

Empirische Analyse der Urteile in IV-Rentenfällen:

Evidenz vom Sozialversicherungsgericht des Kantons Zürich

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Interdisciplinary research



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Zürcher Hochschule
für Angewandte Wissenschaften



Altwicker-Hámori S, Altwicker T, Gerber D ‘Measuring outcomes in disability pension judgments: Evidence from the Social Security Court of the Canton of Zurich’ (forthcoming in *Journal of Social Security Law*, Issue 2, 2022)

ZHAW-UZH

Medicine, empirical legal research, social security law, statistics and social security studies

Project team



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Student Coders: Zoé Gianocca, Gian Heimann, Petra Koller, Polina Pokrovskaya, Andrea Vuksic, Laura Whittlestone

External Experts: Thomas Gächter and Hans-Jakob Mosimann

Medical Expert: Eugen Altwicker

Funding: ZHAW 'Forschungsschwerpunkt Gesellschaftliche Integration' and 'Stiftung für wissenschaftliche Forschung an der UZH'

Public spending on incapacity

- Spending due to sickness, disability and occupational injury
- Switzerland: In 2018 ninth highest among 38 OECD member countries (OECD, 2021)
- Just distribution of public spending on incapacity is high up on the political agenda
- Revisions to the Federal Act on Disability Insurance

Motivation



Role of the judiciary

- Discretion in decision-making through the interpretation of legal norms
- Active part in the just distribution of public spending on incapacity

Background



Active role of cantonal social security courts

- Complaint within 30 days
- Decide cases regarding disability insurance benefit issues e.g. disability pension (DP)
- Ensure rule of law is respected by the Disability Insurance Office (DIO)
- Active role in the just distribution of public spending on incapacity

Aim



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Explore associations between court-related, case-related and individual characteristics and the final decision regarding DP claims of the Social Security Court of the Canton of Zurich (Court)

Data sources



Court's online judgment database:

- (1) Chamber judgments regarding complaints related to disability benefits
- (2) Single judge decisions related to disability benefits



Sample selection

Retrieved the most recent DP judgments, covering the period between 5 January 2017 and 31 December 2019 ($N=2,536$)

Excluded DP claims:

- (i) No decision regarding a DP was handed down by the Court ($N=26$)
- (ii) The case was dismissed ($N=12$)
- (iii) The claimant died before or during the proceedings ($N=9$)
- (iv) The claimant was not a natural person ($N=19$).

Final sample: $N=2,470$

Sozialversicherungsgericht
des Kantons Zürich

Entscheidung IV.2008.01293 Drucken Zurück

IV.2008.01293

Sozialversicherungsgericht
des Kantons Zürich

IV. Kammer
Sozialversicherungsrichter Engler, Vorsitzender
Sozialversicherungsrichter Hüter
Sozialversicherungsrichterin Weibel-Fuchs
Geschäftsverwalter Zent

Urteil vom 9. März 2010
in Sachen
X_

Beschwerdeführer
vertreten durch Rechtsanwalt Dr. Kreso Geras
Mattenstrasse 10, 8005 Zürich

gegen
Sozialversicherungsamt des Kantons Zürich, IV-Stelle
Röntgenstrasse 11, Postfach, 8007 Zürich
Beschwerdegegnerin

