



## Information

### **on the entitlement to German pensions for former workers in a ghetto as to the latest adjudication of the Federal Social Court (so-called ghetto pension as to ZRBG)**

#### **1. What is it about?**

Based on the ZRBG\* for persons persecuted under National Socialism, periods of employment in a ghetto that was situated in a territory occupied by the German Reich or in a territory incorporated into it are under certain pre-conditions considered German contribution periods. From these periods a German pension can be paid also abroad.

The previous interpretation of the law - which mainly relied on the past adjudication of the Federal Social Court (BSG) - resulted in many applications under the ZRBG being rejected.

The Federal Social Court has recently set new standards by several judgements for the recognition of periods of contributions completed in a ghetto under the ZRBG. The changes in the interpretation of the law can lead to the situation that persecuted persons whose applications had been rejected in the past or who waived an application can now receive a pension as to the ZRBG. For persecuted persons who are already in receipt of a German pension, this additional consideration of periods of contributions completed in a ghetto may lead to an increased pension.

It is our intention to help all persons concerned to get their claims accepted as quickly and unbureaucratically as possible. In the following we want to give you further information on the ZRBG and the new interpretation of the law. This information is aimed at making it possible for you to evaluate whether you belong to the group of persons entitled under the ZRBG.

#### **2. What has changed?**

By judgements given on June 2 and 3, 2009 (file no. among others: B 13 R 81/08 R and B 5 R 26/08 R) the Federal Social Court considerably abated the characteristic requirements for "employment at one's own will" and "remuneration" (for more particulars compare section 3.3)

The Federal Social Court furthermore decided by two other judgements dated May 19, 2009 (file no. B 5 R 14/08 R and B 5 R 96/07 R) that persecuted persons for whom periods of contributions completed in a ghetto can be recognised under the ZRBG, can under further conditions acquire a claim for substitute periods until Dec. 31, 1949 for staying abroad because of persecution after reaching 14 years of age. This additional taking into account of substitute periods can lead not only to higher pension claims, but it can also have the consequence that former ghetto workers acquire the entitlement to a German pension for the first time.

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\*Law dated 20/06/2002 regarding the conditions for making pensions payable from an employment in a ghetto

Apart from this the German pension insurance institutions have changed their interpretation of the law to that effect that **Transnistria** does now belong to the territories covered by the ZRBG. Thus, in future, periods of contributions completed in a ghetto can be also acquired for periods of employment in a ghetto that was situated in Transnistria.

Finally, the pension insurance institutions decided by their new interpretation that the consideration of ghetto periods within a foreign pension does not principally conflict the taking into account of periods of contributions completed in a ghetto under the ZRBG.

### **3. What preconditions for taking into account contribution periods completed in a ghetto have now still to be met?**

The taking into account of contribution periods completed in a ghetto requires that you

- have the status as a person persecuted under National Socialism in terms of the German Federal Indemnification Law (BEG) (please refer to item 3.1) and
- you were forced to live in a ghetto in a territory, which was occupied by the German Reich or incorporated into it (please refer to item 3.2) and
- you performed work at your own will for which you received remuneration (compare item 3.3) .

The widows or widowers of these persons, as well, are thus entitled under the ZRBG. In this case the late persecuted person has to meet the aforementioned conditions.

#### **3.1 Legal status as persecuted person**

First of all periods of contributions completed in a ghetto can be taken into consideration, if you meet the preconditions of the status as a persecuted person in accordance with § 1 of the German Federal Indemnification Law (BEG). If a survivor submits a claim only the deceased person must have had the status as a persecuted person. It is not necessary for the survivor to be a persecuted person.

#### **3.2 Forced residence in a ghetto**

You had been forced to stay in a ghetto. The stay in a concentration camp or work camp is not covered by the ZRBG; however, these periods can be accounted for as substitute periods after reaching 14 years of age.

The ghetto was situated in a territory, which was occupied by the German Reich or incorporated into it. In particular, ghettos in occupied or incorporated Polish territories and in occupied Soviet and/or Baltic territories are deemed to be such ghettos. Now, **Transnistria** as well is among the occupied territories.

