



RESEARCH ARTICLE

## Employment of Disabled Persons with Multiple Sclerosis in the Republic of Slovenia

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### Abstract

Education, active involvement in the workforce, and securing employment opportunities are essential pillars for individuals with disabilities to attain autonomy and self-sufficiency. However, due to lower education levels and inherent limitations, they often face barriers in securing and maintaining employment. Enhancing their employability through various training programs and raising awareness among employers about workplace accommodations is essential. Slovenian legislation facilitates this but excludes individuals without recognized disability status from disability rights. This study aims to explore the disability status of individuals diagnosed with multiple sclerosis (MS) under relevant legislation. It examines Slovenian disability legislation, protection, and recognition of disability for those with MS through legislation analysis and a survey of 85 adult MS Association of Slovenia members. Findings reveal disparities in rights based on the legal basis of disability status acquisition. Those under the Vocational Rehabilitation and Employment of Persons with Disabilities Act (ZZRZI) lack disability benefits. Consolidating relevant legislation into a unified statute for disability recognition and establishing a single MS registry is proposed. Survey results indicate an 85% disability recognition rate, with 14% full-time employees, 21.2% part-time employees, 9.4% job seekers registered with the Employment Service of Slovenia (ZRSZ), and 1.2% students among respondents. No prior research exists on MS-related employment in Slovenia, suggesting the need for future studies to monitor employment's impact on health status changes, sickness absence, workplace adjustments, employment opportunities, and suitable work environments for individuals with MS.

### Keywords

Rights, Persons With Disabilities, Multiple Sclerosis, Retirement, Working Time

## INTRODUCTION

In legal theory disability is defined as a permanent or more enduring, congenital or acquired physical or mental impairment in the functioning of the human body that cannot be remedied by medical treatment or medical rehabilitation; it results in total or partial inability to pursue education, work or independent living (Strban, 2012).

The Slovenian legislation predominantly uses the terms disabled persons or persons with disabilities (Murgel, 2020). Among the most important statutes, we should mention the Personal

Assistance Act (ZOA), which in Article 1 defines a person entitled to personal assistance as an individual with long-term physical, mental, intellectual or sensory impairments which, in combination with various obstacles, may limit him or her from participating fully and effectively in society on an equal basis with others in all areas of life, with equal opportunities, greater independence, activity and equal inclusion in society, in accordance with the provisions of the Convention on the Rights of Persons with Disabilities.

Social Inclusion of Disabled Persons Act (ZSVI) regulates the rights and the procedure for acquiring the status of a person with disabilities, whereby persons with disabilities are defined in

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Article 1 as persons with permanent congenital or acquired impairments who, as a result of their disability, are unable to integrate socially in the community without the provision of social inclusion services and are unable to independently perform most or all of the necessities of life and to provide for their own subsistence, the right to financial benefits and the opportunities provided by the state for their equal integration into society.

Article 3 of the ZZRZI defines a person with a disability as a person who acquires such a status under ZZRZI or under other regulation, and a person who has been determined by a decision of a competent authority to have permanent consequences of a physical or mental impairment or a disease, and who is therefore substantially disadvantaged in his/her chances of obtaining or maintaining employment, or of advancing in the workplace.

The term "worker with a disability", as used hereinafter, refers to an insured person who has been diagnosed as having a disability under the Pension and Disability Insurance Act (ZPIZ-2) and who has acquired any of the rights under the disability insurance. It is therefore important to understand that those who have a recognized category of a disability but have not been granted any disability insurance rights are not workers with disabilities (Murgel, 2020).

According to Article 63 of the ZPIZ-2, a disability is established if, due to changes in the state of health which cannot be remedied by treatment or medical rehabilitation measures and are established in accordance with this Act, the insured person's ability to secure or maintain a job or to advance in his/her profession is impaired.

## EMPLOYMENT OF PERSONS WITH DISABILITIES

Persons with disabilities are one of the most vulnerable groups on the labour market and for this reason are more difficult to employ (Murgel, 2020).

### **Prohibition of Discrimination**

At this stage, it is worth mentioning the general principle of non-discrimination set out in Article 6 of the Employment Relations Act (ZDR-1). According to this principle, an employer must ensure equal treatment of a jobseeker (applicant) in the recruitment process or of a worker during the employment relationship and in connection with the termination of the employment contract,

irrespective of nationality, racial or ethnic origin, national and social origin, sex, skin colour, health, disability, religion or belief, age, sexual orientation, marital status, trade union membership, financial situation or other personal circumstances in accordance with this Act, the regulations on the implementation of the principle of equal treatment and the regulations on equal opportunities for women and men. The employer must ensure equal treatment with regard to the personal circumstances referred to above, in particular with regard to recruitment, promotion, training, education, retraining, wages and other employment benefits, absences from work, working conditions, working time and termination of the employment contract. Direct and indirect discrimination on the grounds of any of the personal circumstances listed is prohibited. Direct discrimination exists if, due to a particular personal circumstance, a person has been, is being or is likely to be treated less favourably than another person in the same or similar situations. Indirect discrimination on grounds of personal circumstances exists where a person with a particular personal circumstance has been, is or could be placed in a less favourable position than other persons in the same or similar situations and conditions as a result of an apparently neutral regulation, criterion or practice, unless that regulation, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Direct or indirect discrimination includes instructions to discriminate against persons on the basis of any personal circumstance. Differential treatment based on any of the above personal circumstances does not constitute discrimination only if, by reason of the nature of the work or of the circumstances in which the work is carried out, a particular personal circumstance constitutes an essential and determining condition of the work and such a requirement is proportionate and justified by a legitimate objective.

