

**RULES AND REGULATIONS**  
**OF THE ASSOCIATION**  
**DEUTSCHES MEDIENSCHIEDSGERICHT e. V**  
**(GERMAN MEDIA ARBITRAL TRIBUNAL).**

**dated 26<sup>th</sup> August 2016**

**Preamble**

The media is made up of all organisations involved in developing, producing and marketing media content for information and entertainment purposes. Art and culture are dependent on placement by the media. Sound research and dissemination of facts and opinion that are essential for a functioning democracy call for a pluralist media landscape that is efficient and capable of taking action at all times.

The rapid technical development in the media, in particular in digitalisation, means legal questions need to be clarified swiftly and conclusively where possible in a final instance.

The German Media Arbitral Tribunal set up and operated by way of this newly established association has set itself the task of providing a swift, efficient and fair path to decisions on media law conflicts. The German Media Arbitral Tribunal shall be permanently appointed with suitable arbitrators from whom the parties shall make selections in individual cases and can therefore considerably accelerate the set-up of the arbitration body.

**Article 1**

**Name, headquarters and business year**

(1) The association is operated under the name

**"Deutsches Medienschiedsgericht",**

following entry in the association register, which is to be brought about as soon as possible, it shall be operated with the name suffix "registered association" in the abbreviated German form "e.V."

(2) The association shall have its headquarters in Leipzig and is to be entered in the association register of the Leipzig Local Court ("Amtsgericht").

(3) The business year is the calendar year.

## **Article 2**

### **Aim and tasks**

- (1) The association exclusively and directly pursues non-profit making aims within the meaning of the "Tax-privileged aims" Article of the German Tax Code.
- (2) The aim of the association comprises setting up, operating and promoting the "German Media Arbitral Tribunal" in Leipzig. The functioning of a media that is efficient and capable of taking action at all times is to be supported by way of the provision of arbitration proceedings based on the Rules of Arbitration for the German Media Arbitral Tribunal via the swift and conclusive resolving of legal disputes by decision or arbitration. As a result the association selflessly promotes the democratic state of the German Federal Republic as well as art and culture in general and media pluralism, which is a key element of the proper functioning of a democratic society, as the basis for the freedom to form and express opinions, which is protected by the Basic Constitutional Law of the Federal Republic of Germany, in particular.
- (3) The aim of the Rules and Regulations is realised, in particular, by:
  - a) The provision of an institutional arbitral tribunal for media matters ("German Media Arbitral Tribunal");
  - b) Appointing arbitrators;
  - c) The procurement of personnel, material and financial funds to institute the arbitration proceedings, conciliation proceedings and arbitrators' expert opinions;
  - d) Preparing, supporting and administering arbitration proceedings, conciliation proceedings and arbitrators' expert opinions of the German Media Arbitral Tribunal.
- (4) The association operates for the public good. It does not primarily pursue its own business aims.
- (5) The association's funds may only be used for the aims set out in the Rules and Regulations. The members do not receive payments from the association's funds. No person may be favoured by way of expenditure that is contrary to the association's aim or is disproportionately high.

## **Article 3**

### **Membership**

- (1) Any natural and legal person under private and public law who is willing and guarantees to support the association's aim in accordance with Article 2 to the best of

their ability may become a member of the association. Natural persons should only become members if they perform a significant media law or practical media activity or have gained particular experience in that field. Legal persons should be particularly associated with the media as a result of the object of their company or their statutory tasks.

- (2) Legal persons are represented by the executive bodies.
- (3) An application is to be filed in writing for membership in the association.
- (4) The Steering Committee decides by way of a three quarter majority on accepting a member. The outcome of this decision is to be stated to the applicant in writing.

#### **Article 4**

##### **Start and end of the membership**

- (1) Membership commences upon signing the enrolment declaration and ends by way of a notice of resignation, death, exclusion or membership cancellation and in the case of legal persons by the cessation of legal capacity.
- (2) A member may only resign from the association at the end of a calendar year and must give the Committee written notice of resignation at the latest three months prior to expiry of the calendar year.

