

Written Question in March 2015
Identification number 62

Question number 62:

On what legal grounds did the German Pension Insurance Agency (*Deutsche Rentenversicherung*) decide in the scope of the administrative enforcement of the Act regarding the conditions for making pensions payable on the basis of employment in a ghetto (*Gesetz zur Zahlbarmachung von Renten aus Beschäftigungen in einem Ghetto – ZRBG*) in at least 18,000 cases (see answer of the Federal Government to my written question 2/300) not to issue an official administrative act to the former ghetto labourers and as such to never inform the Shoah survivors in question of the outcome of their application for a ghetto pension and in how many specific cases and when did the German Pension Insurance Agency attempt to contact the former ghetto labourers, for instance living in Israel via its counterpart institution Bituach Leumi (Israeli National Insurance Institute) or via the German embassy in Tel Aviv to publically serve these former ghetto labourers the official decisions, as bindingly set forth in the meaning of Sections 8, 18 Book X of the German Social Code (SGB X) (please list according to years since entry into force of the Act regarding the conditions for making pensions payable on the basis of employment in a ghetto (ZRBG) in 2002)?

Answer:

The German Pension Insurance Agency (*Deutsche Rentenversicherung - DRV*) informed all former ghetto labourers about their claims in the course of the re-examination of the ZRBG cases following the Federal Social Court (BSG) ruling in June 2009.

Where in around 18,000 of these re-examined cases no official decision was issued this was generally due to the fact that the pension insurance agencies had learnt in the meantime that those concerned were since deceased. Whilst in around 10,000 cases it has not been confirmed that those in question have died, the letters from the pension insurance agencies have remained unanswered. In spite of intensive efforts, also involving the Israeli pension insurance agency, it was not possible to establish contact with these persons. It was therefore not possible to approve pensions pursuant to ZRBG. The only possible official decision in this case would have been a rejection decision on the grounds of lack of cooperation. The DRV, however, above all so as not to put those affected in a worse legal position, refrained from issuing a rejection decision in these cases.

At that time (up until around 2011) the four year deadline set forth in Section 44 of Book Ten of the German Social Code (SGB X) still applied to pensions pursuant to ZRBG, according to which pensions could only be paid retroactively for four calendar years starting from the application date. A rejection decision would have meant that the administrative procedure would have been completed. But if those concerned were to have later contacted the DRV after all, this date would have been the relevant one for the retroactive payment of the pension. Up until the entry into force of the Act amending the ZRBG this would have meant an accordingly shorter retroactive payment period. But as no official decision was issued, the administrative procedure continued to be pending. In the individual cases in which people did later contact the agency, this made it possible for the pensions to be approved without any legal disadvantages.

There is furthermore no duty to serve decisions through publication in the area of statutory pension insurance; in particular, no such duty arises pursuant to Sections 8,18 SGB X. It is at the discretion of the agency whether a decision is served through publication or not (Section 10 Act on the Administrative Service of Documents - *Verwaltungszustellungsgesetz*).