

From disabled people's right to work to the duty to work? Changes in Swiss disability policy and its implementation at the cantonal level

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1 Introduction

Disability policy in Switzerland over the last 20 years has increasingly focused on activation measures on the grounds that the incapacity to make a living due to long-term health problems has to be transformed into the ability to do paid work. For beneficiaries of a disability pension this has resulted in the shift from the right to work (in a sheltered workshop) to the duty to work in the "open" labour market. However, labour market inequalities between workers with disabilities and workers without disabilities are still considerable. The employment gap is 16% and people with disabilities are more often unemployed than people without disabilities. Workers with disabilities are more likely to be dissatisfied with their wages and working conditions than workers without disabilities. Also, people with disabilities have a higher risk of being poor than people without disabilities. Recent figures indicate that the number of new disability pensions is on the rise again, due mainly to the increase in mental illnesses (OFAS 2022). Today, the pension is still Switzerland's main disability benefit (OECD 2022) and the 2022 civil society report about Switzerland's implementation of the UN Convention on the Rights of Persons with Disabilities states that disability insurance labour market integration measures are geared mainly toward spending reduction rather than inclusion (Hess-Klein & Scheibler 2022, p. 88). In short: The promise of economic, social and political emancipation through work for people with disabilities remains to this day unfulfilled (Blattner 2021).

Policy makers are aware of the unequal access of people with disabilities to the labour market. They have attempted to solve the problem primarily through numerous revisions of Switzerland's Disability Insurance (DI) (Rosenstein 2020). DI came into force in 1960 with the will to focus on rehabilitation and labour market (re)integration of people with disabilities (Germann 2008, 2010; Bollier 2010; Canonica 2012, 2020; Porchet 2010; Probst et al. 2015). DI pensions were reserved for "insured persons for whom rehabilitation is not possible or is possible only to an insufficient extent" (Conseil fédéral 1958, p. 1177). The economic growth of the 1960s favoured this approach as people with disabilities constituted an important labour pool for the Swiss economy (Germann 2008; Canonica 2020, p. 26s). From the 1970s

onwards, successive economic crises made it increasingly difficult for disabled people to find employment in the primary labour market. This resulted in an increasing number of DI pensions being granted and disabled workers being oriented towards sheltered employment. Federal subsidies for sheltered workshops increased (Conseil fédéral 2000), while vocational rehabilitation aiming at labour market (re)integration was marginal. Through the 1990s and in the early 2000s, the number of DI pensions increased steadily, while the DI's financial situation deteriorated. As a result, several popular and parliamentary initiatives called for the Swiss government to address the insufficient access of disabled people to employment and the rapid deterioration of DI's financial situation. In response, the Federal Council (the executive branch of the Swiss government) launched the 4th revision of DI in 2004 with the explicit goal of consolidating its finances by reaffirming the priority of rehabilitation over pensions (Conseil fédéral 2001). In a generalized attempt to promote labour market participation of people with disabilities, subsequent DI revisions introduced an increasing number of activation measures, early detection and intervention tools, restrictions in the access to DI pensions and the possibility to reassess previously granted pensions (Rosenstein 2018; Bolliger et al. 2012; Streckeisen 2012). Measures aimed at making "impaired labour" less costly were introduced to foster employers' willingness to hire people with disabilities (Canonica 2020; Nadai et al. 2019; Gonon & Rotzetter 2017).

The objectives set by the legislator were in part achieved. Between 2008 and 2019, the annual number of new pensions decreased by 12.4%, existing pensions decreased by 14.7%, while the number of granted rehabilitation and reintegration measures tripled between 2007 and 2021 (OFAS 2022). The share of DI pensioners in the insured population decreased from 4.6% in 2006 to 4% at the end of 2020 (OFAS 2022). DI debt was first reduced and then stabilised (OFAS 2022). However, from the perspective of people with disabilities, the impact of DI revisions has been more ambivalent. Guggisberg and Bischof (2020) show that while more people are able to work four years after applying for DI, there has been an increase in the number of persons who have either no income from employment or a monthly income well below the poverty risk threshold after completing the DI process. The number of people depending on social assistance four years after applying for DI increased by 25% (Guggisberg & Bischof 2020, p. XXII).

Nevertheless, activation measures for persons with disabilities and persons at risk of disability have hardly been questioned by legislators and policy makers. To the contrary, our analysis of cantonal disability policies in three Swiss cantons shows that they are being expanded to DI pensioners in sheltered workshops.

