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## EFFECT OF SELECTED FORMAL AND LEGAL FACTORS ON THE QUALITY OF LIFE OF INDIVIDUALS WITH LIMITED MOBILITY. STUDY FINDINGS



## SUMMARY

Within the framework of the research project entitled *Usefulness of a robotic companion in light of determinants affecting the quality of life of persons with limited mobility*, a survey was conducted among a group of 1,064 respondents aged at least 15 years. One of the objectives of the survey was to determine the subjective assessment of the impact of selected factors of a formal and legal nature on the quality of life of persons with limited mobility. The survey shows that among the respondents, there is a group of several percent of people for whom it is difficult or very difficult to meet a number of formal-legal requirements, such as taking advantage of the tax credit for people with disabilities or obtaining support from the social assistance system.

In this article, the authors present the results of a survey and identify and evaluate existing legal solutions aimed at supporting people with limited mobility.

## STRESZCZENIE

W ramach projektu badawczego pt. *Użyteczność robota kompana w świetle determinant wpływających na jakość życia osób z ograniczoną sprawnością ruchową*, zostało przeprowadzone badanie ankietowe w grupie 1064 respondentów w wieku, co najmniej 15 lat. Jednym z celów badania było celu ustalenie subiektywnej oceny wpływu wybranych czynników o charakterze formalno-prawnym na jakość życia osób o ograniczonej sprawności ruchowej. Z przeprowadzonego badania wynika, że w grupie respondentów jest kilkunastoprocentowa grupa osób, dla których sprostanie szeregu wymogom formalno-prawnym jest trudne lub bardzo trudne, np. korzystanie z ulgi podatkowej dla osób z niepełnosprawnością, czy uzyskanie wsparcia w ramach systemu pomocy społecznej.

W niniejszym artykule autorzy prezentują wyniki badań ankietowych oraz identyfikują i poddają ocenie obowiązujące rozwiązania prawnych ukierunkowane na wsparcie osób z ograniczoną sprawnością ruchową.

**KEYWORDS:** *disability, incapacity, mobility, robot companion*

**SŁOWA KLUCZOWE:** *niepełnosprawność, niezdolność do pracy, sprawność ruchowa, robot kompan*

## INTRODUCTION

The Polish legal language uses both terms: type and degree of disability. However, the domestic regulations do not define mobility limitations, although they may be caused by different factors. Moreover, the law does not provide for special social security instruments, which would be addressed only to individuals affected by limited mobility. Individuals with limited mobility can use the entitlements granted to individuals with other disabilities. Nevertheless, access to support depends not only on the type of disability but also on its degree (severe, moderate, mild). It is with them that the law links specific entitlements.

The literature provides various definitions of disability. It cannot be overlooked that with the development of society and medical knowledge, perceptions of disability (including mobility) and methods of facilitating people's social needs have changed. Due to the interdisciplinary nature of this issue, the concept of physical disability can be perceived from the perspective of different fields (e.g. social sciences, medical sciences, health sciences) and scientific disciplines (economic sciences and finance, jurisprudence, medical sciences, health sciences). Basically, this type of disability is presented as the impossibility of ensuring a normal life for a person as a result of congenital or acquired mental and/or physical impairment. Motor organ dysfunctions are diverse and can be caused by various factors: genetic or congenital diseases (including cerebral palsy, polio, tuberculosis of bones, and multiple sclerosis) and injuries. As has been said, the degree of disability determines the possibility of using specific support instruments. In consequence, not every case of limited mobility entitles a person affected to state aid. This will be discussed further in this paper. This paper concludes the study conducted as part of a project entitled *Usefulness of a robotic companion in light of determinants affecting the quality of life of persons with limited mobility*. The aim of this study in the area analysed by the authors was to determine the conceptual range of *a person with limited mobility* on the grounds of applicable law and to identify potential barriers in exercising the rights and performing legal actions by individuals with limited mobility (e.g. voting in elections, using a tax relief for rehabilitation or for buying a car or seeking a degree of disability certificate).

