

## **ASSESSMENT OF WORK ABILITY, VOCATIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES IN THE REPUBLIC OF CROATIA**

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Entitlement to invalidity pension, procedure for assessment of work ability, vocational rehabilitation and employment of persons with disabilities in the Republic of Croatia are regulated by the new laws and regulations enacted in 2014 and 2015.

### **PERMANENT INVALIDITY PENSION**

For an insured person to be entitled to invalidity pension the following **requirements** must be met:

- there is a partial or total loss of work ability
- years of qualifying period.

*The existence of partial or total loss of work ability*

There is a **partial loss of work ability** when the insured person has a reduced work ability, and given their health condition, age, qualifications and competences, vocational rehabilitation cannot make such person capable to perform other activities but they can spend at least 70 % of the working hours at adjusted work posts which correspond to their past work tasks, requiring the same or similar level of education.

There is a **total loss of work ability** when the insured person's ability for work is lost permanently without any remaining work ability.

There is a **decreased work ability with residual work ability** when the insured person, due to permanent changes to their health condition, which cannot be remedied by a medical treatment, has work ability reduced by more than a half compared to a healthy insured person of the same or similar level of education, but considering health condition, age, qualifications and competences, vocational rehabilitation can make such person capable to perform other working activities.

**Activities used to assess work ability** include all tasks suitable for person's physical and psychological abilities, which commensurate with person's past work tasks.

**Causes** of partial or total loss of work ability may be illness, accidents outside of work, accidents at work or occupational disease.

*Years of qualifying period*

If partial or complete loss of work ability occurred before the age of 65 as a result of **illness and/ or accident outside of work**, the insured person is entitled to invalidity pension if **the**

**completed qualifying period covers at least one third of their working life.**

**Working life** is calculated from the age of 20, and refers to the full number of years from the day the insured person reached 20 years of age to the day when partial or complete loss of work ability occurred. For the insured person who, after the age of 20, completes a university undergraduate programme, working life starts to be calculated upon reaching 23 years of age, and for the insured person who finished undergraduate and graduate university programme or integrated undergraduate and graduate university programmes, upon reaching 26 years of age.

Working life period is shortened by the period which the insured person spent :

- in voluntary military training or compulsory military service
- registered as unemployed person with the competent employment service.

**Exceptionally**, for the insured person with a complete loss of work ability before reaching 30 years of age, i.e., 35 years of age, the qualifying period requirement is less restrictive (completed one or two years of pension qualifying period).

If the disability of the insured person occurred as a result of accident at work or occupational disease, the insured person is entitled to invalidity pension regardless of the length of qualifying period.

## ENTITLEMENTS

The insured person is entitled to invalidity pension from the date on which partial or complete loss of work ability occurred.

## TEMPORARY INVALIDITY PENSION

**Disabled worker** whose capacity to perform other types of work was restored by vocational rehabilitation, but **has faced long-term unemployment after completing vocational rehabilitation**, is entitled to temporary invalidity pension under the following **conditions**:

- the person remains unemployed for at least 5 years after vocational rehabilitation
- the person remains unemployed until they reached 58 years of age
- the person promptly accepts a job offer, i.e., does not turn down a job offered by the body competent for employment.

Disabled worker who continued to work after vocational rehabilitation but **subsequently lost his or her job**, is entitled to temporary invalidity pension.

## WORK ABILITY ASSESSMENT PROCEDURE

On 1<sup>st</sup> January 2015, the Institute for Disability Certification, Vocational Rehabilitation and Employment of Persons with Disabilities (hereinafter referred to as: IDCVREPD) was established in accordance with the Act on Vocational Rehabilitation and Employment of Persons with Disabilities. The organizational unit within the Institute - the so-called Central Disability Certification Unit was established based on the „one stop shop“ principle in order to carry out first-instance and second-instance assessment in cases concerning entitlements in social welfare, pension insurance, health insurance, education, vocational rehabilitation and employment of persons with disabilities, protection of military and civilian war victims and in other areas ensuring certain rights based on assessment of work ability as well as functional capacity and general health condition - all assessments are carried out in one institution.

The basic legal act for assessment system - **Regulation on assessment methodology** - prescribes:

- ▶ assessment methodology to determine physical, intellectual, sensory and mental impairment, disability, functional capacity of a person, the level of aid, work ability of a person and the method of determining physical impairment, i.e., impaired bodily health, functional capacity, level of aid, work ability of a person;
- ▶ procedure of appointing authorized experts to carry out assessments for certain systems, facts to be assessed, work methods to be used by experts;
- ▶ documentation required for assessment.

