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Issuance of binding decisions pursuant to paragraph 138 SGB VI – procedure, admissibility under constitutional law, examples

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Pursuant to paragraph 138, section 2 of the sixth volume of the German Social Code (SGB VI), Deutsche Rentenversicherung Bund is vested with the authority to issue binding decisions concerning legal and interdisciplinary tasks of the German Pension Insurance system. These decisions are issued by the Federal Representative Assembly of Deutsche Rentenversicherung Bund, the Federal Board, or the Special Executive Committee. Binding decisions constitute sublegal norms sui generis. They are consistent with the constitutional framework and specifically adhere to the principle of democracy as delineated in article 20, section 2 of the Basic Law of the Federal Republic of Germany. The authority to set norms follows from article 87 section 2 of the Basic Law. It should be noted that the participation of regional offices in authoritative decisions issued by self-government bodies does not represent an inadmissible form of mixed governance. The issuance of binding decisions is in fact an expression of a cooperative federal state as provided for in the Basic Law. The decisions are binding for pension insurance providers, their respective supervisory authorities, and to a certain degree, third parties.

Future-proofing the pension system? Germany's three-pillar model

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During the course of the pension reforms at the beginning of the new millennium, it was decided to only partly adapt state pensions to wage developments in the long run. The resulting gap in old-age provision was to be closed by means of additional private insurance or company pension plans. In order to achieve this, state subsidies for supplementary old-age provision were increased. The previously prevailing paradigm of 'securing one's livelihood by means of the state pension scheme alone' was replaced by 'securing one's standard of living in old age based on three pillars' [i. e. state pension, occupational pension schemes or company pension plans and private insurance]. Now, almost a quarter of a century after corresponding legal changes have been implemented, the question arises as to how well the new model actually works. Has it met the expectations? Where does it fall short? If the approach is not sustainable from today's perspective, which adjustments are necessary? Are the three-pillar model and the resulting modifications future-proof? If not, a new paradigm may be required, the implementation of which would generate a system of old-age provision to ensure an acceptable standard of living for all customers covered by the state pension scheme.

How long do people plan and want to work and how long could they work for? A classification of older employees in Germany

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What is the response of older employees when asked until what age they can, want, or plan to be gainfully employed? Based on the data of the lidA study (2022/23; n = 7.137) and on qualitative interviews, this article examines these three aspects of the “employment perspective”. Four clusters of occupational groups have been identified: 1. “Longer actively involved than legally required” (7 %), 2. “Could still work for longer, but wants to quit before reaching the regular retirement age” (14 %), 3. “Stable middle range with desire to retreat” (50 %), and 4. “At the limit – restricted possibilities” (26 %). Qualitative findings support the quantitative results: “ability” is primarily associated with health and workload, “willingness” shows wishes and visions and “planning” reflects reality, especially from a financial point of view. The study confirms the validity and significance of these three questions and emphasizes the heterogeneity of older workers when it comes to how they experience their last working years. For companies, the results mean that they should engage in dialogue with older employees about “ability”, “willingness” and “planning” earlier to keep them connected to their workplace in the long term.

From a sociopolitical point of view, treating all professional groups in transition to retirement equally would exacerbate existing inequalities. Many employees are already working at the limit – rigid regulations could further burden them. Scientific findings should ultimately expand the understanding of the perspectives and challenges of older workers to properly address demographic change.

eJustice in the courtroom – Part 1: the video hearing

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The term ‘eJustice’ is vague and can only be used as a generic term. Ultimately, it describes the efforts of the judiciary as the third state power to achieve a fully electronic communication and file management. It is therefore a collective term referring to individual aspects of the use of information technology in the completion of judicial tasks. In addition to electronic communication and electronic file management, this also includes cross-sectional tasks such as the use of video conferencing technology. Current eJustice topics are presented in these two articles. Part 1 deals with video hearings, a tool which had already been standardised in 2013, but had hardly been used in social jurisdiction until the Covid-19-pandemic. The following article is intended to provide an overview of the prerequisites, the advantages, but also the challenges involved.

eJustice in the courtroom – Part 2: the digital law of evidence

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The ‘eJustice’ change process in the judiciary also entails increasing numbers of electronic documents, images and files which are made available as evidence. The most important type of evidence in social court proceedings is the (electronic) file of the concerned authority, which is already consulted at the beginning of the proceedings in accordance with section 104 SGG (Social Courts Act).
The digitalisation of the law of evidence compels us to rethink concepts, question the probative value of different media and types of files and reassess the distribution of the burden of proof. The following article is intended to provide an overview of the challenges of a digitalised law of evidence.