The main study method applied in jurisprudence was used – the legal dogmatic method. It consists of analysing legal norms from the linguistic (grammar), system and teleological (aim-related) perspective, which enables one to extract and explain the terms used in a legal norm so they can be applied correctly. Moreover, a survey was conducted in which the respondents evaluated the difficulty of performing various everyday activities, including formal and legal actions. The participants were individuals aged 15+, who – according to their declarations – experienced limited mobility. Such limitations did not need to be associated with the presence of physical disability. A representative respondent sample was chosen randomly. Assuming a confidence interval of 95% and a statistical error of 3%, the sample consisted of 1,064 respondents. This paper was prepared as part of the Minister of Education and Science' programme entitled *Science for the Society*, project number: NdS/536964/2021/2021, funding amount: PLN 1,557,100, total project value: PLN 1,557,100.

## **1. THE CONCEPT OF A PERSON WITH LIMITED MOBILITY FOR THE PURPOSE OF THIS SCIENTIFIC RESEARCH**

There is no general definition of a person with limited mobility in the law. However, this does not mean that such definitions do not exist – although they do not apply to specific legal solutions. For this reason, the first task was to choose a definition which could be used in this study. This was done with the help of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1). According to Art. 2 (a) of this regulation, *a person with reduced mobility* means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers. Therefore, it transpires from the above that European legislation focuses mainly on the existence

of limited mobility. The cause of this, like the duration of the mobility limitation, is of no importance. This definition emphasises the fact that a specific person has limited mobility and, therefore, is entitled to proper support.

However, due to the scope of the project, whose aim was to examine the possibility of using a new technology – a robot companion – in restoring the ability to work and/or to perform social roles by a person with reduced mobility, seeking a definition and evaluation of the results had to be done from the perspective of the Polish social security system. The support in the law of social security is determined by the statement that two elements are necessary to cover an individual with protection: 1) an economic element, associated with the ability to perform professional or social roles, and 2) a biological element, associated with physical impairment (Bartnicki, Suchacki, 2019). This impairment can be caused by various factors, but it is always associated with one or several body function disorders (Paluszkiewicz, 2023). Such disorders can be caused either by a disease (e.g. of a motor organ) or by a body injury (e.g. in an accident) – Cf § 32 of the Regulation of the Minister of the Economy, Labour and Social Policy of 15 July 2003 on certification of disability and a degree of disability, consolidated text Journal of Laws of 2021, item 857, (further: regulation on disability certification). This has been confirmed by judgements of the Court of Justice of the European Union. The Court ruled in the case of S. Chacón Navas that discrimination because of the disease which caused a disability is unacceptable (Judgement of the CJUE of 11.07.2006, C-13/05, S. Chacón Navas, LEX No. 226783). The Court ruled in the case of J. Ring and L. Skuboe Werge that disability can be caused by a congenital defect or an accident (Judgement of the CJUE of 11.04.2013, C-335/11 and C-337/11, LEX No. 1297091).

Reference to *physical impairment* in the Polish legal system is present in the act on occupational and social rehabilitation and employment of people with disabilities – Consolidated text Journal of Laws of 2023, item 100, as amended – (further: act on occupational rehabilitation). Art 3(1) distinguishes three degrees of disability: 1) severe, i.e. the person suffers from physical impairment, and the person is unable to work or able to do only protected work. Moreover, it is also a person who requires long-term care and assistance of other people in playing social roles because of their inability to function on their own (Art. 4 (1) of the act on occupational rehabilitation), 2) moderate, i.e. a person

suffers from physical impairment, but they are unable to work or able to do only protected work or such that requires temporary or partial assistance of other people in playing social roles (Art. 4 (2) of the act on occupational rehabilitation), 3) mild, i.e. a person suffers from physical impairment, which results in reduced ability to work compared to a similarly qualified person without any physical or mental impairment, or with limitations in playing social roles that can be compensated for with orthopaedic devices, aid measures or technical measures (art. 4 (3) of the act on occupational rehabilitation).

§ 3 section 4-6 of the regulation on disability certification is helpful in this context in determining the conceptual range of one's *physical impairment*. According to this regulation, permanent physical impairment is understood to denote a health status for which the prognosis is bad according to the medical knowledge. However, a temporary physical impairment occurs when – according to medical knowledge – a health improvement is possible. Moreover, according to the disability definitions provided above, a person with disability is not associated with their medical condition but with a physical impairment resulting in a limited ability to play social and professional roles. Therefore, a physical impairment, which does not reduce one's ability to play social and professional roles, will not be regarded as entitling one to acquire the status of a person with a disability (Cf. Judgement of the Court of Appeal in Szczecin of 20 September 2018, III AUa 69/18, LEX No. 2692593), and the cause of the physical impairment is of no importance.