Against this background, this article proposes a critical analysis of Swiss disability legislation and its implementation in the cantons of Basel-City, Ticino and Vaud. We focus on the figure of the disability pensioner to show that federal and cantonal disability policy questions the social and economic rights attached to disabled status:

- the right to be freed of the obligation to participate in the labour market
- the right to be freed of the obligation to participate in welfare-to-work programmes in exchange for disability benefits
- the right to work in a sheltered workshop (especially for young DI pensioners)

• the right to a disability pension and to supplementary benefits

We argue that the questioning of rights attached to disabled status results in a shift from the right to work (in a sheltered workshop) for disability pensioners to the duty to work in the labour market for people with disabilities, whether or not they have a disability pension. Although the Federal Law on Institutions Promoting the Integration of Disabled Persons (LIPPI) (in French: Loi fédérale sur les institutions destinées à promouvoir l'intégration des personnes invalides) provides the right to work in a sheltered workshop for DI pensioners, our analysis shows that current disability policies in the studied cantons challenge this right, replacing it by the (moral) duty for people with disabilities to integrate the primary labour market.

This shift happens in the context of the recommodification of impaired labour, mainly through the transformation of disability into ability fostered by the Federal Law on Disability Insurance following OECD recommendations (Rosenstein 2020). These policies are increasingly applied to DI pensioners in sheltered work environments for whom model paths into the labour market are designed, with or against their desire and with de facto little chance of successful integration.

Current challenges to DI pensioners' rights in Switzerland can be observed at three levels:

- The increasingly restricted access to a disability pension through redefinitions of disabled status and the (re)activation of the productive potential of people with long-lasting health problems by means of individual reintegration and professional rehabilitation measures (section 2.1);
- The reversibility of disabled status through the revision of existing DI pensions and the reintegration of DI pensioners into an activation pathway (section 2.1);
- The attempts of cantonal disability agencies and institutional actors to push DI pensioners into the labour market or into forms of employment that approximate it (section 2.2).

In the first section of this article, we provide an overview on the economic and social rights attached to DI pensions, the impact of the 2008 reform of the fiscal equalisation and task allocation between the Confederation and the cantons (NFE) and the position of organisations in defense of persons with disabilities and of institutions for persons with disabilities. In the second section, we present the framework of activation policies aimed at disabled people and persons at risk of disability in Switzerland. We place these policies in the international context, with a particular focus on the role of the OECD. In the third section, we present the ways in which these policies are implemented, using the example of the cantons of Basel-City, Ticino and Vaud. The originality of our approach lies in the fact that we concurrently analyse both activation policies derived from the Federal Law on Disability Insurance (Federal Law on DI) and collective measures stemming from LIPPI, in particular sheltered workshops.

2 Data and Method

Our analysis draws upon a study of the role of the state in the segmentation of the Swiss labour market carried out between 2018 and 2022 in the cantons of Basel-City, Ticino and Vaud. The study is based on a mixed-methods research design including (1) a documentary

analysis of relevant Swiss disability legislation (primarily the Federal Law on DI and the Federal Law on Institutions Promoting the Integration of Disabled Persons, LIPPI), its development since the 1990s (including related parliamentary debates and messages by the Federal council) and OECD documentation about disability and work; (2) six semi-structured interviews with government officials in charge of implementing disability laws; (3) five meetings and five semi-structured interviews with managers of institutions that promote the integration of disabled people as defined by LIPPI (LIPPI-institutions); (4) four semi-structured interviews with sheltered workshop managers and five semi-structured interviews with supervisors of workers with a DI pension in LIPPI-institutions; (5) 24 half-days of direct or participant observation in two LIPPI-institutions. The material was supplemented by publicly available documents from the investigated institutions. For the selection of relevant Swiss disability legislation we drew on the works of Probst et al. (2016, 2015), Rosenstein (2021, 2020, 2018), Rosenstein and Bonvin (2020) and Benelli et al. (2020).

In order to guarantee data confidentiality, the names of individuals, institutions and cantons are anonymised. We numbered interviews from 1 to 8 for readers to identify quotes made by the same interviewee.

3 The right to work and other rights attached to DI pensions

3.1 Social and economic rights attached to DI pensions

One law stands out as an exception in the trend toward the recommodification of disabled labour in Switzerland over the past 20 years. The Federal Law on Institutions Promoting the Integration of Disabled Persons of October 6, 2006 or LIPPI enshrines the right to work in a sheltered workshop for beneficiaries of a disability pension. In article 2 LIPPI obliges the cantons to provide residents with disabilities with institutions that adequately meet their needs. This includes workshops that permanently employ disabled persons "who cannot carry out any gainful activity under ordinary conditions" (art. 3 para. 1, litt. a). In Swiss legislation, "disability" refers to individuals with partial or total incapacity to earn a living as recognised by the Disability Insurance (DI) and entitling them to a disability pension (DI pension). Only beneficiaries of a DI pension are legally entitled to a workplace in LIPPI-regulated workshops.