Nachdem die Beschwerdegegnerin mit Verfügungen vom 19. Juni 2008 dem Beschwerdeführer rückwirkend für den Zeitraum vom 1. November 2005 bis zum 31. Oktober 2006 (Ük. 2.1) sowie für den Zeitraum vom 1. November 2006 bis zum 31. Dezember 2007 (Ük. 2.2) eine Dienstrente bewilligt hatte sowie zwei bzw. drei Kinderrenten zugesprochen und unter anderem die Versicherung der Nachbinnen mit Rückrentenansprüche der Zürich Versicherung von Fr. 2'944.75 (Ük. 2.1) bzw. Fr. 18'970.85 (Ük. 2.2) verweigert hat;
sowie nachdem die Beschwerde vom 23. Juni 2008 mit welcher der Beschwerdeführer die Aufhebung der verweigerten Auszahlungen an die Zürich Versicherung beantragt hat (Ük. 1), und in die auf Abweisung der Beschwerde schliessende Bescheidkonkretum der Beschwerdegegnerin vom 19. bzw. 20. Februar 2009 (Ük. 8 in Verbindung mit Ük. 9),
unter Hinweis darauf, dass der Beschwerdeführer am 10. März 2009 keine hinreichende Rückrentenansprüche gegen die Zürich Versicherung über den mitrigen Gesamtanspruchsbetrag von Fr. 21'961.70 erhoben und diese Klage am 28. August 2009 zurückgezogen hat (G-Nr. KK.2009.00011),
in Erwägung
dass die Zürich Versicherung ihren Rückrentenanspruch bei der Invaliditätsversicherung tris- und Xmpgesetz (vgl. Art. 85 Abs. 1 der Verordnung über die Invaliditätsversicherung, IVV) geltend gemacht (Ük. 10/9/1 und Ük. 11),



id	year		title	impler	juddate_date	state
1	1	2006	CASE OF TOPALPA AND OTHERS v. TURKEY	low	05dec2006	Turkey
2	2	2006	CASE OF TOPALPA AND OTHERS v. TURKEY	low	05dec2006	Turkey
3	3	2006	CASE OF TOPALPA AND OTHERS v. TURKEY	low	05dec2006	Turkey
4	4	2006	CASE OF TOPALPA AND OTHERS v. TURKEY	low	05dec2006	Turkey
5	5	2006	CASE OF TOPALPA AND OTHERS v. TURKEY	low	05dec2006	Turkey
6	6	2006	CASE OF TOPALPA AND OTHERS v. TURKEY	low	05dec2006	Turkey
7	7	2006	CASE OF ERD-ELDA ATEZ v. GREECE	case report	09mar2006	Greece
8	8	2006	CASE OF FAYKHOV, CASCHINI AND SPERANDELLI v. ITALY	low	20sep2006	Italy
9	9	2006	CASE OF FAYKHOV, CASCHINI AND SPERANDELLI v. ITALY	low	20sep2006	Italy
10	10	2006	CASE OF FAYKHOV, CASCHINI AND SPERANDELLI v. ITALY	low	20sep2006	Italy
11	11	2006	CASE OF VASYLIEV v. UKRAINE	low	15jul2006	Ukraine
12	12	2006	CASE OF REBAS v. SLOVENIA	low	06sep2006	Slovenia
13	13	2006	CASE OF BRIBERKAR v. SLOVENIA	low	12sep2006	Slovenia
14	14	2006	CASE OF SPETLIN v. SLOVENIA	low	.	Slovenia
15	15	2006	CASE OF KOLLODAS v. GREECE	low	30mar2006	Greece
16	16	2006	CASE OF LUPSA v. ROMANIA	case report	09jul2006	Romania
17	17	2006	CASE OF VOGUTICH v. RUSSIA	low	05oct2006	Russian Federation
18	18	2006	CASE OF CHERNYSKI v. POLAND	low	17oct2006	Poland
19	19	2006	CASE OF FRANCESCO MORETTI v. ITALY	low	28may2006	Italy
20	20	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
21	21	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
22	22	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
23	23	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
24	24	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
25	25	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
26	26	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
27	27	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
28	28	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
29	29	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
30	30	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
31	31	2006	CASE OF CHERNYSHOV AND 11 OTHERS v. RUSSIA	low	28sep2006	Russian Federation
32	32	2006	CASE OF ROSA AND BONFATTI v. ITALY	medium	21nov2006	Italy
33	33	2006	CASE OF ROSA AND BONFATTI v. ITALY	medium	21nov2006	Italy
34	34	2006	CASE OF ROSA AND BONFATTI v. ITALY	medium	21nov2006	Italy
35	35	2006	CASE OF BURKADZHUR v. UKRAINE	low	15sep2006	Ukraine
36	36	2006	CASE OF GRASSEN v. ITALY	low	21sep2006	Italy

Variable extraction



‘Semi-automatic’