The term *physical impairment* is also used in the Act on retirement pensions and disability pensions from the Social Security Fund of 17 December 1998 (Consolidated text Journal of Laws of 2018, item 1270 further: Act on SSF) with respect to judgments concerning disability pensions. This is a key term in judgements concerning disability pensions, and the relevant committee can grant an applicant the status of a person: 1) who is unable to work, i.e. a person who lost the ability to do salaried work completely or partially due to physical impairment and the prognosis for regaining the ability to work following retraining is bad (Art. 12 (1) of the act on SSF), 2) who is completely unable to work or to function independently, i.e. a person who has lost the ability to do any work (Art. 12 (2) of the act on SSF), 3) who is partially unable

to work, i.e. a person who has lost the ability to work in accordance with their qualifications (Art. 12 (3) of the act on SSF).

All this can be concluded by stating that – according to Polish law – a person with limited mobility is understood to denote both a person with certified disability (mild, moderate or severe), a person with certified inability to work (complete or partial) or a person who struggles with physical impairment, provided that the disability, inability to work or physical impairment is caused by a motor organ illness, defect or injury.

## **2. SUPPORT FOR INDIVIDUALS WITH LIMITED MOBILITY**

Depending on its aetiology, physical disability can be subjected to various forms of treatment, therapy, rehabilitation, or it can be compensated for by mechanical means. The possibility of restoring the ability to work and/or to play social roles by individuals with limited mobility is affected by the surroundings and the barriers created by it, which sometimes hinder the full and effective participation of individuals with disabilities in society on equal terms. Adapting public spaces to their needs (elimination of architectural barriers) is especially important, as well as providing equal opportunities for a salaried job and facilitating access to physical and social activity. The possibility of compensation for disability by means of cutting-edge technology – a robot companion – will be particularly important from the perspective of this study. The rights of individuals with disabilities are guaranteed in the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No 78, item 483 as amended). It ensures the right to non-discrimination, stating that no one can be discriminated against in the political, social or economic life for any reason (Art. 32 (2)). The Constitution imposes an obligation on public authorities to provide special healthcare to individuals with a disability (Art. 68) and an obligation to assist those individuals in securing their functioning, adapting to work and social communication (Art. 69). In implementing these rules, individuals with disabilities were given various benefits as well as the opportunity to use various government programmes and subsidies. Their aim is to restore

those individuals to performing their social roles. Assistance to individuals with disabilities in Poland is specifically regulated in the Act on occupational and social rehabilitation and employment of individuals with disabilities of 27 August 1997. According to this act, rehabilitation of individuals with disabilities denotes a group of actions (organisational, therapeutic, psychological, technical, educational, social) aimed at reaching – with such individuals taking part – the highest possible level of their functioning, quality of life and social integration (Art. 7). The aim of occupational rehabilitation is to make it easy for individuals with disabilities to get a job and stay employed (with the help of vocational schools, employment consultancy and agency). The aim of social rehabilitation is to enable individuals with disabilities to participate fully in social life (Art. 8 and 9). Individuals with a physical disability can use various types of support. They can apply for benefits from social welfare services (Social Welfare Act of 12 March 2004 consolidated text Journal of Laws of 2023, item 901 as amended), i.e. permanent, periodical, or special allowance. Such benefits are usually financial, and they are conditional upon fulfilling specific criteria, e.g. income-related ones. Apart from financial benefits, individuals with limited mobility can use non-financial benefits, which can include: care services, neighbourly services, and a stay at a residential home. Moreover, the law introduces additional rights for individuals with limited mobility, e.g. by imposing some obligations of a public-law nature on certain entities. These mainly focus on reducing architectural or technical (digital) barriers, which makes using public services easier. When it comes to entitlements in a strict sense, one can mention the possibility of exemption from a tax on civil law transactions, an income tax relief, or the possibility of using some things to make driving easier, particularly parking a car or exercising citizen's rights (e.g. voting in elections). Individuals with limited mobility can also use programmes that offer subsidies for purchasing items necessary for rehabilitation and for facilitating everyday functioning.