The DI pension system shares several characteristics with the old-age pension system and beneficiaries of a DI pension are entitled to the same social security benefits as Switzerland's retired population. This includes the right to Supplementary Benefits (SB) (in French: Prestations complémentaires) to supplement disability pensions that do not cover basic living expenses (OECD 2022). SB are an important income source for DI pensioners in Switzerland as they represent 40% of their total social benefits (OECD 2022). In 2021, 50% of DI beneficiaries received SB. DI pensioners and old-age pensioners are the two only categories eligible for SB. Like social assistance (in French: aide sociale), SB are means-tested. However, they are calculated based on monthly living expenses of 1675 Swiss francs for one person, while social assistance is based on monthly living expenses of 1031 Swiss francs for one person in 2023. Also, like old-age pensioners, DI pensioners are freed of both the obligation to participate in the labour market and to participate in welfare-to-work programmes in exchange for their benefits.

3.2 LIPPI

LIPPI came into force on January 1, 2008, i.e. at a time when activation policies were in full swing and the disability rights movement had been pushing for some time for the deinstitutionalisation of people with disabilities and their inclusion into non-discriminatory work environments (Baudot, Borelle & Révillard 2013).

LIPPI is a byproduct of the financial and operational reassignment of responsibilities between the Federal government and cantonal authorities (NFE). Before 2008, all benefits and measures concerning persons with disabilities and persons at risk of disability came under DI legislation and were financed by the federal government. With the implementation of NFE, the responsibility for both providing and financing collective measures for DI pensioners – including sheltered workshops – was handed over to cantonal authorities. When associations promoting the rights of people with disabilities and of their institutions, the Swiss Federation of Unions and left-wing parties opposed the NFE on the grounds that it put at risk the funding of institutions for people with disabilities, the Federal government proposed an additional legislative framework imposing "minimum standards to be respected in all residential institutions and workshops for disabled persons." LIPPI results from this political compromise.

3.3 Organisations of people with disabilities and their institutions

The ambiguous development of disability legislation in Switzerland is reflected in the positions adopted by organisations of both people with disabilities and institutions for people with disabilities in the context of the NFE and LIPPI. In 2009, INSOS, an umbrella organisation of institutions for people with disabilities, published a position paper reaffirming the importance of sheltered workshops for an increasing number of people whose access to the labour market is restricted due to severe health problems (INSOS Schweiz 2009). INSOS Schweiz (2009) also calls for better permeability, in both directions, between sheltered workshops and the primary labour market. In this perspective, sheltered workshops play an important role in preparing people with disabilities for a possible (re)integration in the primary labour market. The call was repeated in a 2022 INSOS position paper on the status of the implementation of the Convention on the Rights of Persons with Disabilities (CRDP) by the Swiss government. However, in the 2022 paper, the term "workshop" was substituted by the term "integration firms" (in French: entreprises d'intégration) to stress the role played by institutions for people with disabilities in the transition toward employment in the labour market. Organizations representing people with disabilities and their families advocate for policies promoting labour market inclusion of people with disabilities, but warn of both the increased pressure for performance, productivity and normalization of workers with disabilities (Hauser & Tenger 2015) and worsening working conditions leading to increasing numbers of workers with mental disorders (agile 2010).

4 Switzerland's Disability Insurance and the OECD

4.1 Activation policy in DI

Residents of Switzerland and individuals who are employed in Switzerland are compulsorily enrolled in Disability Insurance (DI) whose purpose is to guarantee the means of subsistence for insured persons who have become disabled or are at risk of becoming disabled, either through in-kind benefits (special equipment, rehabilitation measures) or through financial benefits (pensions, per diem allowances). DI is at the core of the recommodification of the labour force of disabled people and persons at risk of disability (Rosenstein 2020; Probst et al.

2016; Streckeisen 2012), with activation measures as the main instruments. From the perspective of activation, disability is no longer perceived as a permanent condition, but considered to be reversible (Probst et al. 2015) through targeted intervention in the form of rehabilitation measures aimed at transforming disability into ability (Nadai & Lengwiler 2019). In addition, the reversibility of pensions was embedded in the law. With the introduction of the possibility to reassess existing pensions, a DI pension no longer protects the recipient against the obligation to engage in paid work in the labour market (Probst et al. 2015; Rosenstein and Bonvin 2020). As a general rule, recipients of a DI pension have an obligation to reduce the damage incurred and must take reasonably required measures to restore their partial or total earning capacity (Despland 2012). Pensions are reserved for persons whose earning capacity "cannot be restored, maintained or improved by reasonably required rehabilitation measures." (Art. 28, para. 1, lit. a Federal Law on DI).