The procedure of assessing work capacity is initiated by the competent primary healthcare physician (hereinafter referred to as: competent physician) when the physician deems that the health condition of the insured person has stabilized, and that any further treatment and medical rehabilitation will not help restore work ability, thus resulting in reduced work capacity.

The competent physician submits an application for assessment to the Croatian Pension Insurance Institute (the competent body deciding on the entitlements based on the assessment carried out) which then sends the application for assessment to the first-instance assessment body within IDCVREPD. The assessment procured may have three possible outcomes:

### 1) **Work ability is not decreased**

In such a case, the insured person (unsatisfied with the assessment outcome) can appeal to the second-instance body within IDCVREPD.

### 2) **Decreased work ability with residual work ability** - the insured person is referred for assessment to the vocational rehabilitation centre.

### 3) **Partial or total loss of work ability** - all such assessment findings are subject to **mandatory** review to be carried out by the Ministry of Labour and Pension System (hereinafter referred to as: MLPS) in the Independent Sector for Review and Supervision of Medical Expertise. If experts-reviewers from the Independent Sector

for Review with the MLPS establish that the findings and opinions provided by the experts from IDCVREPD should be modified, the experts from IDCVREPD are obliged to provide new findings and opinions in line with the opinion of the experts-reviewers.

Based on the findings and opinions provided by IDCVREPD, and following a review of Independent Sector for Review from the MLPS, final findings of assessment are submitted to the Croatian Pension Insurance Institute and the insured person, in accordance with relevant regulations, is entitled to invalidity pension, that is, vocational rehabilitation.

The insured person and beneficiary of invalidity pension who has an established decreased work ability with residual work ability, partial or total loss of work ability is subject to **mandatory control medical examination** to be carried out (by IDCVREPD experts) within a period of 3 years from the day on which the decreased work ability with residual work ability, partial or total loss of work ability were established.

The beneficiary of invalidity pension, obtained on grounds of total loss of work ability, who finds employment, ceases to receive pension payment and is subject to compulsory follow-up medical examination. Where it is established that the health condition of an insured person has improved to the extent that there no longer exists total or partial loss of work capacity, the insured person is no longer entitled to invalidity pension.

## **VOCATIONAL REHABILITATION AND EMPLOYMENT OF PERSONS WITH DISABILITIES**

Up until 1990, the Republic of Croatia implemented good practice of employing persons with disabilities, and had a good system of vocational rehabilitation. However, the period from 1990 and later on was beset with a whole range of events such as war, privatization of state-owned companies, and introduction of a new market economy, when industrial production was to a large extent shut down and unemployment increased. As a result, vocational rehabilitation was pushed aside, thus failing to keep up with modern-day achievements and developments.

Recognizing the problems that arose and taking into account a whole set of international documents related to persons with disabilities, the government of the Republic of Croatia established, in 2000, a Committee for Persons with Disabilities and adopted a National Strategy for the Unique Policy for the Disabled Persons. In 2002, the Act on Vocational Rehabilitation and Employment of Persons with Disabilities was adopted and in line therewith, the Fund for Professional Rehabilitation and Employment of Persons with Disabilities was established. In 2005, incentives began to be paid to employers that employed persons with disabilities. Given the fact that there were a number of gaps in the Act on Vocational Rehabilitation and Employment of Persons with Disabilities, as well as insufficiently developed models of vocational rehabilitation and criteria and standards for implementation of vocational rehabilitation, the said vocational rehabilitation was only partially implemented or not implemented at all.

For the purpose of adopting new regulations, since 2009, a whole range of projects was implemented, the most important of which was the project done in cooperation with BBRZ organisation Berufliches Bildungs und Rehabilitationszentrum (from the Republic of Austria) called „Vocational rehabilitation as a method of integration of persons with disabilities into the labour market”. The project dealt with a development of a unique model of vocational rehabilitation for the Republic of Croatia, as well as with methods for expert assessment of persons with disabilities.

During 2013, 2014 and 2015, new regulations were adopted, providing a systematic solution to the issue of persons with disabilities as regards vocational rehabilitation and employment, and giving *priority to all forms of vocational rehabilitation over retirement or social welfare benefits*.

The relevant solutions introduced by new regulations are as follows:

- a definition of a person with disability was adopted in accordance with the UN Convention on the Rights of Persons with Disabilities,
- vocational rehabilitation is to be carried out in line with the Quality Standards in Services of Vocational Rehabilitation ensuring the same methods are used throughout the Republic of Croatia and for all categories of persons with disabilities,
- possible methods of employment and work of persons with disabilities are defined, a quota system is introduced requiring employers to employ persons with disabilities and possible options are given on how to comply with such an obligation,
- a register of employed persons with disabilities is introduced,
- vocational rehabilitation centres, integrative and sheltered workshops are defined,
- allowances and incentives for employment of persons with disabilities are redefined,
- the Institute for Disability Certification, Vocational Rehabilitation and Employment of Persons with Disabilities (hereinafter referred to as: IDCVREPD) is to be established and scope of its work is to be determined.

