



Information

about German pension entitlements for former workers in a ghetto according to the Federal Social Court (BSG) jurisdiction (known as ghetto pensions under the ZRBG) as well as the ZRBG Amendment Act

Please note the new regulations resulting from the ZRBG Amendment Act in No. 5!

1. What is it about?

According to the ZRBG¹ in the version of the ZRBG Amendment Act in the case of persons persecuted under National Socialism periods of employment in a ghetto that was situated in a territory within the National Socialist sphere of influence may be recognized under certain circumstances German contribution periods. Based on these periods German pensions can also be paid abroad.

The German Federal Social Court (BSG) has passed several judgements in 2009 setting new standards for the recognition of ghetto contribution periods under the ZRBG. The new interpretation of the law has led to a considerably higher number of pension awards. However, in very many cases the ZRBG pensions could first be paid retroactively with effect from January 1st, 2005 or from the month of claim.

By passing the ZRBG Amendment Act the German legislator has decided that, as a rule, ZRBG pensions are to be paid with effect from the earliest possible point in time, this means with effect from July 1st, 1997 at the earliest.

It is our aim to help all persons concerned to get their entitlements as quickly and unbureaucratically as possible. The following explanations are intended to provide further information about the ZRBG and the changed legal situation. This information aims at enabling you to find out whether you belong to the group of persons qualifying for a ZRBG pension as well as the pension you may be entitled to in your individual case.

2. What has changed?

In judgements dated June 2nd and 3rd, 2009 (file no. B 13 R 81/08 R and B 5 R 26/08 R among others) the Federal Social Court (BSG) considerably lowered the standards for the requirements „employment at one’s own free will“ and „remuneration“ (Please refer to No. 3.3 for more detailed information).

In two other judgements dated May 19th, 2009 (file No. B 5 R 14/08 R and B 5 R 96/07 R) the BSG has also decided that persecuted persons for whom ghetto contribution periods may be recognized under the ZRBG may also acquire substitute periods until December 31st, 1949 for having to stay abroad due to persecution after age 14 provided that they meet certain conditions. These additionally recognized substitute periods can lead not only to higher pension rates but may also result in former ghetto workers being entitled to a German pension for the first time.

Since many beneficiaries first were able to receive a ZRBG pension due to the changed interpretation of the law the aim of the ZRBG Amendment Act is to ensure that ZRBG pensions can always be paid with effect from the earliest possible date, with effect from July 1st, 1997 at the earliest. This applies to

¹

^{*}Law for the Payment of Pensions for Periods of Employment in a Ghetto dated June 20th, 2002 (BGBl I p. 2074)

^{**}First Amendment of the Law for the Payment of Pensions for Periods of Employment in a Ghetto dated XX.0X.2014 (BGBl I p. XXXX)

persons who file their pension claim for the first time as well as to persons who are already in receipt of a pension but not with effect from the earliest possible date.

Important: The pension offices will automatically inform all beneficiaries about their rights who are already in receipt of continuing pension payments and for whom an earlier pension commencement date would be possible. **It is not necessary that pension recipients file a claim!** After receipt of the information letter every beneficiary can decide whether he/she wishes her pension to commence at an earlier point in time or if he/she wishes her previous pension to continue.

You will find more detailed information about the ZRBG Amendment Act at No. 5.

3. What requirements for the recognition of ghetto contribution periods do I now still have to meet?

The requirements for taking into account ghetto contribution periods under the ZRBG are that you

- are a person persecuted under National Socialism within the meaning of the German Federal Indemnification Act (BEG) (please see No. 3.1) and
- were forced to live in a ghetto in a territory within the National Socialist sphere of influence (please see No. 3.2) and
- performed work at your own free will for which you received remuneration (please see No. 3.3).

Also the widows or widowers of these persons are entitled to a pension under the ZRBG. However, the deceased persecuted person must have met the above requirements. Eligible legal successors and/or heirs/beneficiaries of the estate may only assert their entitlement after the persecuted person's death if the latter had already filed a pension claim when he/she was still alive. The heirs/beneficiaries of the estate are not entitled to file claims themselves.

3.1 Legal status as a persecuted person

The first requirement for taking into account ghetto contribution periods is your legal status as a persecuted person within the meaning of Section 1 of the German Federal Indemnification Act (BEG). For claims for survivor's pensions it is sufficient if the deceased was a persecuted person, it is not required that the survivor is a persecuted person.