The provision cited (ZDR-1) implements Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, which prohibits discrimination on grounds of disability.

The prohibition of discrimination in the employment of persons with disabilities is also specifically provided for, for example, in ZZRZI.

Young persons with disabilities should be supported in their transition to the labour market

while they are still attending school. The legal basis for this is the Article 52 of the Constitution of the RS, which provides that persons with disabilities are guaranteed protection and training for work in accordance with the law, and in particular children with physical and mental disabilities and other severely disabled persons. The education and training for disabled persons and physically or mentally handicapped children and other severely disabled persons shall be financed from public funds.

In the Slovenian legal context, the Resolution on the National Programme for Youth 2013-2022 promotes the adoption of measures for the employment of young people with disabilities. In fact, among the objectives of greater social inclusion of young people with fewer opportunities, it was pointed out that special attention should be paid to the victims of social exclusion, among whom people with disabilities are explicitly mentioned.

Members of the European Parliament approved the European Parliament resolution on a post-2020 European Disability Strategy (2019/2975(RSP)), which sets out the priorities for a new post-2020 disability strategy, building on the European Disability Strategy 2010-2020.

In March 2021, the European Commission adopted a strategy on the rights of persons with disabilities for the period 2021-2030 that include a recommendation that persons with disabilities should be given equal access to employment.

#### ***Persons with Disabilities in the Work Process***

Slovenian legislation regulates the work situation of persons with disabilities in different ways. Roughly speaking, persons with disabilities are divided into those who are capable of being trained to live and work independently (their situation is regulated by ZZRZI) and those who are permanently unable to do so (their situation is regulated ZSVI) (Murgel, 2020).

Persons with disabilities can be employed in different manners: in an ordinary working environment, in social enterprises employing persons with disabilities and in supported and sheltered employment in jobs compatible with their abilities.

Employers with at least 20 workers are obliged to employ a certain proportion of persons with disabilities. Persons with disabilities and employers may be granted various financial benefits, provided by law, to enable persons with

disabilities to be included in employment on an equal basis.

The Decree establishing the employment quota for persons with disabilities sets out, among other things, the share of workers with disabilities in the total number of workers working for each employer (the quota), proof of compliance with the quota, the calculation and payment of commitments and incentives for employing persons with disabilities, and the de minimis aid to employers for employing persons with disabilities.

The quota is set according to Article 3 of the aforementioned Decree, according to different activities, according to the areas covered by the Standard Classification of Activities Decree. The following quotas are set:

#### ***2% quota for:***

- G) trade; maintenance and repair of motor vehicles,
- I) catering,
- J) information and communication activities,
- K) financial and insurance activities,
- M) professional, scientific and technical activities,
- O) activities of public administration and defence; activities of compulsory social security,
- R) cultural, amusement and recreation activities,
- S) other activities,

#### ***3 % quota for:***

- F) construction,
- H) transport and storage,
- L) real estate activities,
- P) education, 6 % quota for:
  - A) agriculture and hunting, forestry, fisheries,
  - B) mining,
  - C) manufacturing,
  - D) electricity, gas and steam supply,
  - E) water supply; sewage and waste management; environmental remediation,
  - N) other miscellaneous business activities; and
  - Q) health and social welfare.

The quota may be reduced by one percentage point for employer subject to its obligation if he or she employs fewer than 50 persons but may not be less than two percentage points.

An employer subject to the quota may fulfil its obligation in one of two ways, either by employing the prescribed number of persons with disabilities as prescribed by law, or by paying a contribution to encourage the employment of persons with disabilities equal to 70% of the minimum wage for each person with disabilities he or she would have to employ to meet the quota.

If the employer does not meet the quota by employing disabled persons, he or she may reduce the obligation to pay the contribution to encourage the employment of persons with disabilities, in whole or in part, on the basis of a business cooperation agreement concluded with a social enterprise employing persons with disabilities or an employment centre as a substitute for meeting the quota. A business cooperation agreement concluded and fulfilled with such of a social enterprise or an employment centre in a calendar year shall be deemed to be a substitute for meeting the quota.

The employer may also operate as such of a social enterprise. The conditions of operation and the status are laid down in ZZRZI.