#### **Article 5**

##### **Exclusion, cancellation**

- (1) A justified application by the Steering Committee and a resolution adopted at the Members' Steering Meeting by way of a three quarter majority of the present members are required for an exclusion. A member may only be excluded if good cause applies in respect of that person's character, in particular if the member has culpably and seriously acted against the association's interests or the provisions of these Rules and Regulations. The members' meeting must give the member who is to be excluded the opportunity to be heard prior to the adopting of a resolution regarding the exclusion. In the case of voting on the member's exclusion, the member to be excluded does not have a voting right. The exclusion comes into effect upon adopting the resolution. The resolution about the exclusion is to be stated to the affected person by the Committee by way of a registered letter.
- (2) Cancelling a membership is permitted if the member is in arrears with payment of the contribution irrespective of two written warnings issued by the Committee. The Committee may only decide on the cancellation if, from the time of sending the

second warning letter, which must contain a reference to the pending cancellation, three months have passed without payment of the outstanding amount.

## **Article 6**

### **Contributions and business year**

- (1) The association is financed from:
  - a) Membership contributions;
  - b) Promotional contributions;
  - c) Fees from instituting the arbitration proceedings, conciliation proceedings and arbitrators' expert opinions.
- (2) The annual membership contribution is EUR 500.00. It is payable at the start of the business year. The first annual contribution for the current year falls due for payment upon being accepted as a member whereby the time at which a person becomes a member is not of any significance to the amount of the annual contribution. Promotional contributions are paid on a voluntary basis or agreed upon for a certain period.

## **Article 7**

### **Association executive bodies**

The association's executive bodies are the Steering Committee and the Members' Meeting.

## **Article 8**

### **Steering Committee**

- (1) The Committee is made of:
  - a) The Chairperson;
  - b) Up to two Deputy Chairpersons (First and Second Deputy Chairperson).

In the event that the Chairperson is absent or unable to attend, the Deputy Chairperson performs the Chairperson's tasks internally and executes his authorities in accordance with these Rules and Regulations; if unable to attend, then he/she shall be replaced by the Second Deputy Chairperson. If only one Committee Member has been appointed, such a member shall be deemed the Chairperson within the meaning of these Rules and Regulations. In such a case, the regulations about the Deputy Chairperson shall not apply.

- (2) The Committee Members shall be elected at the Members' Meeting for two years. The Committee Members shall remain in office following expiry of their tenure up until the election of a successor. Re-election is permitted. If a Committee Member resigns prematurely, the Members' Meeting shall elect a successor for the remaining term of office to take up the position at the earliest opportunity. Up until the successor has been elected, the number of Committee Members shall be reduced by the Member who has retired prematurely.
- (3) The Chairperson and the Deputy Chairpersons are elected by the Committee Members for two years. Par. (2), sentences 2 to 4, apply accordingly. The Chairperson and the Deputy Chairpersons are, in each case, released from the limitations of Article 181, old version, (2) BGB (German Civil Code).
- (4) The association is represented in legal and non-legal terms jointly in each by two Committee Members pursuant to par. 1a) and/or b). Insofar as only one Committee Member has been appointed, such a Member shall represent the association alone. The sole association member is released from the limitations of Article 181, old version, (2) BGB.
- (5) The Committee is responsible for all association matters provided they are not allocated to the Members' Meeting by law or these Rules and Regulations. The Committee shall manage the association's business transactions and, in particular, perform the following tasks.
  - a) Convocation, preparation and management of the Members' meetings;
  - b) Accounting;
  - c) Implementing the resolutions adopted at the Members' Meeting;
  - c) Drawing up a budget and fund appropriation plan;
  - d) Preparing the business report;
  - e) Inviting new members and filing an application for a justified member exclusion;
  - f) Entering into employment contracts;
- (6) The Committee may issue its own rules of procedure.
- (7) The Committee Members render services in an honorary capacity. They are reimbursed for the expenses they actually incur as part of performing their duties.
- (8) The Committee Members are only liable for intent and gross negligence.

