity benefits": http://www.dwp.gov.uk/lifeevent/benefits/pwr.htm.

4.2.2.4. Access to Work Program

This program helps to cover the costs of overcoming disability-related obstacles to work. Operated through the Employment Service, it provides advice and information, as well as a grant towards meeting disability-related costs of employment. These may include a support worker (for example, a reader for blind individuals); special equipment; adaptation of the work premises; help with travel to or from work or within the worksite; or a sign language interpreter for a job interview. Typically the employer arranges to buy the support needed and then can claim back the grant from the *Access to Work* program. The grant is also available to self-employed individuals.

The program usually pays a percentage of the total approved cost, depending on how long the person has been in employment, what support is needed, and so forth.[95] Partial support is not paid if the cost is less than £300; is paid at 80 percent if the cost is between £3,000 and £10,000; and is paid at 100 percent for costs over £10,000. However, *Access to Work* pays 100 percent of certain costs, including the approved costs of help from support workers; costs of getting to and from a work site; and communicator support at interviews.

All help is for a maximum period of three years, after which the Employment Service reviews the circumstances.[96]

4.2.2.5. Workstep

Introduced on April 1, 2001, *Workstep* replaced the former Supported Employment Program. According to its promotional literature, its mission is to provide "job support to over 22,000 people with disabilities who face complex barriers to getting or keeping a job but who can work effectively with the right support." The idea is to provide work in a supportive environment and, wherever possible, to move the person toward mainstream employment. In essence, then, *Workstep* is a variation on sheltered work that sometimes leads to mainstream employment.

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[95] For unemployed people starting a job, all self-employed, and those working for an employer who have been on the job for less than six weeks, the program pays 100 percent of the approved costs.

[96] Employment Service, Access to Work Program, *Jobcentre Plus* website; www.jobcentreplus.gov.uk.

The Employment Service manages the program and contracts with some 200 local authorities, voluntary organizations, and Remploy Ltd. (the largest supported employment provider) to provide the positions.[97] The employees may work in a range of different types of organizations, including small outlets, national companies, and the public sector. Some are employed in supported factories and businesses run directly by the program.

The impetus for the Workstep program dates back to a 1990 consultative document, which proposed that in the long term, "employment in sheltered factories should be confined to those who cannot be supported properly under sheltered placement arrangements and that eventually the bulk of the provision would be provided through these placements."[98] However, this 'rebalancing', as it was termed, did not occur nearly to the degree that advocates of open employment for people with disabilities had hoped. Writing over a decade later (2001), Floyd and Curtis noted:

> The 1990 Consultative Document also acknowledged that progress within and from sheltered employment was at that time very limited, stating that in 1988–1989 only 93 Remploy employees (from a workforce of over 8,000) moved to open employment. The situation is still much the same today.[99]

The new *Workstep* program is supposed to try to address this problem by earmarking an additional £37.2 million over three years (to the previous £161 million spent on the former Supported Employment Program) to permit

[97] As noted previously, Remploy Ltd. is a public corporation operating as a commercial company which provides training development and employment opportunities for people with disabilities.

[98] Floyd and Curtis (2001: 17). In sheltered factories or sheltered workshops, the majority of workers are people with disabilities, although supervisory and/or management level jobs are often performed by non-disabled personnel. A sheltered placement is typically in open employment where certain jobs are 'set aside' to be performed by people with disabilities but where the majority of the employees are not disabled. The latter is considered an improvement over the former but still falls short of true open employment where people with disabilities are hired and promoted in the same jobs as non-disabled people.

[99] Floyd and Curtis (2001: 17).

organizations delivering the program to modernize and to offer a flexible package of support to employees and employers. About one-quarter of the funds will be used to secure additional *Workstep* places. The hope is that supported employment situations will increasingly be used as a way to provide vocational rehabilitation and training that will enable people to move into open employment, rather than becoming subject to permanent placements.

4.2.2.6. The Job Retention and Rehabilitation Pilot

As one of the most significant initiatives of the New Deal, this pilot project helps people in the early stages of illness or disability, while they are still in their jobs and before they claim IB. The government's motivation is spurred by statistics showing that every week, nearly 3,000 people move from Statutory Sick Pay to Incapacity Benefit (normally after 28 weeks). About 80 percent of those who do so do not work again within five years. Therefore, in the 2000 Budget, the government announced its intention to probe the effectiveness of *helping people at work* when they become ill.[100] The pilot will test the efficacy of early work-focused interventions for employed or self-employed people who are at risk of losing their employment due to ill health or disability, and who have been away from work for at least six weeks. It will run in ten geographic areas across the United Kingdom and, using voluntary participants, will test three different types of intervention strategies that provide extra help, either through the workplace, through the healthcare system, or by a combination of these two. The assignment to one of the three intervention strategies will be random and will include possible placement in a control group that will not receive extra help from service providers. The National Center for Social Research has been engaged to carry out an evaluation of the whole project.[101]

[100] £12 million has been set aside to fund it.