The state provides various incentives for the employment of persons with disabilities. The following financial incentives may be granted under the ZZRZI for the more equal integration of persons with disabilities into employment:

Wage subsidies for persons with disabilities,

Payment of the costs of adapting workplaces and means of work for persons with disabilities,

Payment of the costs of services in supported employment,

Exemption from pension and disability insurance contributions for employed persons with disabilities,

Bonuses for exceeding the quota,

Annual awards to employers for good practice in the field of employment of persons with disabilities, and

Other incentives in the field of employment of persons with disabilities and job retention for persons with disabilities, and other development incentives.

It should be noted that employers are not obliged to publish a job vacancy for a person with a disability.

### ***Labour Law Protection***

Persons with disabilities enjoy special protection under labour law. Article 116 of the ZDR-1 provides that an employer may terminate the employment contract of a disabled person on the grounds of inability to perform work under the terms of the employment contract on the grounds of disability and on business grounds in the cases and under the conditions laid down in regulations, governing pension and disability insurance, or in the regulations, governing vocational rehabilitation and employment of disabled persons.

Disability as such cannot be a reason for termination of an employment contract. The employer must first offer him or her a new contract for another suitable job (Belopavlovič et al., 2016). Article 40 ZZRZI provides that an employer may terminate an employment contract of a disabled person (who does not have the status of a worker with a disability) for a business reason or because he or she is unable to perform work under the terms of the employment contract due to the disability, if at the same time he or she offers the person a new employment contract for an indefinite period of time in another job, which corresponds to the person with a disability's professional education, training and capacity for work in accordance with this Act or the regulations governing pension and disability insurance, or, on the basis of an agreement with another employer, ensures that the other employer offers him or her an employment contract of indefinite duration in a suitable job with him or her. If the person with a disability accepts the offer of his employer (the employer may also conclude an agreement with another employer to ensure that the latter concludes a contract of indefinite duration with the person with a disability in an appropriate job), he or she must conclude a new contract of employment within 30 days of receipt of the written offer. If the person with a disability accepts the employer's offer of indefinite employment in another suitable job, he or she has no right to severance pay but retains the right to challenge the validity of the grounds of termination before a competent court.

If the person with a disability does not accept the employer's offer of a new contract of indefinite duration in another suitable job within 30 days of receipt of the written offer, he or she shall not be entitled to severance pay.

If the person with a disability accepts the offer of another employer of indefinite employment in suitable work with that employer, the employer shall not be obliged to pay him a severance payment if the other employer undertakes in the employment contract to take into account the length of service of the worker with both employers in respect of the minimum notice period and the entitlement to severance pay.

In the case of workers with disabilities (the term is subject to the provisions of Article 101 of the ZPIZ-1, a worker who has been granted rights on the basis of established disability of category II or III by a final decision and who has an



employment contract for an indefinite period of time in the territory of Slovenia must be offered by the employer to perform other work in a job in accordance with his/her remaining working capacity and professional education or training, or to be provided with vocational rehabilitation or with part-time work, except in cases where the employer may terminate his/her employment contract in accordance with the retirement legislation and the regulations on labour relations.

If a worker has been granted the right to vocational rehabilitation on the basis of a category II disability by a final decision, the employer must terminate the employment contract on grounds of disability only after the successful completion of the vocational rehabilitation, and at the same time as the termination of the employment contract, the employer must offer the worker a new contract of employment for a different job, in accordance with the vocational rehabilitation contract and the employment relationship rules. The provisions of an otherwise valid employment contract shall not be enforced during the insured person's vocational rehabilitation in so far as they are regulated by the vocational rehabilitation contract.

A worker who has been granted, by a final decision, the right to part-time work or the right to transfer to another post on the grounds of a category III disability or a category II disability after the age of 50 years shall have his employment contract terminated by his employer on a regular basis on the grounds of disability and, at the same time as the employment contract is terminated, shall be offered a new contract of employment for less than full-time work or for work in another post, in accordance with the regulations on employment relations.

When providing rights and employment to insured persons who have incurred a disability or when choosing another work post, the employer must take into account:

The opinion of the disability commission on the insured person's remaining working capacity,

The insured person's qualifications after successful completion of vocational rehabilitation; and he provisions of the law governing employment relations and collective agreements.

It should be noted, however, that the above protection applies only to cases of proven business reasons or incapacity to work under the terms of the employment contract on grounds of disability. An employer may terminate the employment of a

person with a disability under exceptional circumstances justifying dismissal, regular dismissal for just cause, or due to incapacity, on the condition that these grounds are unrelated to the disability. Additionally, termination is permissible if the employee fails to achieve the expected work results due to the disability or in cases where proceedings for the employer's liquidation have commenced (Weber, 2020).

Similarly, an employer will be able to terminate the employment contract of a person with a disability who fails to sign a rehabilitation contract within the time limit, fails to start or complete rehabilitation within the time limit, fails to fulfil the obligations under the rehabilitation contract, or fails to take up a job offered by the employer in a different position or with part-time work according to the decision on disability (Weber, 2020).

## INCAPACITY FOR WORK AND ACQUIRING THE STATUS OF PERSON WITH A DISABILITY

The Article 9(1) of the Labour Market Regulation Act (ZUTD) specifies that individuals between the ages of 15 and 65 who are not completely incapable of work under ZPIZ-2 or deemed unemployable under ZZRZI are considered unemployed.