**Article 9**  
**Committee meetings**

- (1) The Committee convenes meetings as required, at least however twice a year. The Chairperson chairs the Committee meetings.
- (2) The Chairperson invites the Committee Members at the latest seven days before the meeting date by stating the agenda, the time of the meeting and the place of the meeting. The invitation is to be made in writing and sent to the respective last stated address of the Committee Member. Following approval by the respective Committee Member, the invitation may also be made by fax or email. If all Committee Members are present at a meeting, compliance with the invitation formalities may be waived by way of a unanimous resolution adopted by the Committee Members. Adopting resolutions via the circular procedure is also permitted.
- (3) Each Committee member may file an application to supplement the agenda. Insofar as the item does not require thorough preparation and all Committee Members approve, the item shall be incorporated in the convened meeting. Otherwise, it shall be incorporated in the next meeting.
- (4) The Committee is deemed to constitute a quorum if the Chairperson, in case he is unavailable the 1<sup>st</sup> or 2<sup>nd</sup> Deputy Chairperson, and at least half the additional available Committee Members are present. If the Committee does not constitute a quorum, by way of honouring all formalities a new meeting is to be convened within two weeks, which in any case shall be deemed to constitute a quorum. Reference is to be made to this in the invitation.
- (5) The Committee passes its resolutions by way of the simple majority of the cast votes provided nothing to the contrary is specified by law or these Rules and Regulations. In the event of an equality of votes, the Chairperson shall have the casting vote.
- (6) Following approval by all Committee Members, the Committee may also adopt resolutions via the written procedure or by way of a telephone vote.
- (7) A record is to be made of the Committee meetings. The record shall contain details about the place, time, participants, resolution content and voting results. The Chairperson shall determine the recording clerk in each case at the start of the meeting. The record is to be signed by the Chairperson and the recording clerk and sent to the Committee Members by e-mail.
- (8) Resolutions adopted at a Committee Meeting may only be disputed within one month from receipt of the record, at the most however within six months after the meeting.

**Article 10**  
**Tasks of the Members' Meeting**

- (1) The tasks of the Members' Meeting are:
- a) Electing and dismissing the Committee;
  - b) Accepting and formally approving the acts of the Committee;
  - c) Authorising the budget and fund appropriation plan;
  - d) Excluding an association member;
  - e) Adopting resolutions on amendments to the Rules and Regulations and the aims;
  - f) Adopting resolutions on liquidating the association;
  - g) Adopting resolutions on the appointment of arbitrators and substitute arbitrators for the German Media Arbitral Tribunal in Leipzig within the meaning of Article 11;
  - h) Adopting resolutions on the setting up and coming into force of the Rules of Arbitration of the German Media Arbitral Tribunal which are not a component of these Rules and Regulations;
  - i) Adopting resolutions on flat rate, appropriate reimbursement of expenses of the Committee Members;
  - j) Adopting resolutions on all other matters presented to the Members' Meeting by the Committee.
- (2) The Members' Meeting shall adopt its resolutions by way of the simple majority of the cast votes of the members in attendance provided another majority is not specified by law or by these Rules and Regulations. A three quarter majority of the cast votes of the members present shall be required to adopt resolutions on items in accordance with par. (1) d, e f), and i). Article 13 (1) applies in addition to resolutions in accordance with par. (1) f. Resolutions on amendments to the Rules and Regulations or the aim may only be entered once the relevant tax office has confirmed the clearance certificate regarding the amendment with regard to the association's non-profit making activity.
- (3) Following approval by all members and Committee Members, in particularly justified individual cases resolutions may also be adopted via the circular procedure or by telephone as part of a telephone conference.

## **Article 11**

### **Appointing the arbitrators at the Media Arbitral Tribunal**

- (1) At the Committee's request by way of a simple majority, appointing arbitrator and substitute arbitrators for the Media Arbitral Tribunal in Leipzig is incumbent upon the Members' Meeting.