### **An overview of the most relevant regulations governing this area:**

***The Ordinance on the Content and Method of Keeping the Records of Employed Persons with Disabilities*** defines who is deemed a person with disability.

The introduction of a “Register of employed persons with disabilities” marks great step forward from current practice and for the first time in the Republic of Croatia it will be possible to determine how many persons with disabilities are employed. Namely, to date, the Croatian Pension Insurance Institute has kept records of only certain categories of persons with disabilities (disabled workers, disabled person - years of qualifying period with reduced service years for retirement, war veterans), whereas in accordance with the Ordinance all categories of disability will be registered. Registration of persons with disabilities who were employed at the time of adoption of the Ordinance began on 1 May 2014.

***The Ordinance on Setting Quotas for Employment of Persons with Disabilities*** prescribes an obligation for all employers having a minimum of 20 employees to employ persons with disability. The quota system covers employees with an employment contract for a minimum of 20 hours per week. The quota is determined depending on the business activities of the

employer and is set at the rate of 3%. Quota obligation for employers began on 1 January 2015.

The Ordinance sets out *three possible ways* of meeting the quota requirement:

1) **an employer hires a person with disability,**

2) **quota obligation is met in an alternative manner:**

▶ by concluding one or several business cooperation agreements with a sheltered or integrative workshop, with a company, cooperative or association in which persons with disability account for more than half of employees;

▶ by concluding one or several business cooperation agreements with a self-employed person;

▶ by providing apprenticeship to students with developmental difficulties or students with disability;

▶ by providing apprenticeship for workers as part of their vocational rehabilitation;

▶ by concluding one or several agreements with students with disabilities;

▶ by providing vocational training without entering into an employment relationship for persons with disabilities or providing one or more scholarships for persons with disabilities for regular education.

3) **when an employer subject to quota system fails to employ a person with disability,** the employer is required to pay 30 % of minimum wage in the Republic of Croatia for each person with disability the employer was required to employ.

Employers who are not subject to quota system or employers that employ more persons with disability than it is prescribed by quota system are entitled to incentives for exceeding this employment quota, in the amount of 15 % of minimum wage per month for every employee with disability who is in excess of the prescribed quota. Only private sector can be entitled to such incentives. In accordance with the Regulation, IDCVREPD is the body responsible for supervision of quotas.

***Ordinance on Sheltered Workshops and Integrative Workshops for Employment of Persons with Disabilities*** defines what a sheltered workshop is, what is considered as sheltered employment, what is an integrative workshop, the manner of and requirements for their establishment. Professional supervision is carried out by ZOSI.

The term ***integrative workshop*** appears for the first time in the legislation in the Republic of Croatia. In line with the new regulations, employment both in sheltered workshop and in integrative workshop is possible only if findings and opinion of the expert team from the vocational rehabilitation centre are provided, and in this manner the legislator placed an emphasis on employment on the open labour market and introduced a control on employment under special conditions. Persons may be employed in sheltered or integrative workshops only when really necessary, bearing in mind that sheltered workshops are designed in such a manner so that a person with more complex disabilities can work there, who at the same time

requires a higher level of support and adjustment. When it comes to the right to employment in integrative *conditions*, we are talking about persons with significant disabilities, but with a lower level of necessary support and adjustment, whose condition is deemed to be permanent or lasting for a certain time period after which the person may find employment on the open labour market.

*The Ordinance on Vocational Rehabilitation and Vocational Rehabilitation Centers for Persons with Disabilities* prescribes how the rehabilitation is to be carried out, the content and standards of such vocational rehabilitation, as well as requirements necessary to establish and operate centers for vocational rehabilitation.

**Centers for vocational rehabilitation (hereinafter referred to as: CVR)** are designed as a backbone of development in this area, and as a support both for persons with disability and employers. CVRs are authorized to carry out a whole range of services of vocational rehabilitation, which are to be carried out with persons with disabilities of all disability categories and for all systems requesting such services, but also for other vulnerable and disadvantaged groups on the labour market. Services of vocational rehabilitation are to be carried out in line with the *Quality Standards of Vocational Rehabilitation*, thus ensuring equal work methods throughout the Republic of Croatia. For the process of assessment of physical and mental conditions of subjects, CVRs are piloting the use of International Classification of Diseases and International Classification of Functioning, Disability and Health (until such time as a systematic training of experts has been carried out). Professional supervision of the services provided is carried out by ZOSI.