### **ZZRZ-1**

ZZRZI regulates the employment opportunities of persons with disabilities and other persons who have acquired the status of a person with a disability under other regulations, as well as the rights of persons over 15 years of age who are registered as unemployed with the ZRSZ and who do not have the status of a person with a disability, but who have a reduced chance of being employed or of retaining employment because they suffer from permanent consequences as a result of a physical or mental impairment or illness.

The status of a disabled person under ZZRZI may be acquired by a person who:

Has not acquired the status of a disabled person under other legislation or has not been recognised by a decision of a competent authority as having permanent consequences as a result of a physical or mental impairment or illness and is therefore significantly less likely to be employed or to remain employed,

Is registered as unemployed with the ZRSZ,

Has turned 15 or who is not older than the lowest retirement age referred to in the regulations on pension and disability insurance; and

Meets the criteria laid down by ZZRZI.

Exceptionally, a person who is employed may also acquire the status of a person with a disability under this ZZRZI if he/she fulfils certain conditions (conditions listed in the first, third and fourth indent of the first paragraph Article 10 of the ZZRI).

In order to obtain such a status under ZZRZI, the following must be established:

The permanent consequences of a physical or mental impairment or illness,

Difficulties in activities which affect his or her employability; and

Impediments to integration into the working environment as defined by the International Classification of Functioning, Disability and Health.

Rules on criteria and procedure to acquire the status of a person with disability and the right to vocational rehabilitation and to assess employment opportunities of persons with disabilities and on activities of rehabilitation commissions specify in more detail the content of the criteria and procedure for obtaining the status of a disabled person under ZZRZI, for recognising the right to vocational rehabilitation and for assessing the employment opportunities of persons with disabilities, and regulate the work of rehabilitation commissions.

### **ZPIZ-2**

According to Article 65 of the ZPIZ-2 the causes of disability are:

work-related injury;

Occupational disease;

Disease;

injury outside work.

According to Article 59 ZPIZ-2, a person is totally incapable of work if he/she has a category I disability.

Article 63 of the ZPIZ-2 distinguishes three categories of disability:

Category I is given if the insured person is no longer able to carry out organised gainful work or is unable to carry out his/her occupation and no longer has any residual capacity for work;

Category II is established if the insured person's capacity to work in his/her occupation is reduced by 50 per cent or more;

Category III is given if the insured person is no longer able to work full-time but is able to carry out certain work on a part-time basis, at least four

hours a day, or if the insured person's capacity to work in his/her occupation is reduced by less than 50 per cent, or if the insured person is still able to work in his/her occupation on a full-time basis but is unable to work in the job in which he/she is employed.

According to Article 63(3) of the ZPIZ-2 the occupation is defined as work in the job in which the insured person works and all work corresponding to the insured person's physical and mental capacities, for which he or she has the appropriate professional education, additional training and work experience required for certain jobs, in accordance with statutes or collective agreements.

Article 64 of the ZPIZ-2 provides that residual capacity to work for disability categories II and III is given in the following cases:

If the insured person is able to work full-time and with a work effort which does not aggravate his/her disability, in another job corresponding to his/her professional education or training,

If the vocational rehabilitation enables the insured person to be trained for other full-time work in another job,

If the vocational rehabilitation enables the insured person to be trained for another job for at least four hours a day,

If the insured person is able to work for at least four hours a day.

## **DISABILITY RIGHTS**

In this section, we only deal with the rights of people with disabilities linked to the employment relationship.

### ***Right to Disability Pension***

The conditions for entitlement to disability pension are laid down in Article 41 of the ZPIZ-2.

The right to receive disability pension is acquired by:

An insured person who has incurred a category I disability;

An insured person who has incurred a category II disability and is unable to engage in other full-time work without vocational rehabilitation, which is not provided because he is over 55 years of age;

An insured person who has acquired a category II disability and is unable to engage in other part-time work of at least four hours a day

without vocational rehabilitation, but is not entitled to it, because he is over 50 years of age;

An insured person who has incurred a category II or III disability and is not provided with suitable employment because he has reached the age of 65.

Article 42 of the ZPIZ-2 defines that if the disability is the result of an occupational injury or disease, the right to disability pension is acquired irrespective of the length of the pension qualifying period, but if the disability is the result of an injury outside work or a disease, the right to disability pension is acquired on condition that, at the time of the disability, the insured person has completed a pension qualifying period covering at least one-third of the period from the attainment of the age of 20 years until the onset of the disability, counting the years of work as full years.

Article 43(1) of the ZPIZ-2 defines that an insured person who has incurred category I disability before the age of 21 is entitled to disability pension if he or she was compulsorily insured at the time of the disability or if he or she has completed at least three months of insurance period.

Article 43(2) of the ZPIZ-2 provides that an insured person who has acquired category I disability after the age of 21 but before the age of 30 acquires the right to disability pension on condition that he has completed, before the onset of the disability, a pension qualifying period covering at least one quarter of the years of work.