### 3. DETAILED STUDY RESULTS

The project entitled *Usefulness of a robotic companion in light of determinants affecting the quality of life of persons with limited mobility* aims to determine the level of the respondents' knowledge on the possibility of using a robot companion in everyday life. The participants were individuals aged 15+, who – according to their declarations – experienced limited mobility. Such limitations did not need to be associated with the presence of physical disability. A representative respondent sample was chosen randomly. Assuming a confidence interval of 95% and a statistical error of 3%, the sample consisted of 1,064 respondents.

In the survey, the respondents evaluated the difficulty level of performing various everyday activities, including formal and legal actions. Fifty-four percent of those with a certified disability under the Rehabilitation Act did not find such actions difficult or described the level of difficulty as low. This result is strongly correlated with the question of using tax relief for rehabilitation purposes. As many as 58% of the respondents declared that they did not find using this tax relief difficult, or they described the level of difficulty as low. Becoming entitled to this relief requires having certified disability of a mild, moderate or severe degree. Individuals who did not have any difficulty obtaining a certificate of disability do not find it difficult to use tax relief for rehabilitation purposes. One can conclude that individuals who find it easy to navigate through the world of formal and legal requirements are also aware of their entitlements and obligations as a consequence of their certified disability. It should be pointed out that a rehabilitation-related relief can be used by personal income taxpayers and those paying lump tax on registered income who, if they are individuals with a disability or ones who support other individuals with a disability, can deduct from income (or from revenue in the case of lump taxpayers) before tax the expenses for rehabilitation and the expenses for facilitating everyday activities, incurred during the financial year. This entitlement is called rehabilitation-related relief. With respect to this relief, the following are regarded under tax regulations as entitled individuals with disability: a) person with certified disability of one of the three degrees (severe, moderate, mild), b) a person who was granted a disability pension due to complete or partial inability to work, a training pension or a welfare pension,

c) a person below 16 years of age with disability certificate granted based on separate regulations, d) whose disability was certified under regulations valid before 1998 (so-called *disability classes*). Individuals with a disability can use this relief regardless of their level of income. However, individuals who support a person with a disability can use this relief only if the person's income does not exceed the statutory limit. According to the tax regulations, a person with disability supported by a taxpayer is a person with disability whose annual income does not exceed twelve times the amount of the incapacity benefit (in the amount valid in December of the financial year), who is the taxpayer's: spouse, child, adopted child, foreign child taken for raising, stepchild, parent, spouse's parent, sibling, stepfather, stepmother, son-in-law or daughter-in-law. What is important is that the guardians of individuals with disabilities may actually find it difficult to use the relief available.

Moreover, 15% of the respondents declared that obtaining a disability certificate is very difficult or even makes functioning impossible. The survey did not examine the cause of the difficulties, but the following conclusions can be drawn based on the answers to other questions. Difficulties in obtaining a disability certificate can be caused by the need to appear in the office in person. The need to file the documents at the office in person was regarded as a highly difficult task or one that made functioning impossible by 17% of the respondents. A very similar number of the respondents (16%) find using e-administration very difficult or it makes functioning impossible. This shows that a certain group of individuals with limited mobility (between ten and twenty percent) find it difficult to use public administration services, both those concerning the obtaining of a disability certificate and those aimed at confirming the entitlements of individuals with a disability.

Similar conclusions can be drawn in the case of a rehabilitation tax relief for a car. This is practically one of the more popular tax reliefs. It can be used both by individuals with a disability and by taxpayers who support such individuals. The amount eligible for deduction changes every year. This amount can be deducted if a person with a disability or the person's guardian owns or co-owns a means of transport. The cost can also be deducted when the vehicle is not used only for travelling to see a doctor or for medical procedures. All expenses associated with everyday vehicle use can be deducted.