In relation to the successive DI revisions, Bolliger et al. (2012) speak of a "change in culture, replacing the pension insurance model by a rehabilitation-focused insurance". This change was promoted, among others, by the Federal Social Insurance Office (see Ritler 2012, 2015), the branch of the Federal administration in charge of supervising the implementation of DI by cantons (Bolliger et al. 2012; Guggisberg et al. 2015).

4.2 OECD: transforming disability into ability

The introduction of activation policies into the Federal Law on DI must be placed in a broader context. Since the 1970s, disability policies have increasingly been developed at the international level (Ville, Fillion & Ravaud 2014, 93). Through its reports, recommendations and resolutions, the Organization for Economic Cooperation and Development (OECD) has fostered a change of paradigm in disability policy by promoting the shift from a model based on compensation (in the form of pensions in particular) to a model based on rehabilitation. Although the OECD has neither the legislative power nor the financial means to force member states to adopt specific social policies, it uses censuses and reports to encourage member states to orient their social policies in the direction desired by the OECD (Marcussen 2004).

Until the 1980s, Switzerland was hardly criticised by the OECD for its economic and social policies. The tone changed in the 1990s when the OECD (1992) began to emphasise the need for Switzerland to introduce active measures in employment policies and eliminate incentives for inactivity from its social security system in order to increase labour market participation and contain, or even decrease, social expenditures (Armingeon & Beyeler 2004). At the turn of the millennium, the OECD's call for reform became explicit. To promote employment and social security for people with disabilities, it is necessary to "transform disability into ability" (OECD 2003). "Societies need to change the way they think about disability and those affected by it. The term 'disabled' should no longer be equated with 'unable to work'. Disability should be recognised as a condition but it should be distinct from eligibility for, and receipt of, benefits, just as it should not automatically be treated as an obstacle to work." (OECD 2003, p. 11)

By breaking with the idea of an automatic link between disability and social benefits, on the one hand, and disability and exclusion from the labour market, on the other, this paradigm shift lays the groundwork for both the challenging of social rights derived from the status of disabled person and for activation policies. The OECD (2003, p. 20) thus calls for the development and strengthening of various integration and activation measures, including

accommodated work, sheltered work, supported work, subsidised work and vocational rehabilitation. With unemployment policies as a model, the emphasis is on activation, personalised early intervention, on the elimination of disincentives to work (such as unconditional cash benefits), the obligation of disabled people to contribute to their own labour market reintegration (or else face sanctions in the form of reduced cash benefits) and the involvement of employers. These recommendations were directly addressed to Switzerland in 2006 when the OECD (2006) called for a shift from the "rehabilitation before pension" principle to the "rehabilitation instead of pension" principle. OECD cited early detection, the legal obligation for all actors who are in contact with people experiencing health problems (employers, health insurers, doctors) to take action early, the strengthening of work incentives as a way to raise outflows from disability benefits, and the better supervision and inspection of cantonal disability insurance offices by the federal supervisory authority (OECD 2006, p. XXXII-XXXIII). In 2014, the OECD addressed the issue of the increasing incidence of mental illness in Switzerland and admonished policy makers to avoid the longterm exclusion of young people with mental disorders from the labour market - and the ensuing lifelong pensions - at all costs (OECD 2014). The OECD also considers high DI benefits to be a major obstacle to labour market integration. Numerous OECD recommendations were incorporated into the Federal Law on DI in revisions 4, 5, 6a, and 7 with the goal of prioritising rehabilitation measures over cash benefits (Böheim & Leoni 2017). In its message on the draft 7th revision of the Federal Law on DI, the Federal Government explicitly mentioned taking into account the OECD recommendations (Conseil fédéral 2017, p. 2381).

5 Cantonal Implementation Practices: questioning DI pension rights

In accordance with Swiss federalist principles, the implementation of DI law and LIPPI falls into the purview of cantonal authorities, through cantonal DI offices (for DI measures and benefits; in French: Offices AI) and cantonal disability services (for LIPPI measures).