The general conditions for the entitlement to rights on the grounds of disability are laid down in Article 69 ZPIZ-2. This Article provides that, where not otherwise provided for in ZPIZ-2, an insured person shall acquire rights on the basis of disability of categories II and III if, at the time of the occurrence of the disability, he or she has not yet attained the age of 65 years and:

- is covered by compulsory insurance - irrespective of the length of the pension qualifying period;

- is not compulsorily insured – if he/she fulfils the conditions of insurance or pension qualifying period laid down in this Act for entitlement to disability pension.

### ***Right to Occupational Rehabilitation***

According to Article 70 of the ZPIZ-2 occupational rehabilitation is an integrated process in which an insured person is professionally, physically and psychosocially trained for another

occupation or another job so that he or she can obtain appropriate employment and re-integrate into a work environment or is trained to perform the same occupation or job by adjusting his or her position with appropriate technical aids.

Article 72 of the ZPIZ-2 sets out that an insured person is entitled to occupational rehabilitation:

- who has incurred a category II disability but has not yet reached the age of 55 on the date the disability occurred and who, in the light of his/her remaining working capacity, can be trained for other full-time work.

- who has incurred a category II disability and has not attained the age of 50 years on the date the disability occurred and who, in the light of his/her residual capacity for work, can be trained for other work which he/she will be able to perform on a part-time basis, at least four hours a day.

According to Article 75 of the ZPIZ-2 occupational rehabilitation is carried out in accordance with the insured person's remaining work capacity as:

- short-term training and education;
- practical work in a suitable job with an employer or in other forms of occupational training;
- through in-service training with the consent of the insured person, who will be trained for other full-time work;
- education at appropriate schools and other forms of education.

### ***Right To Reassignment***

The right to reassignment is vested in the insured person:

After completion of occupational rehabilitation, if the insured person is able to work in another full-time job, and for which he/she has received training in the framework of occupational rehabilitation,

With remaining work capacity, who has acquired category II disability after reaching the age of 55 years;

Article 81(1) of the ZPIZ-2 provides that with category III disability if the insured person's capacity to work in his/her occupation is reduced by less than 50 % or if the insured person is still able to work full-time in his/her occupation but is unable to work in the job in which he/she is employed.

An insured person who has an employment relationship in Slovenia shall be granted the right to

reassignment by the employer (Article 81(2) ZPIZ-2).

### **Right to Work Part-Time**

An insured person has the right to work part-time, at least four hours a day or 20 hours a week:

Who is classified as disabled under category III and is no longer able to work full-time;

Who has acquired category II disability after reaching the age of 55 and has the remaining capacity to perform the work he/she is doing or other work at least part-time;

According to Article 82 of the ZPIZ-2 having completed occupational rehabilitation, who has been trained for other work which he/she will perform on a part-time basis for at least four hours a day.

Article 83 of the ZPIZ-2 defines that a worker with a disability may be granted the right to occupational rehabilitation instead of the right to a reassignment or the right to part-time work of at least four hours a day if he or she so requests no later than the date of the hearing before the first-instance disability commission. In this case, he/she has all the rights under and in connection with occupational rehabilitation.

### **Right to A Disability Benefit (Allowance)**

Article 85(1) of the ZPIZ-2 provides that an insured person who has been granted the right to be reassigned after completion of occupational rehabilitation and an insured person who has incurred a category II disability after the age of 55 or a category III disability if the insured person's capacity to work in his/her occupation is reduced by less than 50 % or if the insured person is still able to work in his/her occupation full-time but is unable to work in the job in which he/she is employed, shall be entitled to a disability benefit (allowance), provided that:

Upon the occurrence of the disability, he or she was not employed or covered by compulsory insurance, or

His or her employment was terminated on the basis of a favourable opinion of the commission establishing grounds for termination of the employment contract or independently of his or her own will, or through no fault of his or her own, or

He or she terminated his or her employment him- or herself or through his or her own fault, or

He or she has obtained another work post.

### **Right to A Partial Benefit (Allowance)**

According to Article 86(1) of the ZPIZ-2 an insured person who has been granted the right to

work part-time, at least four hours a day or 20 hours a week, is entitled to a partial allowance.

Article 88 of the ZPIZ-2 sets out that it can also be acquired by an insured person who was not compulsorily insured at the time of the disability and by an insured person who lost his/her job or, through no fault of his/her own, terminated his/her employment or compulsory insurance at the time of or after the disability, if he/she registers with the ZRSZ within 30 days after the final decision on the disability insurance claim is made or the employment or insurance relationship is terminated.

### **Assistance and Attendance Allowance**

Article 100 of the ZPIZ-2 entitles insured persons who have entered into an employment relationship or have started to carry out an independent gainful activity as blind or partially sighted persons defined in group 2 of the definition of blindness, insured persons who become blind or partially sighted in the course of employment or self-employment, and non-sighted insured persons who are employed in a job commensurate with their working capacity, but at least half-time, provided that they are not entitled to an allowance for assistance and attendance on some other basis. Those persons shall retain the right to the allowance for assistance and attendance even after their employment has ceased if their employment has ceased through no fault of their own or if they have acquired the right to a pension. An insured person is considered to be immobile if he or she has a reduced mobility of at least 70 %.