[101] Department of Work and Pensions (DWP) website, "Annex D – Strategy for increasing employment rates for disabled people": http://www.dwp.gov.uk/publications/dwp/2001/nsnr/annex_d.htm.

4.2.2.7. Disabled Person's Tax Credit

One of the main barriers to seeking employment by people with disabilities is the possibility that they will become worse off financially after leaving the system of benefits. One source of help is the *Disabled Person's Tax Credit* (DPTC), available to people who are working at least 16 hours a week and who have an illness or disability that disadvantages them in getting a job.[102] To qualify, they must have savings of £16,000 or less. Perhaps more importantly, it can help those who become disabled while working to keep their job.

The tax credit replaced the previous Disability Working Allowance in October 1999, providing a more generous income threshold for people who meet the above-mentioned requirements. It is also significant that the disabled worker does not have to wait until the end of the tax year to receive the credit, since employers apply it as a supplement to wages. The amount of the credit varies depending on the number of hours worked and the severity of the disability.

A new fast-track to DPTC was introduced in October 2000 to help people who have been sick for 20 weeks or more but who can do some work to remain in their jobs. If someone who meets this category is currently receiving an Incapacity Benefit or was receiving one in the last 26 weeks before the application, he or she is automatically eligible for the tax credit. In addition, anyone receiving any of a number of other disability-related benefits such as Disability Living Allowance, Severe Disablement Allowance, or Attendance Allowance is also automatically eligible.[103]

4.3. Civil Rights-Based Support

In addition to the programs and benefits of the New Deal, people with disabilities enjoy significant civil rights protections in the UK. These result from an extended effort that dates back to the late 1970s and then to the work of the

[102] See Department for Work and Pensions (DWP) website, "Disabled Person's Tax Credit": http://www.dwp.gov.uk/gbi/5a58486.htm

[103] In addition to the Disabled Person's Tax Credit itself, workers with disabilities who have children may also be entitled to childcare tax credits to help with the cost of child-care.

Committee on Restrictions against Disabled People, established in 1979. In 1982, this Committee published a report recommending, "…legislation that would make discrimination on the grounds of disability illegal."[104] During the next 15 years, various Members of Parliament introduced Private Members Bills but, as is typical, none of these gained approval. Proposals were modeled on the Americans with Disabilities Act (ADA), following its enactment in 1990. In May 1994, the mounting pressure became so great that the Conservative government announced it would bring forth proposals that eventually became the Disability Discrimination Act (DDA) of 1995.[105]

4.3.1. The Disability Discrimination Act of 1995

The provisions of this Act that deal with employment make it unlawful for an employer of 15 or more people (originally 20 or more) to discriminate against a disabled person for reasons related to the disability without justification.[106] This protection extends to the employer's original consideration of whether to offer the person a job, as well as to his/her treatment of the person once employed, including decisions about whether to retain or dismiss the person at any time. The Act also defines discrimination as treating a disabled employee less favorably than others for a reason that relates to the disability, unless the employer can show that the treatment is justified. It also provides that it is discriminatory for an employer to fail to make *reasonable adjustments* to working arrangements, unless that failure is justified. As with the American ADA, the concept of reasonable adjustment is not absolute, but rather subject to considerations of cost and benefit, scale, disruptions to the workforce, and so on, but is nevertheless applicable to all aspects of employment such as recruitment, promotion, termination, and so forth. Such adjustments might include alterations to premises or equipment, rearrangement of duties, changes in working hours or place of work, provision of readers or support workers, etc.

[104] Floyd and Curtis (2001: 18).
[105] Floyd and Curtis (2001: 18).
[106] Floyd and Curtis (2001: 19).

The Labour Government has announced a significant expansion of the DDA for October 2004.[107] According to this, the current exemption of employers with 15 or fewer employees will end; and the Act will be extended to cover the following additional occupations: business partners, prison officers, police officers, fire-fighters, barristers, local councilors, and employment on board aircraft or ships. According to the Government, "as a result a further seven million jobs, of which around 600,000 are held by disabled people, will be covered by the Act." This extension means that all employers, with the exception of the armed forces, will come under the DDA by 2004.