Pursuant to the ordinance, CVR is required to apply the following principles: interdisciplinary approach, individual approach, respect for person's privacy, impartiality in assessment and evaluation procedures, ensuring evaluation control, adjustment of the process to the level of understanding and cost-effectiveness of the process.

The National Strategy of Equalization of Opportunities for Persons with Disabilities from the year 2007 until the year 2015 envisaged the establishment of **four regional centers** for vocational rehabilitation (Zagreb, Osijek, Rijeka Split). All the four envisaged centers have been established. However, three of them have started with their activities whereas CVR Split is expected to do so soon.

Once all the four envisaged CVRs start with their activities, the establishment of new CVRs or their branch offices or ensuring field teams for remote areas will be considered.

Training of disabled workers in order to preserve their remaining work and general capacity is carried out through the process of vocational rehabilitation:

- 1) **retraining** - training/education for jobs different from those previously performed by the insured person or
- 2) **additional training** - additional training for previously performed jobs - in line with the remaining work capacity.

## FINANCING OF VOCATIONAL REHABILITATION:

The client that covers vocational rehabilitation service costs, disability benefit, possible accommodation, meals and travel expenses.

A client can be:

- Croatian Pension Insurance Institute,
- Croatian Employment Service,
- Croatian Health Insurance Fund,
- Social welfare system
- Insurance companies,
- Employers,
- Local and regional governments,
- Private client,
- the Institute for Disability Certification, Vocational Rehabilitation and Employment of Persons with disabilities (IDCVREPD)

In practice, by far the most common client is the Croatian Pension Insurance Institute and the Croatian Employment Service.

### **Vocational rehabilitation service standards comprise the following services:**

1. Rehabilitation assessment of the level of work capacity, knowledge, working habits and professional interests,
2. Aid in overcoming various difficulties which enable the participation in further vocational rehabilitation services,
3. Possible development plan,
4. Specific workplace and work environment analysis
5. Professional support and monitoring during education and training or in-service training activities with shorter educational programme,
6. Professional support and monitoring at the specific workplace and in work environment,
7. Strengthening of work potential and professional competences - Work Centre,
8. Strengthening of work potential and professional competences - Virtual Workshop,
9. Development of workplace and work environment adjustment plan, and necessary adjustments to the equipment and means of work,
10. Assessment of work efficiency.

*Ordinance on incentives for employment of persons with disabilities* prescribes the type, amount, terms and ways of obtaining incentives for employment of persons with disabilities. The new regulations adopted in 2015 have made a big step forward in comparison to the current practice and most of incentives depend on the assessment of a CVR expert team. Incentives are in line with the Commission Regulation (EU) no. 1407/2013; 651/2014 and thus distinguish the entitlement to incentives for employers on the open labor market, incentives for employers of integrative workshops and incentives for employers of protective workshops.



**Employers on the open labor market** can obtain the following incentives:

- 1) subsidized salaries of a person with disability,
- 2) co-financing the costs of education of a person with disability,
- 3) co-financing of workplace adjustment costs for a person with disability,
- 4) co-financing of working conditions adjustment costs for a person with disability,
- 5) co-financing of interest on loans for the procurement of machines, equipment, tools and kits required for the employment of a person with disability,
- 6) co-financing of professional support costs,
- 7) funds for innovative employment programs for people with disabilities.

**Employers of integrative workshops** can obtain the following incentives:

- 1) subsidized salaries of a person with disability,
- 2) co-financing the costs of education of a person with disability,
- 3) co-financing of working conditions adjustment costs for a person with disability,
- 4) co-financing of interest on loans for the procurement of machines, equipment, tools and kits required for the employment of a person with disability,
- 5) special funds for the development of new technologies and business processes aimed at the recruitment and retention of employment in sheltered and integrative workshops.

**Employers of sheltered workshops** can obtain the following incentives:

- 1) subsidized salaries of a person with disability,
- 2) co-financing of interest on loans for the procurement of machines, equipment, tools and kits required for the employment of a person with disability,
- 3) special funds for the development of new technologies and business processes aimed at the recruitment and retention of employment in protective and integrative workshops.

*The new legal framework related to vocational rehabilitation, work and employment is in line with modern European processes and recognizes Western standards on the position of people with disabilities. Given the fact that its implementation is rather new, its effects are still unknown. The new approach in this area is a strategic option and requires a longer period of introduction. However, it is already evident that **various institutions need to be more closely connected** and all the existing resources need to be used, which means a stronger connection of the systems dealing with medical rehabilitation, systems dealing with social rehabilitation and systems dealing with vocational rehabilitation in order for the undertaken measures and activities to be more successful and cost-effective.*