The acquisition of this right is conditional on the person's statutory status and on an opinion of the ZRSZ disability commission, which establishes that the person in question requires the constant help and assistance of another person in order to carry out the basic necessities of life, or that he or she is a person who is entitled to this right under the law due to certain medical circumstances (Murgel, 2020; Žiher, 2015).

## **RESEARCH STUDY**

### **Description Of The Research Methodology**

This scientific article is based on a qualitative method aimed at understanding the needs of persons diagnosed with MS (Horvat Ledinek et al., 2019). The aim of the research is to discover the experiences of these persons over 18 years of age in the process of obtaining a disability status, which is why we conducted a survey with them. We used



several types of scientific research methods to provide different perspectives on the problem being studied. The descriptive method was used to define disability, the rights and legal status of people with disabilities and legal protection in Slovenia. We used a comparative method to determine whether people with the same or similar disabilities have the same rights and whether the status of disabled is recognised for persons diagnosed with MS. We summarised the findings, views and opinions of various authors in the field of disability using the compilation method. The abstraction and concretization methods were used to examine the literature and to determine whether persons with disabilities have difficulties in obtaining disability status and equal rights in relation to the same or similar disability. In conclusion, the article was formulated using the synthesis method, which was used to provide guidance to persons with MS on the exercise and realisation of their rights under existing legislation and to propose changes to the legislation on the acquisition of disability status.

#### **Disability Status Of Persons Diagnosed With MS**

MS is a chronic, autoimmune, inflammatory and demyelinating disease of the central nervous system. The aetiology of the disease is unknown, and it most commonly affects people between the ages of 20 and 40, with women more often than men. Geographical latitude, genetic factors, gender, age, race, viruses and migration all play a role in the development of the disease ([Horvat Ledinek, 2014](#)).

There are approximately 3000-3500 patients with MS in Slovenia, but there is currently no patient registry to record epidemiological data, the number of patients treated, the degree of functional impairment, and the efficacy and safety of medical treatment ([RTV SLO, 2020](#)).

With the development of medical science, the quality of life of MS patients is being prolonged, increasing the number of adult patients who are able to work. More and more patients are entering the active working population. Marija Šoštarič Podlesnik, specialist in neurology and Head of the Department of Neurology at Celje General Hospital, said: "Thanks to the availability and treatment with newer effective drugs, the disease today very often does not manifest itself in such a severe way and fewer patients develop severe impairments in the long term. We often see people who have been diagnosed for 20 years or more and can still lead an active life, function in family and social life, engage in sports." ([Maribor info, 2022](#)).

#### **Methodology**

In order to find out what the actual situation in Slovenia is, whether persons diagnosed with MS are recognised as having a disability and what rights they have, we conducted a survey with one hundred and seven such persons. The survey consisted of six questions, namely:

1. What is your EDSS score on a scale of 0 to 10?
2. What is your status (e.g., student, unemployed - jobseeker, full-time employee, part-time employee, inactive - retired)?
3. Have you applied for disability status, at what age and with which authority did you apply for disability status, and if so, under which statute?
4. How was your application dealt with, did you have problems proving your disability, did you seek legal redress?
5. What rights do you have on the basis of your disability (e.g., disability benefits, allowance for foreign assistance, attendance allowance, financial social assistance in cash, family assistant, EU Disabled Persons' Benefits Card, etc.)?
6. Please give us your opinion, feelings on your health and experience in claiming rights.

To determine the severity of MS, we asked about the degree of physical impairment, which is a good indicator of work capacity, although it is not the only determinant of work ability in persons diagnosed with MS, as it is an immune-dependent, chronic and inflammatory disease of the central nervous system, which remains incurable for the time being.

With regard to the assessment of physical impairment (TO) in patients with definite MS, expert neurologists take into account the degree of impairment according to the »Kurtzke Expanded Scale«, depending on the specific impairment of the individual patient. The basic scale in the assessment of impairment in people with MS is the Expanded Disability Status Scale (EDSS) ([Zupanc et al., 2016](#)).

**Table 1.** Professional Board of the Sector for Expertise 22. 3. 2022

EDSS	Assessment of TO
2,5	30 %
3,0–3,5	40 %
4,0–4,5	50 %
5,0	60 %
5,5	70 %
6,0	80 %
6,5	90 %
7,0 or more	100 %

At 0 - 3.5, the impairments are considered mild, from 3.5 - 6, walking is affected, from 6 onwards, walking support (cane) is needed, at 7, walking support (wheelchair) is needed, at 8, the patient is bedridden, at 9, he/she cannot use his/her arms, at 10, death due to disease (U.S. Department of Veterans Affairs, 2021).