#### **3.3 Work performed in a ghetto**

You had performed work in the ghetto at your own will. This precondition is met by any kind of work you found on your own efforts or through placement, e.g. by the Jewish Council (Judenrat).

You received a remuneration for your work. This remuneration may be any kind of compensation paid for your work as money or payment in kind (e.g. food). The amount of the compensation is not decisive. It is sufficient if only "free subsistence" was granted. Apart

from this it is not important whether the remuneration was paid out directly to the ghetto worker or to a third party (e.g. to the Judenrat to supply the ghetto).

Forced labour still **cannot** be taken into account as periods of contributions completed in a ghetto.

#### **4. Who can receive a German pension according to this?**

German pension benefits can be paid as old-age pension for attaining 65 years of age or - after the death of the persecuted person - as widow's or widower's benefit.

The precondition to be entitled to a German pension is, however, that the qualifying waiting period is completed (minimum insurance period). The qualifying period for an old age pension at the attainment of the age of 65 as well as for a widow's or widower's pension is five years (60 calendar months). This qualifying period can be made up of German periods of contributions (e.g. also periods of contributions completed in a ghetto under the ZRBG) and substitute periods (e.g. periods completed after attaining 14 years of age of national-socialist persecution or periods of staying abroad until Dec. 31, 1949 because of persecution). Under the EC-Regulations on Social Security or bilateral agreements on Social Security (e.g. the agreements between Israel and Germany or the USA and Germany) the qualifying period may be also fulfilled by adding together the insurance periods completed in Germany and abroad.

#### **Information for persons residing in Poland**

In case you were permanently residing in Poland on Dec. 31, 1990, the German-Polish Pension Agreement signed on Oct. 9, 1975 will continue to be applicable also for your further stay in Poland after that date. Under this agreement, pensions are being paid exclusively by the pension insurance institution of the state of residence (i.e. in these cases by the Polish insurance institution). For this reason you are not entitled to receive a German pension in Poland paid on the basis of contribution periods completed in a ghetto under the ZRBG or possible other German periods.

#### **5. What has to be arranged?**

##### **5.1 Legal action on contribution periods completed in a ghetto to be taken into account is still pending**

If in your case objection proceedings or a law-suit is still pending on the taking into account of contribution periods completed in a ghetto under the ZRBG and possibly on the payment of a German pension, we will examine whether now the recognition of these periods and the payment of a pension will be possible. If applicable, you will receive a new decision. You do not have to file a new application for this. We will give preference to the processing of these pending proceedings.

##### **5.2 A pension application had already been rejected, legal action is not pending**

In case your pension application under the ZRBG had been rejected in the past according to the previous interpretation of the law but no objection processing or law suit is pending, we will officially re-examine the rejection decision, i.e. you do not have to file a new application. Provided that - based on the new interpretation of the law - contribution periods completed in a ghetto under the ZRBG can be taken into account and possibly you are entitled to a pension, you will receive a new decision.

In view of the big number of rejected applications the re-examination can be effected only successively, starting with the eldest age groups. Insured persons who are represented by a lawyer will not be privileged in this process.

If you wish, you may file an application for revision at the insurance institution that rejected your previous application. Such an application would help us up-dating our records quickly (e.g. in case of a new address). However, we ask for your understanding that such applications as well can be processed only successively according to age groups.

### **5.3 You are already in receipt of a pension, but contribution periods completed in a ghetto were rejected or were not asserted**

Should you already be receiving a German pension but based on the previous interpretation of the law an application for a re-assessment of the pension and taking into account of contribution periods completed in a ghetto was rejected in the past or you had refrained from asserting these periods, we recommend you to file an (new) application for re-assessment of your pension if you are of the opinion that you now meet the conditions under the ZRBG. You are asked to submit just an application letter for re-assessment to the pension insurance institution that is paying your pension and to state your exact personal data and your German insurance number.