(1) Automated

(2) Manual coding by four purpose-trained law students

(3) Automated supplemented by manual coding

Data entry



Leonovo IdeaPadC340 mit Sticl x E-Mail Sozialversicherung ZH afterLaunch x +

127.0.0.1:4021

UnibasMail FHNWMail UZHMail GMXMail Moodle Trello GitLab Welcome - Advanced R. movo Naive Bayes classifier ... snf projekt LinkedIn bluedot

Sozialversicherung ZH afterLaunch1

User name: Demo

Text ID: IV.2017.00230

Admin contact: daniel.gerber@nw.uzh.ch

Progress: 3/3

Next Text Skip Text Stats

Rubrum The Facts Court's Considerations Holdings

Sozialversicherungsgericht des Kantons Zürich

Entscheid: IV.2017.00230

DruckenZurück

Sozialversicherungsgericht
des Kantons Zürich

IV.2017.00230

IV. Kammer

Sozialversicherungsrichter Hurst, Vorsitzender
Sozialversicherungsrichterin Arnold Gramigna
Sozialversicherungsrichterin Philipp
Gerichtsschreiber Hausammann

Urteil vom 21. März 2018

in Sachen

X.____

Beschwerdeführer

Comment
NA_

Date of judgment
21. Mar 2018

Complainant's sex
 female male neutral

Complainant's representation
1: lawyer

Legal representation

Case of death
 no yes

DEU
17:15
09.11.2020

Variables



Table 1. Categories for variables and their method of retrieval

Variable	Categories	Retrieved
<i>Dependent</i>		
Decision	1 if pension claim rejected, 0 otherwise	M
<i>Court-related</i>		
Chamber*	Chamber 1 Chamber 2 Chamber 3 Chamber 4 Chamber 5 (base category=Chamber 2)	A
Judgment year	2017 2018 2019 (base category=2019)	A
<i>Case-related</i>		
Legal representation	1 if legally represented, 0 otherwise	AM
<u>Polydisciplinary expert report</u>	1 if <u>polydisciplinary expert report</u> was commissioned, 0 otherwise	AM
DP assessment according to DIO**	1 if no, 0 if yes	AM
Combined method	1 if the combined method was applied, 0 otherwise	AM
<i>Individual</i>		
Sex	1 if male, 0 if female	AM
Age at lodgement date**	24 or younger 25-54 55 or older (base category=25-54)	AM
Migration background	1 if migrant, 0 otherwise	AM
Work experience	1 if work experience, 0 otherwise	AM
Medical diagnosis**	At least one mental (F00-F99) At least one nervous (G00-G99) At least one musculoskeletal (M00-M99) Any combination of mental, nervous, musculoskeletal Other (base category=At least one mental)	M

* The Court is divided into five instead of four chambers as of July 2019; **Category for missing values was included; M: manual, AM: first automated then manual control; A: automated; DP: Disability pension; DIO: Disability Insurance Office.

Diagnosis



Extraction

- Most demanding, resource- and time-consuming step
- Three-step process:
 - (1) Coders identified the relevant medical report
 - (2) Coders entered the relevant ICD-10 codes or text
 - (3) If only text available: Medical expert assigned the ICD-10 codes to the respective text ($N=637$).

Analysis



- (1) Deskriptive statistische Analyse
- (2) Multiple probit models
- (3) Expert interviews (plausibility)

Sample description



Table 2. Descriptive statistics (per cent)

Variables	
Decision regarding pension claim	
Rejected	52.91
Not rejected	47.09
Chamber:	
Chamber 1	20.24
Chamber 2	32.31
Chamber 3	20.69
Chamber 4	24.94
Chamber 5	1.82
Judgment year:	
2017	35.14
2018	33.36
2019	31.50
Legal representation:	
No	9.72
Yes	90.28
Polydisciplinary expert report	
No	61.42
Yes	38.58
DP assessment according to DIO:	
No	81.17
Yes	14.90
Missing	3.93
Combined method:	
No	89.68
Yes	10.32
Sex:	
Female	50.85
Male	49.15
Age at lodgement date:	
24 or younger	1.30
25-54	65.14
55 or older	32.51
Missing	1.05
Migration background:	
No	81.46
Yes	18.54
Work experience:	
No	9.39
Yes	90.61
Medical diagnosis:	
At least one mental	26.52
At least one nervous	2.27
At least one musculoskeletal	16.15
Any combination of mental, nervous, musculoskeletal	6.68
Other	4.21
Missing	44.21
<i>N</i>	2.470

DP: Disability pension, DIO: Disability Insurance Office.