We were interested to know whether the persons had applied for disability status, at what age and by which authority, whether they had acquired disability status and, if so, under which statute. We also wanted to know whether they had difficulties in proving their disability and if so, whether they had recourse to the courts, what experience they had in claiming their rights, what rights they have on the basis of their disability, whether they are employed and if so, whether they have any workplace limitations (e.g., part-time work).

The data were collected through a survey carried out between October-January 2022 and March 2023. 107 patients, members of the MS Association of Slovenia, answered the questionnaires. The total number of completed surveys was 85.

## RESULTS

### *Obtaining Disability Status*

Based on the data obtained, we found that thirty-seven respondents had a physical impairment (TO) of up to 40%, twelve had a TO of 50% to 70%, twenty-five had a TO of 80% to 90%, and eleven had a TO of 100%; we did not include other medical information in the survey because we wanted to find out whether persons diagnosed with MS are recognised as having the same or similar disability status and have the same rights.

#### *To 80% and over*

Among the persons with TO 80% and above, two persons are still in full-time employment and have applied for disability status, while the remaining thirty-four persons have an officially established disability. Of these, thirty are retired with a disability pension under ZPIZ, two are unemployed and two are working part-time.

#### *To from 50% to 70%*

Two persons diagnosed with MS with a TO between 50% and 70% have not applied for disability status; they are jobseekers. Five persons are retired with a disability, three are employed part-time and two are seeking employment. Two

persons have acquired disability status through ZZRZI, the others through ZPIZ-2.

#### *To up to 40%*

For persons with TO up to 40%, ten persons are in full-time employment and have not applied for disability status, thirteen persons are in part-time employment, nine persons are retired with a disability, four persons are unemployed, and one person has a student status. Of these, three persons have acquired the status of disabled person on the basis of ZZRZI. Twenty-two persons have acquired the status of disabled person under ZPIZ.

#### *Rights Due To An Established Disability*

Persons diagnosed with MS have different rights based on their established disability. The rights depend on the legal basis under which the persons claimed the disability status. If they claimed it under ZPIZ, they have a disability pension. If the person has claimed disability status under ZZRZI, they have no financial rights.

Six respondents receive financial social assistance, which is a social transfer intended to meet minimum subsistence needs and is not a right based on disability.

Persons diagnosed with MS, with a recognised impairment of at least 50%, who, at the time of the physical impairment, have completed the pension qualifying period for the right to a disability pension, irrespective of whether or not this impairment causes disability, and the condition of the predominance of insurance for a broader range of rights is met, are entitled to a disability allowance, but these persons have not received a disability allowance so far, because they were diagnosed with MS after 1.1.2013, and ZPIZ-2 did not provide for this possibility. ZPIZ-2J amendment of the law, which entered into force on 7.8.2021, amends the existing regime in such a way that insured persons may, as from the date of entry into force of this amendment of the law, acquire the right to a disability allowance for TO resulting from an illness or injury outside work.

Our survey shows that forty-six persons have an EU disability benefit card under Equalisation of Opportunities for Persons with Disabilities Act (ZIMI), while the rest have not applied or have not received an application because they do not have a decision granting disability status. Twenty respondents have a parking permit for disabled persons.

## **Employment And Work**

### **Employment and MS**

Work is an important value, reducing dependence on others and feelings of inferiority in both persons diagnosed with MS and the healthy population. Employment increases self-esteem, well-being and social interactions and reduces depression. Research shows that adults diagnosed with MS want or intend to work, but their chronic illness makes it difficult for them to achieve these goals. Fatigue, cognitive difficulties and mobility impairments are barriers to patients retaining employment (Files et al., 2015).

For persons diagnosed with MS, work not only affects social and economic aspects, but also their health and the progression of the disease. In fact, research has reported a deterioration in health as a result of work. Long-term studies are needed to monitor the impact of employment on changes in the health status of persons diagnosed with MS over the long term (Bishop & Rumrill, 2015).

In our study, ten people diagnosed with MS are employed full-time and thirteen part-time. All of these people have an EDSS of up to 3.5. There are also three part-time workers with an EDSS of 4, one with an EDSS of 6.5 and one with an EDSS of 8. There is one full-time worker with an EDSS of 6.5 and one with an EDSS of 7.

Twelve persons have not claimed disability insurance entitlements and have no recognised disability status.

### **Adjustment At Work**

For persons diagnosed with MS, the work adjustment is part-time work, as shown by the survey. Fatigue, mobility and cognitive difficulties are the main factors that prevent people with MS from remaining in full-time employment. These symptoms affect their work differently depending on the demands and adaptability of the job, the possibility for sedentary work and flexible working hours and the impact on the content of the work (MSIF, 2016).

EDSS is one of the main predictors of reduced work ability, as also confirmed by our research (Ahlin Doljak, 2020).

Persons diagnosed with MS are physically less able to perform, which poses problems in employment. The progressive course of the disease, age, physical disability, increased levels of pain and fatigue, depression, anxiety and cognitive impairment are the most significant barriers to work ability (Persechino et al., 2022).