This chapter brings to light the processes that characterise the implementation of DI activation policy and LIPPI in the cantons of Basel-City, Ticino and Vaud. We show that DI offices and disability services alike promote the idea of what can be considered an ableisation path leading from sheltered employment to the regular labour market. In this process, DI pensioners risk losing their pension and the social and economic rights attached to it while being pushed into a labour market with working conditions increasingly harmful to workers' health and precarious employment schemes that do not guarantee basic social rights to workers with and without disabilities (Greppi et al. 2022; Giraud & Vezinat 2020; Rubery et al. 2018). These policies are rarely questioned, despite the fact that they put pressure on DI pensioners and their right to a pension, rarely result in the successful (re)integration in the labour market and, as admitted by one interviewee, aim at reducing the number of DI pensions as a way to save DI money. We first focus on the implementation by cantonal actors of DI changes in terms of restriction of access to pensions and of reassessments of pensions already granted (3.1). We then present cantonal policies aimed at putting disabled persons to work (3.2).

5.1 The reversibility of disabled status

Restricted access to pensions

The principle of "rehabilitation over pension" embedded in DI law is the main thread running through public policy in the three cantons we studied. Following the introduction of early

detection and intervention mandates into DI, one DI office reorganised its personnel structure in order to strengthen efforts aimed at promoting a return to work for persons at risk of becoming disabled. According to the manager in charge, the goal is not only to promote inclusion, but also to reduce the financial burden on the DI.

"The slogan 'rehabilitation over pension' (...) is very, very important for us. You can see it when you look at the evolution of work in our field. Before I arrived, (...) tasks having to do with integration were simply given out (...) to external professional counsellors. (...) Big changes took places in 2008 with the 5th revision of DI law, with many new mandates or tasks for DI offices, and that's when many new professionals were hired who now work for DI as rehabilitation case managers. (...) When a new case is referred or comes up again, it goes through what we call the intake process. In intake, the first thing checked is whether it is an integration case or not. The rehabilitation case managers have this role in intake, at 40% each. The most important thing for us is that they have this 'integration approach'. They can decide, on the basis of the person's file or, if it's not possible because too much information is missing, on the basis of a first interview: 'Is it a case for integration or not?' We only send the case to be examined for a pension if there is no other solution. (...) To the question 'integration or pension?', we always look first towards integration. This clearly shows the importance of integration. We certainly don't want people to find themselves on a pension and remain on it forever. (...) To be quite frankly this is the biggest loss for us as an insurance provider." (Integration services manager cantonal DI office, interview 1)

Once the potential for (re)integration of persons referred to the DI office assessed, they are assigned to an integration professional whose mission is to identify the most appropriate measures for their situation. Vocational (re)integration is seen as a journey made up of successive stages and leading, ideally, to employment in the primary labour market:

"We have what is called a model with stages: so when we first start we have to see, where is this person at? If for instance someone has been excluded from work processes for a very long time, of course we have to start with something really simple. So there, we can begin in very small steps into the work world, with 4 times 2 hours a week. That's the minimum level for the 'approach to work' in the context of integration measures. Just a way to start. Then, of course the person has to arrive at work on time, behave in a more or less socially acceptable manner and leave work on time. Really basic, absolutely basic stuff. Once these goals have been reached, of course one can increase the number of hours, then at some point of course go back to qualitative and quantitative work. And that's what we do with endurance training, where people can gradually go uphill a bit, then later with progressive training, where one can focus on quality of work and increase hours on the job, for instance. (...) We also tell all institutions that it is just as important for us that they have contacts with enterprises and that the permeability [with the job market] increases. That is our wish, the dream scenario, that people start in institutions and that institutions then start placing them on the outside, for instance by negotiating a field placement with an employer or by continuing integration measures on the open job market. (...) The objective is always for clients to end up in the primary labour market." (Integration services manager cantonal DI office, interview 1)

Whenever possible, integration and rehabilitation measures are implemented in ordinary enterprises rather than in specialised structures, the latter being viewed by some state actors as too far removed from the labour market or not demanding enough in terms of productivity.

Therefore, in order to avoid awarding a pension, placement in measures implemented in the primary job market rather than in sheltered structures is to be preferred:

"If the person assigned to a measure is integrated into a specialised structure the whole time, there is a greater risk of a pension having to be granted at the end of the programme. Persons placed in an enterprise have a better chance of not needing a pension." (Head of contract management cantonal DI office, interview 2)

Unlike those coming under the purview of unemployment insurance, DI integration mechanisms are not constrained by the rule that forbids competition with private sector enterprises; the aim here is to be able to provide persons at risk of disability with activities that are as close as possible to the primary labour market and to ensure permeability between integration programmes and the job market (Haunreiter et al. 2019). Institutions respond to this requirement through the diversification of job programmes, in order to be able to offer adapted work opportunities at each stage of the journey towards integration, beginning with places in the institutional setting and moving towards job placements outside of it or even work in the primary job market.