A person with a disability can use a tax relief regardless of the income achieved. Such a person's guardian can do it only when the income of the person with a disability (supported by the taxpayer) does not exceed twelve times the amount of the incapacity benefit. For example, since the monthly amount of such a benefit has been PLN 1588.44 since 1 March 2023, the income cannot exceed PLN 19,061.28 (the income does not include nursing allowances or other benefits). Importantly, every guardian can calculate such an amount if they look after a person with a disability. The survey results show that 46% of individuals do not have any problems using the relief. Difficulties obtaining the relief were reported by 8.3% of the respondents, whereas 4.9% of them described them as making functioning impossible. This study does not examine the causes of the difficulties, but – like with the relief discussed earlier – one should note the difficulties faced by the guardians in obtaining the relief.

Similar conclusions can be drawn by analysing the answers on obtaining a certificate of partial or complete inability to work. This activity was very difficult for 14% of the respondents, and it made functioning impossible for them. These are probably the individuals for whom using e-administration and the need to file the documents in person or to appear in the office in person is a barrier that is very difficult or even impossible to overcome. This is aggravated by a very complicated and difficult system of welfare law in Poland, which is incomprehensible to most citizens. It is obviously necessary to perform a review of the welfare support system to find out whether each social risk (Mędrala, 2016, p. 174) in society can be satisfied and whether individual benefits indeed alleviate the social risks. Moreover, this study indicates that the methods of communicating (document templates, information on office websites) with individuals with a disability must be made more accessible and comprehensible (Ziółkowska, 2023, p. 125).

This study also shows that exercising voting rights is hindered in the case of individuals with physical disability. Among the respondents, 8% claimed that voting in elections is very difficult for them or it makes their functioning impossible. For 12% of the respondents, participation in elections is associated with difficulty at a medium level. This shows that the instruments provided for in the Election Code, which are supposed to ensure full participation in the election of individuals with a disability, are not fully effective.

Therefore, it seems necessary to review the existing solutions, which will result, on the one hand, in the elimination of such mechanisms which prevent individuals with disability from exercising active election rights. On the other hand, it will enable the creation of new mechanisms, which will be a response to proposals from individuals with a disability, taking into account the conditions in which these individuals function and the development of new technologies.

Many valuable guidelines concerning the life situation of individuals with physical disability can be drawn from an analysis of the study results regarding the need for care and various forms of aid. First, one must note that for 10% of the respondents, obtaining help in care or obtaining support in the form of care services is very difficult or even makes their functioning impossible. On the other hand, 10% of the respondents claimed that seeking such help and support is of a medium level of difficulty for them. This shows that, basically, 1/5 of the respondents with limited mobility have hindered access to caring services.

However, the need for psychological aid is much greater. Obtaining such support is very difficult, or it makes functioning impossible for 15% of the respondents, and it is difficult at a medium level for another 15%. This study shows what is talked about in the public sphere, namely, about a problem with the nationwide availability of psychological aid (Skiba, 2021, p.15). The mental condition of Polish citizens during the pandemic deteriorated considerably, and, at the same time, the awareness of the need to use this kind of support increased (Sokół – Szawłowska, 2021, p. 58 – 59). Due to all this, the time one has to wait for a visit to a psychologist is now longer. Additionally, in the case of individuals with physical disability, psychological aid can be of particular importance given the special situation they are in.

Moreover, access to help in other regards: in everyday activities, in running a household, in doing shopping and paying the bills, and, in general, help in everyday activities, which is desired but not available to everybody. Obtaining such support is very difficult or makes functioning impossible for 10%, 11%, 12% and 11% of the respondents, respectively. Unfortunately, we do not know the reasons for the inaccessibility of the services under study. The difficulty for some of the individuals may be associated with failing to fulfil the statutory conditions for obtaining such support. There may be different obstacles to obtaining help, such as the necessity to pay for the care services

provided by welfare facilities. There may be a problem in that there is a shortage of specialised staff who could provide such assistance. The staff shortage problem is not only associated with the unavailability of professionals on the labour market but also with insufficient funds in commune and government budgets, from which fair remuneration could be paid to the personnel providing care services.