Our research shows that employees diagnosed with MS rarely have workplace adjustments, as out of thirty-three employees, only seven respondents have workplace adjustments. Two persons have a disability status under ZZRZI and the right to occupational rehabilitation. One person has already chosen an employer for employment after rehabilitation, while the other person is still looking for a suitable employer with the help of ZRSZ, with whom he/she could undergo on-the-job training and get a job.

### **Respondents' Opinions**

Respondents who have claimed disability rights responded to the question "What is your opinion, feelings on your health and experience of claiming rights?" with the following answers:

Eleven persons stated that there is too much bureaucracy and constant proof of their medical condition to claim entitlements.

Twenty-six people said that there were no problems in claiming their rights and that the procedure under ZPIZ was carried out swiftly.

All of the disability pensioners said that the amount of the disability pension was too low, as they had retired with very little years of pensionable service.

Jobseekers are annoyed that they have to report to the ZRSZ every 6 months, even though they have not been offered or found a single job interview in all the time they have been jobseekers.

### **Conclusions**

There is no single register of persons with disabilities in Slovenia because different institutions grant disability status under different laws. There is no register in Slovenia of patients diagnosed with MS. The fragmentation of the legislation is described and illustrated is evident from the survey conducted among MS patients. If the disability commissions do not grant a person the status of a person with a disability under certain legislation, this does not mean that the person does not have a disability on the basis of the TO; it only means that he/she is not entitled to certain rights under the sectoral legislation.

The research shows that different commissions decide on the rights of persons with disabilities depending on the legal basis from which the right is derived, which is not appropriate as the work of the medical commissions is not uniform. It would be necessary to organise a single expert body, as persons with disabilities in Slovenia do not

have the same rights with the same or similar disabilities.

If the disability arises during employment and the condition of minimum pension qualifying period is met, the legal basis is ZPIZ-2.

If a person is registered as unemployed with ZRSZ and has reached the age of 15 or is not older than the minimum pension qualifying period under the pension and disability insurance regulation, the legal basis is ZZRZI.

The different legal statuses also give rise to different benefits for disabled persons. Disability benefits are not paid to disabled persons who are registered as unemployed with the ZRSZ and who have a disability status under ZZRZI. ZZRZI does not regulate minimum social security for persons who have acquired the status of a person with a disability under this law and are incapable of gainful employment.

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### Conflict of Interest

We declare that this article we wrote is not involved in any conflict of interest

### Ethics Statement

The writing of this article has gone through all ethical procedures related to the academic realm. The study protocol was approved by the Ethics Committee of ZMMS (Multiple Sclerosis Association of Slovenia) (Ethics Committee Approval: 2022/08-19), with special emphasis on informed consent vulnerability of the study population.

### Author Contributions

Study Design, NW and SAD; Data Collection, NW and SAD; Statistical Analysis, NW and SAD; Data Interpretation, SAD; Manuscript Preparation, NW and SAD; Literature Search, NW and SAD. All authors have read and agreed to the published version of the manuscript.

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## LIST OF ABBREVIATIONS AND WORDS DEFINITIONS

ZDR-1 - Employment Relationships Act

ZOA - Personal Assistance Act

ZPIZ - Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 12/92 of 13 March 1992)

ZPIZ-1 - Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 106/99 of 10 December 1999)

ZPIZ-2 - Pension and Disability Insurance Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 96/12 of 14 December 2012)

ZSVI - Social Inclusion of Disabled Persons Act

ZUTD - Labour Market Regulation Act

ZZRZI - Vocational Rehabilitation and Employment of Persons with Disabilities Act

ZIMI - Equalisation of Opportunities for Persons with Disabilities Act

Disability commission - The Pension and Disability Insurance Institute of Slovenia's expert bodies shall operate within the framework of first and second instance disability commissions

Rehabilitation commission - In the process of recognising the status of a disabled person under the Act on Occupational Rehabilitation and Employment of Disabled Persons and in the process of exercising the right to occupational rehabilitation, the Pension and Disability Insurance Institute must obtain the opinion of the Rehabilitation Commission.

Medical commission - If the insured person or the employer disagrees with the decision of the appointed physician of the Health Insurance Institute of Slovenia (ZZZS), they may lodge an appeal with the appointed physician of the ZZZS who issued the decision within 5 working days of receiving the decision. The appeal will be handled by the healthcare commission of the ZZZS

Decision on disability - Decision on disability refers to an official determination made by a competent authority regarding an individual's disability status. This decision typically involves assessing the extent of a person's impairment or incapacity and may entitle them to certain benefits, accommodations, or support services.

Final decision - Final decision refers to a legally binding determination made by a competent authority regarding the level of disability of the worker. This decision is not subject to further

appeal or review and represents the conclusive assessment of the individual's disability status. It signifies that all necessary evaluations, assessments, and administrative procedures related to determining the worker's disability category have been completed, resulting in a definitive ruling.

Social enterprise - The companies paying salaries must calculate and pay advance income tax and social security contributions from the paid incomes.