Reassessment of pensions

Rehabilitation measures for DI pensioners (art. 8a DI) were introduced through the 6a DI revision that came into force in 2012. If, during the pension review process, the cantonal DI office determines that a DI pensioner has the potential for integration, it may obligate them to participate (again) in measures aimed at recovering their entire or partial earning capacity. Similarly, institutions for people with disabilities regulated by LIPPI can ask the cantonal DI office to re-evaluate their clients' pensions and request that they be assigned to new rehabilitation measures. The managers of DI offices we interviewed clearly state that reassessment of pensions is part of their job. In order to avoid situations of "pension forever", one DI office set up a programme of "active support to pension beneficiaries", with a particular focus on young DI pensioners. New pensioners are closely followed during the first two years and their potential for rehabilitation is regularly reassessed:

"We see that the beneficiary cannot be integrated into work now, so there is no other choice [but a pension]. But the person is young and the diagnosis lends some hope that there might be a change. In those cases, we don't let go. We send the case on for assessment for a pension and as a rule the pension is granted, but the staff of our integration team contacts the person regularly and asks 'How are things going? Do you think you could try something?' That is to say, we don't leave people on a dead-end track, especially young people, but beneficiaries in general, when we see a potential. (...) This is how a person may become a pension reassessment case." (Integration services manager cantonal DI office, interview 1)

Pension reassessment practices are not always seen positively by representatives of institutions for people with disabilities. According to a workshop manager, reassessments do not only concern young pensioners. She expresses her dismay when faced with persons who, after receiving a pension for years, are having to go through DI integration measures yet again:

"What bothers me is people over 60 who are placed in the programme, although they have been beneficiaries of a DI pension for decades. (...) Three years ago it was really extreme. There was a 63-year old, (...) right after walking into the room this person

already had a panic attack because of having to face all this. A person having a pension for the past 20 years and then my God, at age 63, what is that about? I couldn't understand it. It was utter panic, crying fits and everything. I don't know what the idea was. (...) Fortunately it calmed back down because... I was having trouble with that." (Workshop manager LIPPI institution, interview 3)

Another manager criticises the fact that DI offices target pensioners who are active in sheltered workshops to try to reintegrate them into the primary job market, although these persons have an actual employment contract with the institution:

"DI pensioners in sheltered employment are easily identified by DI offices, as their place of work is in their file. Measures have been introduced through DI revisions to reintegrate DI pensioners into the primary labour market. There are about 1000 DI pensioners working in our institution. Since DI knows where they are and that they can work, DI offices try to put them back into the labour market. From time to time, DI targets one person to place them into a reintegration measure. But these persons have an employment contract with us, one can't just force them to take part in a programme." (Workshop manager LIPPI-institution, interview 4)

Workshop managers in LIPPI-institutions are aware of the negative impact these activation policies may have on beneficiaries. They are torn between the desire to protect DI pensioners against the negative impact of activation, on the one hand, and the need to exert control over DI pensioners to make sure they are not trapped in inactivity despite their potential for labour market integration. What they experience is a historical dilemma in the fight against poverty in capitalist societies and the role social workers play in this fight (Keller 2018).

5.2 Fostering DI pensioners' integration into the labour market

LIPPI legislation defines the framework conditions for cantonal policies pertaining to DI pensioners. Although the objectives of LIPPI do not include return to work for DI pensioners, the cantons we examined do promote integration into the primary labour market as the favoured path towards social inclusion. Ticino passed legislation in 1979 promoting the integration of disabled persons. Cantonal laws in Vaud and Basel-City are more recent, having been enacted in 2004 and 2016 respectively. In strategy documents, cantons express criticism of "segregated employment" for disabled persons in institutional contexts, describe them as contrary to CRDP, and promote integration into "ordinary settings". This principle is embedded in the strategy document entitled Leitbild Erwachsene Menschen mit einer Behinderung (2003, p. 38) elaborated by Basel-City canton:

"The canton is involved in the creation of jobs and of inclusive training opportunities in the 'open' economy. (...) [It] examines incentives for private employers to hire and/or train persons with disabilities (e.g. measures such as 'job coaching', i.e. support for disabled persons and their employers provided in the work place)."

According to the manager of a service for disabled persons, the goal is to "transform the labour market and the working conditions of persons with disabilities". He promotes deinstitutionalisation for disabled people, including in the world of work, as the main way to "break down the barriers" between what he calls the "parallel worlds" of the primary, secondary and tertiary labour markets.