A study concerning the need for various forms of help to individuals with physical disabilities is also correlated with a study concerning the difficulties in performing formal and legal actions. As has been mentioned above, several percent of the respondents with a physical disability find obtaining a disability certificate or a certificate of total or partial inability to work very difficult or such that it makes functioning impossible. This also confirms the scope of help needed by the individuals under study. For 16% of the respondents, getting help in obtaining welfare benefits is very difficult, and it makes their functioning impossible. For 14% of the respondents, getting help in obtaining social security benefits is very difficult, and it makes their functioning impossible. Obviously, this is associated with the difficulties that individuals with physical disability face when they have to appear in person in an office or use the e-administration service.

The issue of help regarding obtaining other financial assistance and assistance in kind is particularly noteworthy. In the first case, as many as 18% of the respondents report that obtaining such assistance is very difficult for them, and it makes their functioning impossible. It is 14% in the other case. Such high demand for assistance of this type leads one to the conclusion that there is a group of individuals with physical disabilities who are not in the system as they do not pay social security contributions. At the same time, welfare benefits, taking into account the income criterion, are insufficient to satisfy their basic needs. This makes it necessary to seek financial support from other sources.

## CONCLUSIONS

The survey results show that the respondents did not face any difficulties using the tax deduction opportunities, i.e. in using tax reliefs, e.g. rehabilitation relief. Moreover, it does not seem that the possibility of using solutions aimed at obtaining a disability degree certificate was a particular barrier for the respondents (provided that the analysis of the prerequisites for obtaining a decision confirming the degree of disability was outside the scope of the evaluation). A similar conclusion can be drawn in the case of access to the possibility of filing an application for a certificate of partial or complete inability to work. This level of a positive assessment is caused by solutions for using e-administration, aimed at streamlining the performance of public administration tasks without an obligation to appear in person. This allows for a conclusion that a right to use e-administration services in order to exercise passive voting rights contributed to reducing the number of respondents who see the negative sides of the possibility of exercising voting rights.

Certain doubts may be raised by an assessment of the possibility of obtaining support in the form of welfare services for individuals with limited mobility. It seems that the respondents would expect their higher level. This helps one to formulate a tentative conclusion that – given the cost of the services – it would be justified in many cases to use devices whose operation is based on artificial intelligence, e.g. such as a robot companion. Studies show that such services often focus on relatively simple everyday activities or ensure safety through communication with services, e.g., police, fire brigade, and medical emergency services. In an analysis of artificial intelligence development (including the development of the product examined in the *robot companion* project by increasing the communication capability – intelligent conversation – or autonomy features), one can conclude that this is the direction in which social services will develop. In the future, the technical capabilities of robots will complement (and, to a certain extent, replace) individuals who perform supportive actions for those in their care. This trend, in light of the potential increase in the share of individuals with limited mobility (e.g. in an ageing population), with a simultaneous shortage of carers in the labour market, will help to improve the quality of services by increasing their availability

and reducing costs. Combining autonomous devices with artificial intelligence should lead to synergy and the development of *intelligent* devices, allowing for extending their functional spectrum. Such devices could allow for verbal communication, which would help to inform about the user's needs.

It will be necessary to implement the necessary legislation. It is of particular importance to clearly regulate the responsibility for damage caused by an action (a felony) taken by artificial intelligence in the Polish legal system, especially the rules on which it should be based – fault, risk, or fairness. This is important, especially since individual types of responsibility imply different types of punishment and exemption. The issue of penal responsibility will have to be specified additionally. Although the Polish penal code does not contain the term *artificial intelligence*, the valid regulations provide *indirectly* the responsibility associated with the actions performed by the AI. Depending on the facts, one can mention the penal responsibility for creating a danger of a specific nature (art. 165 § 1 (4) of the penal code), preventing or hindering information use (art. 268a § 1 of the penal code), destroying computer data (art. 287 §1 kk) or computer fraud (art. 287 § 1 of the penal code). However, it seems that – given the fast development of artificial intelligence – implementing such regulation is necessary, which will aim to make entities operating the AI responsible for its actions. However, there will still be the problem of attributing responsibility for autonomous actions of artificial intelligence. There will be a kind of penal responsibility gap in such situations, at least at this stage of legislation development.

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## **LEGAL ACTS**

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- Social Welfare Act of 12 March 2004, OJ form 2004, No. 65, pos. 593 with amendments.

## **JUDGMENTS**

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- Judgement of the CJUE of 11.04.2013, C-335/11 and C-337/11, LEX No. 1297091.
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