3.2 Forced residence in a ghetto

You have been forced to live in a ghetto in an area which belonged to the National Socialist sphere of influence (Poland, for example). The stay in a concentration camp or a work camp is not covered by the ZRBG; however, these periods may be taken into account as substitute periods after age 14.

3.3 Work performed in a ghetto

You have performed work in a ghetto at your own free will. This requirement is met by any work you found on your own efforts or through job placement e.g. by the Jewish Council (Judenrat).

You have received remuneration for your work. This remuneration may be any payment in cash or in kind (e.g. food). The amount of the remuneration is not relevant. It is sufficient if only „free subsistence“ was granted. Furthermore, it is not important whether the remuneration was paid directly to the ghetto worker or to a third party (for example, to the Jewish Council to supply the ghetto).

It is still **not** possible to recognize periods of forced labour as ghetto contribution periods.

4. Who can receive a German pension based on the above?

German pension benefits can be paid as regular old-age pensions after age 65 or - after the persecuted person's death – as widow's or widower's pensions.

However, the requirement for being entitled to a German pension is that you have met the qualifying period (minimum insurance period). For regular old-age pensions as well as for widow's and widower's pensions the qualifying period is five years (60 calendar months). This period can be fulfilled by German contribution periods (also ghetto contribution periods under the ZRBG) and substitute periods (for example, by periods after age 14 of National Socialist persecution or of a stay abroad due to the

persecution until December 31st, 1949). Under European law or a bilateral social security agreement (for example, with Israel or the United States) you can also fulfil the qualifying period by totalizing your German and non-German periods of insurance. If supranational or intergovernmental law is applied also the requirements for the waiting period for early old-age pension payments, i.e. with effect from age 60 at the earliest, may be fulfilled. However, the payment of early old-age pension payments between age 60 and 65 is income-related. If there is earned income exceeding the exemption limit (for example, in 1997 = 610 DM) the pension may only be provided in part or even not at all.

Furthermore, the pension offices interpret the law in such a way that the fact that ghetto periods have been taken into account for a pension abroad, as a rule, does not prevent the recognition of ghetto contribution periods under the ZRBG.

5. ZRBG Amendment Act

Through the ZRBG Amendment Act various improvements have been included in the ZRBG by the German legislator. These affect pensions already provided as well as first-time claims for a ZRBG pension. One aim of the amendment is that the persons concerned can directly receive the payments they are entitled to.

Furthermore, the scope of application has been extended so that it now covers the territory of the National Socialist sphere of influence and no longer only the areas occupied or annexed by the German Reich. This means that now also ghettos in Slovakia or Romania will be considered, for example. The wording of the ZRBG is now consistent with the wording of the Federal Government Directive Recognition Payment (please refer to No. 6).

5.1 Beneficiaries who already receive a pension

If beneficiaries are already in receipt of a pension which could commence earlier based on the new regulation their responsible pension office will contact them in writing. The pension office will carry out a test calculation and will inform the beneficiary about the effects of an earlier pension commencement in his/her individual case as well as about the amount of his/her arrears. These amounts are not yet final, since the pension can first be reassessed after the beneficiary has made his/her decision this will, therefore, take place at a later point in time.

The information letter states the date from which the pension may be paid as well as the amount of the monthly pension rate in case of an earlier pension commencement date. As a rule, the new pension rate will be lower than the current monthly pension rate. Furthermore, the beneficiary will be informed of the amount of his/her arrears resulting from the earlier pension commencement date. Since the pension provided previously (for example, with effect from January 1st, 2005) was higher the pension office also calculates the amount which is to be deducted from the arrears since the beneficiary is no longer entitled to the full amount of the already provided pension payments, if he/she chooses an earlier pension commencement date. The amount of the arrears stated in the information letter is already the final amount after deduction of this overpayment.

Now the beneficiary may choose whether he/she still wishes to receive his/her previous pension at the same rate or whether he/she wishes to receive the arrears for the earlier pension commencement date and the lower continuing pension payments. If he/she decides that he/she wishes his/her pension to be recalculated he/she informs the pension office accordingly.

The following example explains the regulations:

Example:

The persecuted person is in receipt of a ZRBG-pension amounting to 250 EUR per month. This pension has been awarded retroactively in 2010 with effect from January 1st, 2005 after an earlier denial has been reviewed.

Result:

The responsible pension office reviews the established pension entitlement on the basis of the ZRBG Amendment Act. According to this the pension may already be provided with effect from July 1st, 1997.