He views the integration of DI pensioners as a path going from (non-productive) occupation, inside or outside institutional settings, to the open labour market, via "supported" or "integrative" employment:

"We intend to give it up [the institution's internal day-workshop structure], and so to go from internal to external, from external to supported employment and from supported employment, wherever possible, to integrative work. Of course it would be great if a transition towards the primary labour market could succeed." (Manager cantonal disability service, interview 5)

Institution directors confirm that cantonal actors promote integration into the labour market, even though the law does not specifically mention it:

"That's what the canton wants more and more, integrative employment opportunities, since integration into the primary labour market should also be attempted for disabled persons. (...) It is not a mandate that we have, but if we can help a disabled person to go back to the job market we are happy to do it." (Director LIPPI-institution, interview 6)

"Being cruel to be kind"?

In order to foster the permeability between sheltered employment, integrative jobs and the open labour market, LIPPI institutions set up various kinds of work opportunities and employment support that vary widely in terms of their proximity to the primary job market. Whilst disabled persons in sheltered workshops are collectively supervised by socio-occupational workers, persons in types of employment closer to the ordinary job market can be followed on an individual basis by a Job Coach. This is for instance the case for persons who are working for a private company while having an employment contract with a LIPPI-institution. From the point of view of DI pensioners, moving to paid employment in the primary job market involves the risk of losing their pension. As shows the following statement of a integration services manager in a LIPPI-institution, DI pensioners are rarely willing to take that risk:

"We just placed someone at the cantonal social services, working for the internal mail service. (...) We are always looking for companies and public administration that are ready to create a job opportunity for a person in Supported Employment. (...) People then work in the primary job market, but are employed by us. Of course, there is also the issue of figuring out how to induce people to do that, how to encourage them to take that step, to go work in the primary labour market. It is also extremely difficult and associated with numerous fears. (...) During the past few years, we actually have had one single client, to be precise, for whom things worked out so well that they gave up their pension and have now been hired there on a permanent basis." (Integration services manager LIPPI-institution, interview 7)

Some members of the management of institutions explicitly refer to cantonal policies and to the CRDP:

"Overall, in the various services and enterprises we manage, we tend to have more integrative jobs - that are closer to the primary labour market. We are keen on guaranteeing some permeability [between the different jobs], so that people can develop some perspectives. (...) This permeability is what the canton wants. Also because it fits in with the CRDP (...)." (Director LIPPI-institution, interview 6)

In line with the goal of developing the potential of disabled persons, institutions elaborate individual development plans for each DI pensioner. As shows the following statement of a workshop manager, there is an underlying assumption that DI pensioners are "too comfortable" in a sheltered workshop and thus need to be challenged:

"[Each person has] an objectives' contract, a support plan. We can write stuff down in the support plan [...] special incidents, quality of work. Different things. Correspondence, communications. Or assessments interviews. [...] It is about checking regularly on how things are, are we still on the right track or are we veering off it a bit? [Q: If you see a person could do more, do you look for adapted work?] Yes, this morning for instance I made an agreement with a client to go to another programme for two or three weeks at least. Yes, in fact we have a lot of contacts, we meet at least once a month with the coaching people [...] and then we'll sometimes talk about, 'But this guy, he is capable of more. He is too young to be sitting here and relaxing,' so that he gets challenged a bit. We had to insist, once, twice and then he said, 'OK, I'll do it' and now he is on maintenance duty until further notice." (Workshop manager LIPPI institution, interview 3)

Internal mobility for disabled persons within the area of sheltered employment is a constitutive element of the strategy of promoting a path that should ideally lead them to a job on the open labour market. To "get them out of here" remains a goal for many professionals in the institutional sector, even though they are well aware of how difficult this objective may be for DI pensioners and the outcome is mostly uncertain.

"One day, we hope, they will manage to find a path on the outside. That should be the goal. But then, it is true that after a few years I see that in the end the percentage of success is not very high, and I must say that for many of them we don't know what kind of path they actually have found. (...) There are some clients, for instance, who have been here for 13 years maybe, they will be here all their life, and others after six months or a year might make it out. (...) There are these ladies who are about 60, and also A., these people have been here for years. But recently I have noticed that there are more and more young people (...) and for them you hope they can make it so that they don't spend their whole life in this kind of sheltered setting, although it must be said it can be a good compromise because OK, it is sheltered work, but it is still an enterprise." (Workshop manager LIPPI-institution, interview 8)

Despite their determination to "get clients out" of sheltered workshops, the institutional actors we interviewed admit that lasting integration into the open labour market is very rare. On the one hand, working conditions in the "free" economy can be too harsh for persons with lasting health problems. On the other, DI provisions include the termination of the DI pension once a certain level of earnings has been reached. The majority of salaried DI pensioners in LIPPI-institutions earn wages that are way below the wages on the "open" labour market (Benelli et al. 2019; Benelli et al. 2020; Hassler 2017). DI pensioners who get a paid job in the labour market risk losing their pension if their income is above a certain level. If the health problems on the basis of which they received a pension worsen again within three years in a way that affects their earning capacity, the pension can be reactivated (art. 29 Disability Insurance Regulation). After three years, this right expires. Should health problems recur, these individuals have to go through the DI process again, but under much stricter conditions than the first time. Should a DI pension be refused to them, they risk ending up in public assistance. This is a risk many DI pensioners are not ready to take.