### **5.4 A pension application has not yet been filed**

If you had not filed an application for a German pension in the past and, thus, are not in receipt of a German pension, but believe that you meet the requirements of the ZRBG, you should file a pension application as soon as possible. You should first of all send just an application letter to **Deutsche Rentenversicherung Bund, 10704 Berlin**, stating your exact personal data. This office will then identify the competent pension insurance institution for you from which you will receive further notice.

You should submit the application even if no documentary evidence or statements made by witnesses regarding the alleged periods of contributions completed in a ghetto are available to you at present. The competent German pension insurance institution will then contact you regarding the further procedure and will as far as possible assist you obtaining documentary evidence.

If you live in a state of the European Economic Area or in a state with which Germany has signed a bilateral Social Security Agreement (e.g. Israel, USA) you may also submit the claim under the ZRBG to the competent foreign pension insurance institution. This office will then immediately forward your claim to the German insurance institution.

## **6. What has to be considered if a benefit has already been claimed or paid according to the ordinance of recognition?**

The claim for a pension under the ZRBG does not conflict with the fact that you might have received already a lump-sum payment paid by the Federal Office for Central Services and Unresolved Property Issues (BADV) in the amount of EUR 2,000 according to the ordinance adopted by the Federal Government on Oct. 1, 2007 enabling victims of National-Socialist persecution to receive a payment in recognition of work in a ghetto which did not constitute forced labour and which to date has not been recognised under social insurance laws (ordinance of recognition).

The claim according to the ordinance of recognition, however, does not replace the pension application under the ZRBG. If you believe that you meet the pre-conditions under the ZRBG you will have to submit a separate pension claim with the pension insurance institution, if an official re-examination has not been opened (compare item 5.2). Please, point out in the

pension application that you had applied for or received a benefit according to the ordinance of recognition already.

If you already received the benefit according to the ordinance of recognition and a pension will subsequently be granted taking into consideration your work in a ghetto as contribution periods completed in a ghetto, you will be obliged to repay the benefit paid under the ordinance of recognition to the BADV. You can in this case meet your obligation for repayment by giving us the authority to retain the benefit amount paid under the ordinance of recognition from your pension and to forward the amount to the BADV. We recommend you to utilise this possibility as it entails the convenience for you that you will not have to take care of the repayment and will save the costs for the transfer.

## 7. Who will give you further advice and assistance?

In the framework of this information sheet, naturally, not all possible questions can be covered. Should you have any further questions with regard to the ZRBG, you may turn to one of the following service numbers of the German pension insurance institutions which will give you further advice and assistance.

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| Deutsche Rentenversicherung Bund<br>Tel. + 49 (0)30 - 20247780   | Competent authority for all states<br>Telephone calls can be answered also in the English, Polish and Russian languages                                |
| Deutsche Rentenversicherung Rheinland<br>Tel. 08000 - 100048013 (free community helpline for domestic phonecalls)<br>Tel. + 49 (0)211 - 937-0 (for calls from other countries) | Competent authority especially for persons residing in Belgium, Chile, Israel and Spain  |
| Deutsche Rentenversicherung Nord<br>Tel. + 49 (0)40 - 5300-0   | Competent authority especially for persons residing in Denmark, Estonia, Finland, Great Britain, Canada, Latvia, Lithuania, Norway, Sweden and the USA |
| Deutsche Rentenversicherung Rheinland-Pfalz<br>Tel. + 49 (0)6232 - 17-2459   | Competent authority especially for persons residing in France and Luxembourg   |
| Deutsche Rentenversicherung Bayern Süd<br>Tel. + 49 (0)871 - 81-2154   | Competent authority especially for persons residing in Austria, Slovakia and the Czech Republic  |
| Deutsche Rentenversicherung Mitteldeutschland<br>Tel. + 49 (0)361 - 482-4000   | Competent authority especially for persons residing in Hungary   |
| Deutsche Rentenversicherung Knappschaft-Bahn-See<br>Tel. + 49 (0)234 - 304-23001   | Competent authority for persons from all states  |