4.3.2. The Disability Rights Commission

An independent Disability Rights Commission was established in the UK in April 2000. It has an advisory and educative role and seeks to influence public opinion and promote good practice by working with employers and service providers.[108] Although it aims to achieve societal change through advice and conciliation as much as possible, the Commission also has enforcement powers, including the authority to require information; serve non-discrimination notices and require the filing of action plans to address discrimination; file injunctions against persistent discrimination; enter into agreements with parties; and issue Codes of Practice.[109] The authority to go to court is particularly significant in giving the Commission clout. The Commission consists of 15 members, including the Chairman, appointed by the Secretary of State. Nine of them in addition to the Chair, Bert Massie, have disabilities. They represent a wide range of interests and expertise within the disability community and the wider society. The DRC has about 150 employees and offices in London, Manchester, Edinburgh, and Cardiff.

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[107] Department of Work and Pensions (DWP) website, "Annex D – Strategy for increasing employment rates for disabled people": http://www.dwp.gov.uk/publications/dwp/2001/nsnr/annex_d.htm.

[108] It originally received an £11 million grant-in-aid per year. As a result of being given new duties in relation to the Special Education Needs and Disability Act, the grant amount was increased to £13.5 million.

[109] The Secretary of State has the power to accept or reject a DRC Code of Practice but he does not have the power to change it.

One of the DRC's key roles is to advise the government on how the DDA and the Disability Rights Commission Act are working. To assess this, it can undertake formal investigations into how disabled people are treated in particular organizations or sectors and into unlawful acts by particular organizations. It can also carry out research to inform discussion and policy-making and to ascertain how well the law affecting the rights of disabled people is working. It provides direct consultation on these issues to Cabinet Offices.[110]

The DRC also works with disability rights organization, employers, and service providers. With the former as its partners, it has launched major public education campaigns called *Actions Speak Louder than Words* and *Educating for Equality.* It has also recently launched a new Code of Practice covering Part III of the DDA concerning Rights of Access to Goods, Facilities, Services, and Premises. This Code gives specificity to the existing law and explains how service providers must remove or alter any physical barriers to access for disabled people by October 2004.

In sum, the DRC functions both as a barometer measuring how well the government and society are achieving full civil rights for disabled people, as well as an enforcer and 'bully pulpit' in addressing identified shortcomings. The Commission is proactive: instead of waiting to be invited by the government to become involved in various issues, it considers that it is both its right and obligation to weigh in on policies that affect the lives of people with disabilities.

4.3.3. Public Education and Awareness Campaigns

The Government is also attempting to change the public understanding of the barriers disabled people face in society and to raise their awareness of the requirements of the Disability Discrimination Act. In June 1999, it launched

[110] For example, in November 2001, it responded to the Cabinet Office Consultation on Transport and Social Exclusion with remarks on 36 questions dealing with all modes of transport and how lack of access can lead to social exclusion and unsafe conditions. The DRC's response repeatedly urges a cohesive approach in which "the design and operation of accessible public transport is treated as a chain where all the links are compatible." The remarks were quite critical of efforts to date on numerous areas. Concerning the Underground rail system the report says: "No real efforts have been made to address the inaccessibility of the tube until very recently and even then, new inaccessible stations have been opened."

a campaign called *See the Person* which included advertisements on TV, radio, and the press, as well as posters, articles, and press conferences. All these messages included a telephone number for detailed information and advice. A second phase entitled *What Have You Got to Offer?* was launched in October 2000. It was a poster campaign specifically aimed at small and medium sized firms providing goods and services to the public. It explained the simple changes that can make services accessible to disabled people.[111]

4.4. The Government as a Model Employer

As in the Netherlands and Sweden, there was a consensus among those interviewed that the government should do more to set an example as a model employer. However, it was also widely noted that the government's track record was easier to assess in the past. This is because, until passage of the Disability Discrimination Act in 1995, government departments had to comply with a quota scheme and to report the percentage of their work force that was registered as disabled.[112] The Disability Discrimination Act (DDA) abolished the quota scheme, eliminating both the targets and the reporting system.

On the positive side, the Office of Public Appointments is reportedly aggressive in insisting that disabled people should be among those appointed to various committees. As a result, the DRC receives requests on almost a daily basis for nominations for a range of committees which have nothing to do with disabled people specifically, other than as citizens.[113]

In addition, virtually all posts with the exception of the Armed Forces will be covered by the DDA in October 1994, as previously described. This will eliminate possibilities for discrimination against disabled applicants for government jobs, though it will not provide the government with a mandate to actively promote employment of the disabled.

In sum, then, it seems that the British government has moved aggressively to encourage private enterprises to hire and retain people with disabilities,

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[111] As mentioned previously, the DRC has also launched two public education campaigns.

[112] See section 4.2.1.