6 Discussion

The principle of "rehabilitation over pension" is at the heart of the discourse of state actors charged with the implementation of DI legislation. Persons at risk of disability are supposed to maintain or regain their earning capacity through a path of integration structured as successive steps leading, ideally, to (re)employment in the primary labour market. This "delayed inclusion" (Ravaud & Stiker 2000) is constructed as a dynamic process specific to supported pathways (Castra 2003) in which each stage gives access to the next: assessment of the person's "integration potential", bolstering the capacity to participate in rehabilitation measures, (re)construction of work capacity (involving stepwise increases in the number of weekly hours worked), (re)construction of the ability to sell one's labour on the open job market. The underlying assumption of this process is that disability can gradually be transformed into ability through activation measures aimed at "reawakening" peoples' work potential. From the perspective of DI offices and disability services the objective of ableisation (Lindsay et al. 2023) is not only to promote labour market inclusion, but also to avoid new pensions and revoke existing pensions as a way to reduce DI spending.

The institutional actors we interviewed express some bafflement when faced with practices of DI offices that involve placing longstanding DI pensioners in rehabilitation programmes. At the same time, they admit to occasionally putting pressure on DI pensioners who they consider to be "too young to just relax" in a sheltered job. For both state and institutional actors charged with implementing the LIPPI getting DI pensioners as close as possible to the labour market, or even in it, is the ideal, even though LIPPI legislation does not mandate it.

For workers with disabilities, the issue is "normalisation", i.e. participation in the labour market in the same way as workers without disabilities. However, as show the figures in the introduction of this article and as pointed out, for example, by Russel (2002) and Russel and Malhotra (2002) for the US context, the development of disability rights legislation does not equate with equal work opportunities and conditions for people with disabilities in a capitalist society that is inherently unequal.

Our analysis not only confirms the persistence of the centrality of wage work (Barel 1990), but also its extension to categories of the population who were previously not targeted by activation policies, either because they were assigned a different role in society (for example housewives) or because they were considered unfit for work, such as people with disabilities. The pressure to participate in the labour market is particularly strong in a context of increasingly precarious employment schemes with lesser social rights attached to them (Castel 2009). For DI pensioners, the "integration imperative" (Pinho 2020) has two major impacts: First, they risk losing the legal right to both be exempt from the obligation to do paid work and to work in a sheltered workshop if they wish to. In other words, while DI pensioners are the only category of people of working age in Switzerland still entitled to social benefits without the obligation to work for their benefits, this is bound to change. Second, while labour market integration is a mark of "normality" for workers with disabilities, the price to be paid in terms of economic precarity is potentially high. Under the current circumstances the "choice" for workers with disabilities is between a labour market "integration" at a very low salary in order to keep the right to a DI pension or a correct salary that involves the risk of losing ones pension and the rights attached to it.

Conclusion

We have identified two major impacts of shifts in social policies for persons with disabilities in Switzerland. First, the exemption from labour market participation for DI pensioners is being questioned on the assumption that disability can be transformed into ability. Second, employment in sheltered settings is delegitimised, especially (but not only) for young DI pensioners. As a consequence, they are expected to return to work in the primary labour market. With this goal, LIPPI-institutions diversify work integration programmes and modes of employment support along a pathway that is supposed to lead from sheltered employment to a job in the "free" labour market. They provide DI pensioners with various forms of work adapted to their individual case, including combinations of forms of employment that may be more or less close to the open market, in order to ensure the permeability of the borders between sheltered and non-sheltered work. New professional figures, such as Job Coaches and other support professionals (Zurbuchen et al. 2023; Pachoud & Allemand 2013) are meant to facilitate transitions between sheltered employment and the labour market (Piecek et al. 2017; Baer et al. 2018a, 2018b; ILO & OCDE 2018; Mont 2004).

The potential consequences for DI pensioners are great, particularly in terms of social protection. On the one hand, they are no longer protected against the recommodification of their labour. On the other, injunctions to "leave" the realm of sheltered employment expose them to the dual risk of a precarious integration into a labour market offering fewer and fewer stable jobs and living wages, and of loss of their DI pension and the social and economic rights attached to it.

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