## **Article 12**

### **Members' meeting**

- (1) The ordinary Members' Meeting shall be held once a year within the first nine months of the business year. The meeting shall be chaired by the Committee Chairperson. If neither the Chairperson nor his Deputies are present, the Members' Meeting shall determine the Chairperson of the meeting who shall perform the tasks of the Chairperson at the Members' Meeting and, in particular, is to sign the record.
- (2) The Committee may convene extraordinary Members' Meetings. Such meetings must be convened if they are called for in the association's interest or 1/10 of the Members issue a written request to the Committee by stating the purpose and the reasons.
- (3) The Committee invites the members at the latest two weeks before the meeting date by stating the agenda, the time of the meeting and the place of the meeting. The invitation is to be made in writing and sent to the respective last stated address of the member. Following approval by the respective member, the invitation may also be made by fax or email. If all members are present at a meeting, compliance with the invitation formalities may be waived by way of a unanimous resolution adopted by the members
- (4) Each member may file a written application with the Chairperson in respect of supplementing the agenda. The Chairperson shall decide according to his best judgement. If at least one fourth of the members file an application within the set time to supplement the agenda, it must be supplemented. The application for the supplement must be filed at least seven days prior to the meeting date (receipt). The Chairperson shall inform the members of the supplemented agenda in the form of par. (3) without delay, at least three days prior to the meeting date (receipt). If this period can no longer be met, the item is to be incorporated in the agenda of the next Members' Meeting. In the case of particularly urgent matters, a resolution can be adopted without compliance with this period by way of a temporary regulation regarding the item if all present members consent to such a procedure. In such a case, an ordinary adoption of a resolution of the Members' Meeting is to be brought about regarding the item at the next opportunity.



- (5) Members or their legal representatives may make arrangements to be represented by authorised representatives as part of the Members' Meeting and the adoption of resolutions. Authorised representatives may only be members of the association or persons who have a company or employment relationship with members of the association or with the authorised representative. The representative must present a separate and written power of attorney for each Members' Meeting that is to be included in the record of the meeting. A member may simultaneously represent at most three additional members.
- (6) The Members' Meeting shall be deemed to constitute a quorum if at least half the members are present or represented. If the Committee does not constitute a quorum, by way of honouring all formalities a new meeting is to be convened within one month, which in any case shall be deemed to constitute a quorum. Reference is to be made to this in the invitation.
- (7) A record is to be made of the Members' Meeting. The record shall contain details about the place, time, participants, resolution content and voting results. The Chairperson shall determine the recording clerk in each case at the start of the meeting. The record is to be signed by the Chairperson and the recording clerk.
- (8) Resolutions adopted at a Members' Meeting may only be disputed within one month from receipt of the record, at the most however within six months after the meeting.

### **Article 13**

#### **Winding-up the association**

- (1) The winding-up of the association may only be decided upon at a Members' Meeting convened in particular for that purpose. In such a case, the Members' Meeting shall only be deemed to constitute a quorum if at least two thirds of the members are present. The regulations of Article 12(6), Sentences 2 and 3, apply accordingly.
- (2) Insofar as the Members' Meeting does not adopt a resolution to the contrary, in the event of winding-up the association the Committee Members in office at this time shall jointly become liquidators authorised to represent.
- (3) In the case of winding-up or annulling the association, the association's assets shall pass to the media foundation of Sparkasse Leipzig, which is to directly and exclusively use such assets for its non-profit-making aims.

**Article 14**  
**Transitional Provisions for the Establishment**

- (1) Deviating from Article 4 par. 1 the founding members become members upon signing the founding rules and regulations during the founding meeting.
- (2) Deviating from Article 8 par. 3 sentence 1 the Chairperson and the Deputy Chairpersons of the Board are elected during the founding meeting by the founding members.
- (3) The board is authorized to make any changes to the Rules and Regulations which the registry court or the tax authorities have rejected, provided that these changes are necessary in order to obtain the legal validity through entry in the register of associations or in order to obtain the non-profit character. During that course also editorial irregularities in the text of the Rules and Regulations may be corrected.

The Rules and Regulations were established in Leipzig on 26<sup>th</sup> August 2016.