[113] Bert Massie, DRC chairman, personal correspondence on July 12, 2002.

but it has only been partially successful so far in achieving these goals with respect to its own employment practices.

5. Models, Lessons, and Policy Traps

A comparison of the three countries reveals some striking patterns. These relate not only possible reasons for the high rates of disability pensioners in the respective populations but also to the reforms that were adopted and the results that they have achieved to date. Based on these patterns, this section offers some general recommendations for disability pension policy design and restructuring. It is important to note at the outset, however, that these recommendations are subject to certain limitations.

One caveat is that, as stated initially, all disability schemes are influenced by cultural, historical, and economic factors, making them very much the products of the environments in which they operate. One can see these country-specific features in the three schemes studied, causing them to have higher or lower levels of wage replacement, different degrees of stringency in eligibility criteria, and varying forms of scheme management and policy making. These differences preclude a 'one-size-fits-all' prescription for disability pension reform. The recommendations are thus offered as general guidelines, to be adapted to particular environments and circumstances.

Second, as has been emphasized throughout this report, the battle against the numbers is far from won in any of the three countries studied. While the reforms being pursued in these countries may suggest strategies for other settings, there is still an element of uncertainty in most instances about which policy interventions work, which ones do not work, and why.

With these caveats, seven general policy guidelines are offered based on the country experiences:

5.1. Do Not Use Disability Pension Programs to Address Other Social Problems

It may seem obvious that disability programs should be reserved for people with disabilities of the severity called for by the law. Yet as simple as that principle sounds, the eligibility criteria of all three disability programs studied

have been bent to enable the program to address other social problems. The Dutch government's long-term struggle to rein in the disability program has its roots in using the program more than 20 years ago to relieve high unemployment. There is also evidence that the British practices of the 1980s and even later relied on the disability program to resolve unemployment problems of older male workers. More recently, the Swedish government has become concerned that individual workers, trade unions, employers, and local social security offices are engaging in implicit cooperation to use disability as early retirement.

It is understandable that governments feel the need to address high levels of unemployment and that they may at times seek to create jobs openings for younger workers by easing older workers out of the labour force. However, there are financial traps in using the disability program for these purposes. From both a cost and policy perspective, it is far better in those situations simply to extend unemployment benefits than to transform the nature of the disability program. Whatever the additional unemployment costs, they are legitimate and should be met directly, whereas shifting unemployed people to disability involves much longer term costs and confuses the purposes of the programs. All three country studies show that once the gates of the disability program are open that wide, it is very difficult to close them again.

5.2. Use Small-Scale Experimentation as a Basis for Large-Scale Policy Changes

Given the lack of clear policy prescriptions for reducing the rate of dependency on disability pensions, small scale demonstration and pilot projects are useful tools for identifying effective interventions. They can move the frontier of understanding forward by testing the relevance of approaches tried elsewhere in different economic, legal, and social contexts. Moreover, experimentation on a small scale can help to avoid major policy mistakes in reforming disability pension programs. A high level of caution against making mistakes is called for because pensions are a vital life line for most people with disabilities. For this same reason, participation in pilots and demos should be voluntary. The UK's New Deal for Disabled People provides a model for such experimentation and an indication of its potential effectiveness as a basis for devising national reforms.

5.3. Strive for a Multi-Dimensional Approach

As shown in all three countries, disability pensions are part of a complex web of government programs and benefits that interact in ways which are intricate and sometimes unexpected. Moreover, the larger communities in which people with disabilities live present them with a variety of incentives and disincentives, financial and otherwise. This complex picture must be taken into account in the redesign of disability pension systems. As shown in the country profiles, benefit rules can interact with tax policies in significant ways, as can access to transport, job protections, social services, anti-discrimination laws, and so on. This argues for a multidisciplinary approach to reform that attacks the problem on a variety of different fronts simultaneously. This broad focus can be achieved, for example, by a special government office assigned to take a holistic view of the situation and to devise proposals that take its complexity into account. The Disability Ombudsman in Sweden and the Disability Rights Commission in the UK provide useful examples.

5.4. Make Work Pay

A key challenge in restructuring disability pensions is to make work attractive and profitable. The challenge arises because of the need to provide decent levels of support for those who cannot work, while at the same time maintaining financial incentives for others with residual work capacity. The condition is particularly difficult to satisfy in countries with high levels of social solidarity reflected in generous disability benefits. Yet unless working is made more advantageous than benefit status, moral hazard will exist, preventing the attainment of maximum levels of employment. Establishing a differential between benefit levels and wages is essential to preventing moral hazard, but there are other tools and elements as well. Social services, personal assistants, subsidized and barrier-free transport, worksite accommodations, help with child care and accessible housing, and tax credits can all be brought to bear to increase the attractiveness of employment. However this is achieved, reformers must keep an eye fixed on the financial bottom line that confronts disabled pensioners: is work profitable or not? Unless this issue is confronted head on and addressed, a reform aimed at increasing employment cannot be expected to be successful.