The pension office informs the beneficiary that the arrears for the period from July 1st, 1997 to December 31st, 2004 would amount to 15,300 EUR if he/she decides to choose the earlier pension commencement date. Since the pension provided with effect from January 1st, 2005 is lower because of the earlier commencement date it was overpaid in the period from January 1st, 2005 to November 30th, 2014, the overpayment totalling EUR 8,400 EUR. This overpayment is to be deducted from the

arrears resulting in payable arrears of 6,900 EUR. At the same time the monthly continuing pension payments will be reduced from 250 EUR to 170 EUR.

Now the beneficiary may choose whether he or she wishes his/her pension payments of 250 EUR per month to be continued or whether he/she wishes to receive the arrears of 6,900 EUR while his/her monthly pension rate is reduced from 250 EUR per month to 170 EUR. The beneficiary informs the pension office of his/her decision using the enclosed reply form which contains both options.

The ZRBG Amendment Act provides for interest to be paid on the arrears. As a rule, interest accrues six months after receipt of the complete pension claim. In cases in which continuing pension payments are already provided the previous pension procedure is decisive. The relevant date for the end of the interest period is the date of the actual reassessment, this date is not yet known when the information letter is being sent. Therefore, the information letter does not specifically state the interest amount the beneficiary is entitled to in his/her individual case since the interest can first be calculated when the pension is reassessed. This means that the amount of the interest will be added to the arrears.

5. First-time claims for a ZRBG pension

Since according to the ZRBG Amendment Act a claim for a ZRBG-pension is deemed filed on June 18th, 1997 the ZRBG-pension will always begin at the earliest possible point in time, this means with effect from July 1st, 1997 at the earliest. Widow's or widower's pension payments commence with effect from the date of death, at the earliest with effect from July 1st, 1997.

5.3 Payment of ZRBG-pensions

To ensure that the beneficiaries receive their payments and/or arrears without delay, if possible, the funds are to be paid directly to the beneficiaries and **not** through their legal counsels. This applies to cases in which continuing pension payments are already provided as well as to persons who have filed their pension claim under the ZRBG for the first time.

6. Recognition Payment of EUR 2,000 what do I have to pay attention to?

Under the directive of the Federal Government² victims of National Socialist persecution as defined in Section 1 of the Federal Indemnification Act (BEG) who have worked in a ghetto may, under certain circumstances, receive a one-time payment of EUR 2,000 Euro. The fact that your work in a ghetto is taken into account for pension purposes no longer prevents the payment of the recognition benefit.

The Federal Office for Central Services and Unresolved Property Issues (BADV), 53221 Bonn, is responsible for paying that benefit. For further details please see the BADV website: http://www.badv.bund.de/003_menuue_links/f0_ghetto/index.html. Information may be obtained by telephone at the following number **+49 (0) 228 99 7030 1324** or by email at ghettoarbeit@badv.bund.de.

7. Who will give you further advice and assistance?

Of course, this letter cannot answer all possible questions. Below you will find the contact details of the pension offices.

Please note: If you have questions about your pension procedure please call the pension office where your file is processed. The other pension offices will not be able to provide information about your individual case. If you have already received correspondence from your pension office you will find the contact details on the letter from your pension office.

Deutsche Rentenversicherung Bund Phone: 0049 (0) 30 86528988	Responsible office for all states
Deutsche Rentenversicherung Rheinland Phone: 08000-100048013 (free community hotline for domestic phone calls)	Responsible office especially for persons residing in Belgium, Chile and Israel

² Federal Government Directive of December 20th, 2011 concerning the recognition payment to victims of persecution for work in a ghetto which did not constitute forced labour a (Recognition Directive), (Bundesanzeiger No. 195, page 4608, date December 28th, 2011)

Phone: 0049 (0)211-937-0 (for calls from abroad)	
Deutsche Rentenversicherung Nord Phone: 0049 (0)40-5300-0	Responsible office especially for persons residing in Denmark, Canada, Estonia, Finland, Latvia, Lithuania, Norway, Sweden, the United Kingdom, and the United States
Deutsche Rentenversicherung Rheinland-Pfalz, Phone: 0049 (0)6232-17-2459	Responsible office especially for persons residing in France or Luxemburg
Deutsche Rentenversicherung Bayern Süd Phone: 0049 (0)871-81-2157	Responsible office especially for persons residing in Austria, the Czech Republic, or Slovakia
Deutsche Rentenversicherung Mitteldeutschland Phone: 0049 (0)361-482-4000	Responsible office especially for persons residing in Hungary
Deutsche Rentenversicherung Knappschaft-Bahn-See Phone: 0049 (0)234-304-0	Responsible office for all states