Non-rejected cases

Fully approved (22%)

Partially approved (17%)

Referred back to the DIO (56%)

Different decisions for different time periods (5%)

Diagnosis



64% had multiple diagnoses

‘Mental’: ‘Recurrent depressive disorder’ (F33; 39%) and
‘Depressive episode’ (F32; 25%).

‘Musculoskeletal’: ‘Dorsopathies’ (M40-M54; 72%)

Expert interviews



Confirmed plausibility

Surprising:

- (1) Relevant medical diagnosis: High proportion of missing values (common practice to document 'health damage')
- (2) Migration background: Underestimate?

Regression results



Table 3. Probit models

	Model 1	Model 2	Model 3
Chamber 1	-0.063 (0.027)**	-0.063 (0.027)**	-0.052 (0.026)**
Chamber 3	-0.043 (0.027)	-0.044 (0.027)	-0.041 (0.026)
Chamber 4	0.102 (0.026)***	0.107 (0.026)***	0.081 (0.025)***
Chamber 5	0.162 (0.077)**	0.186 (0.078)**	0.166 (0.079)**
Judgment year: 2017	0.103 (0.024)***	0.104 (0.024)***	0.113 (0.023)***
Judgment year: 2018	0.046 (0.024)*	0.047 (0.024)*	0.056 (0.023)**
No legal representation	0.093 (0.033)***	0.093 (0.033)***	0.126 (0.032)***
Polydisciplinary expert report	0.129 (0.020)***	0.123 (0.020)***	0.065 (0.020)***
Pension assessment by DIO: No DP	0.179 (0.027)***	0.170 (0.027)***	0.172 (0.026)***
Combined method	0.087 (0.032)***	0.087 (0.034)**	0.028 (0.033)
Female		-0.019 (0.020)	0.004 (0.020)
Age at lodgement date: 24 or younger		-0.301 (0.095)***	-0.239 (0.089)***
Age at lodgement date: 55 or older		-0.028 (0.021)	-0.030 (0.020)
Migration background			0.046 (0.024)*
Work experience			0.010 (0.033)
Diagnosis: At least one nervous			0.204 (0.069)***
Diagnosis: At least one musculoskeletal			0.152 (0.030)***
Diagnosis: At least one mental, nervous, musculoskeletal			0.069 (0.041)*
Diagnosis: Other			0.084 (0.049)*
N	2,470	2,470	2,470

* $p < 0.1$, ** $p < 0.05$, *** $p < 0.01$; DP: Disability pension, DIO: Disability Insurance Office; Standard errors in parentheses

Expert interviews



Chambers: Practice within chambers is uniform, differences across chambers in decision-making process (likelihood to refer a case back to the DIO)

Years: Change in the DIO Zurich's strategy regarding reviews of current DPs

Chamberlain et al. 2018. Social Security Disability: Variation in Disability Awards at the Appeals Level

- Legal representation: ‘Similar’ result
- Age: ‘Opposite’ result
- Medical diagnosis: Association between impairment and disability benefit award

Conclusion



Chambers: More interaction for consistency

Legal representation: Crucial for a 'positive' outcome for the claimant

DIO's assessment: Importance of quality standards regarding initial assessment

Polydisciplinary expert reports

- Analyze content – interdisciplinary research
- SNFS-Innosuisse: ‘Quality indicators of polydisciplinary medical expert reports (PMERs) from the perspective of social security studies/law and empirical legal studies’
- E.g., RQ1: How often and under what circumstances are PMERs considered inconclusive by the Court?
- E.g., RQ2: If PMERs are found to be inconclusive, is there a justification given by the Court?



Thank you!