5.5. Formulate Proposals through Social Dialogue that Includes All Affected Parties, Including People with Disabilities

Like all social policy reforms, disability pension restructuring is a difficult task which requires cooperation among a variety of affected parties, including employers, trade unions, government agencies, and people with disabilities themselves. For a reform to be successful, these stakeholders must accept, or at least not actively oppose, its implementation. To gain such acceptance, reforms need to be 'homegrown' through a process of genuine social dialogue among affected parties. In this way, the reform is shaped and progressively refined to reflect the views of those with a vested interest in its outcome, and the costs and benefits are distributed in a manner that is regarded as equitable by participants.

Social dialogue of this sort will be successful just to the extent of its inclusiveness. Employers must be fully engaged, as must trade unionists, government agencies, and people with disabilities themselves. As the profiles show, this latter condition is not always achieved today in the three countries studied. The failure is rooted in part in concerns that, as direct beneficiaries of the policies at issue, the disabled would use their leverage at the bargaining table to oppose all changes that they perceive as damaging. Yet people with disabilities also have the greatest knowledge of the barriers they face and how best to encourage rehabilitation and work. The UK experience shows that, under the right circumstances, this knowledge can be put to use very effectively in the design of reforms. Thus, the inclusion of people with disabilities in the reform process is not just a matter of fairness; it is also an important determinant of success.

5.6. Maintain a Rigorous Eligibility Determination Process that Relies on Objective Medical Evidence

The experience of the Netherlands illustrates the problems which can arise when eligibility for disability pensions is determined without documented medical evidence. Lacking medical reports, tests, or laboratory findings at the time of the disability examination, social insurance physicians rely on what the claimant tells them about their symptoms and work abilities. This creates space for subjectivity in the adjudication process, causes variability

among decision-makers, and poses a risk that standards will drift toward increasing laxness. On the other hand, a requirement for rigorous medical documentation of impairments discourages frivolous claims and contributes to greater uniformity in decision making. Such objective evidence of signs, symptoms, and medical tests should provide a baseline against which all claimants are assessed. Once the medical requirements are met, then measures of residual vocational and functional capacity should follow, but using the medical standards as the first threshold provides greater fairness, consistency, and reliability.[114]

5.7. Governments Must Lead by Example

In order for governments' employment promotion and job retention policies to have credibility with private sector employers, public sector entities must be model employers in hiring, accommodating, and promoting disabled individuals. In this way, private employers as well as the general public become more accustomed to seeing disabled individuals in the work force. That situation, in turn, provides opportunities to see their competency and reliability, all of which leads to breaking down societal prejudices about workers with disabilities.

In fairness, none of the experts interviewed felt that their country's public agencies were doing a very good job yet of leading by example. Yet it also appears that measures are under consideration which will improve this situation. Based on the studies, some first steps could include:

1. a preferential treatment system that helps move applicants with disabilities to the top of the list of candidates for particular posts;
2. the waiving of hiring ceilings in cases where a government agency agrees to take a worker with a disability;
3. institution of a system of tracking and reporting of the performance of government agencies in hiring and retaining workers with disabilities; and at a very minimum
4. a requirement that public funds cannot be used for construction projects unless they meet the 'design for all' standards of accessibility.

[114] Currently, growing awareness and concern over this lack of a medical basis has led the Dutch government to consider the use of some sort of medical listings as a baseline.

On the European Day of the Disabled (December 3, 2001), a Conference called "Discrimination by Design" was held to focus on this problems that affect the 37 million Europeans who have a disability. According to the report:

> Equal opportunity and access for all to the benefits of prosperity are fundamental principles of the European social model, yet disabled people continue to lack both opportunities and access to goods and services of all kinds. Far too many products, environments and services in Europe are simply not designed with the disabled user in mind and this applies almost as much to new products and services as to existing ones. This situation is clearly untenable.[115]

Such conferences seek to point the way to change, but it is up to individual governments and their social partners to set policies that are consistent and resolute if they hope to improve the employment picture for their many citizens who either have, or are likely to develop, disabilities.[116] The challenges in this undertaking are great but, as portrayed in these country profiles, so are the costs of inaction.

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[115] European Commission (2001).

[116] Moreover, their access must be assured not only in architectural design but also in information technology, web design, and flexibility to work from home.

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