



*Made for minds.*

# Deutsche-Welle-Act

## DWG

Law on the Public Broadcasting

Institution of Federal law „Deutsche Welle“

## **Law on the Public Broadcasting Institution of Federal law „Deutsche Welle“ (Deutsche Welle Act - DWG)**

Date of issue: 16 December 1997

English translation of the Deutsche Welle Act in the version published on 11 January 2005 (BGBl. (Federal Gazette) I p. 90), last amended by Article 4 of the Act of 19 November 2020 (BGBl. (Federal Gazette) I p. 2456).

This translation is intended solely as a convenience to the non-German-reading public. Any discrepancies or differences that may arise in translations of the official German versions of the DWG are not binding and have no legal effect for compliance or enforcement purposes.

## Foreword

Since 1997, the Deutsche Welle Act (DWG) has defined the programming mandate, structure and internal organization as well as the financing of German foreign broadcasting. In a comprehensive amendment in 2004, the DWG was adapted to meet changed media policy needs and digital media world conditions. In the process, the autonomy of the German broadcaster abroad was strengthened against the background of the field of research and supreme court rulings having long since confirmed the validity of the fundamental right of freedom of broadcasting (Article 5 (1) of the German Basic Law) as it applies to Deutsche Welle.

The most extensive amendment to the Deutsche Welle Act (DWG) since then entered into force on 27 November 2020, as lawmakers had to transpose the European Audiovisual Media Services Directive (AVMSD 2018/1808) into national law. In this connection, statutory arrangements regarding the elimination of barriers (accessibility) as well as advertising and sponsoring in Deutsche Welle's programmes and offerings were revised. In addition, lawmakers made it a requirement to cooperate even more closely than before with public broadcasting institutions in Germany and abroad.

On the basis of the Deutsche Welle Act (DWG), Deutsche Welle can continue to perform its function in the digital age of being the reliable and globally present media voice from Germany. The aim is to enable people in target regions to make free decisions, form their own opinions and

represent them in social debates on the basis of independent information, reliable facts and unimpeded exchange.



A handwritten signature in black ink that reads "Peter Niepalla". The signature is written in a cursive, slightly slanted style.

Dr. Peter Niepalla  
Legal Director, Deutsche Welle

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## Section 1

### Working principles of the Institution

#### Subsection 1 General provisions

##### § 1 Legal form

(1) Deutsche Welle shall be a non-profit, public broadcasting institution for foreign broadcasting.

(2) Deutsche Welle shall have legal capacity and the right to be self-governing within the framework of the following provisions.

(3) Deutsche Welle shall adopt its own articles of association to govern its corporate structure.

##### § 2 Registered offices and studios

(1) The registered offices of Deutsche Welle shall be located in Bonn and Berlin. The Director-General and the administrative department shall be based in Bonn, which shall also be the place of jurisdiction.

(2) Deutsche Welle may have studios in Germany and abroad, taking opportunities for cooperation with German and foreign broadcasting institutions and broadcasters into account. Relevant details shall be governed by Deutsche Welle's articles of association.

##### § 3 Mission

(1) Deutsche Welle shall offer radio and television broadcasts and telemedia for abroad.

(2) Deutsche Welle's offerings shall be disseminated in German as well as other languages.

#### Subsection 2 Planning and content of programmes

##### § 4 Objectives

The offerings of Deutsche Welle are intended to convey the image of Germany as a cultural state in the European tradition and as a free and democratic constitutional state. They should provide a forum in Europe and on other continents for German (and other) points of view on important topics, primarily in the areas of politics, culture, and economics, with the aim of promoting understanding and the exchange of ideas among different cultures and peoples. In so doing, Deutsche Welle shall, in particular, promote the German language.

##### § 4a Task Plan

(1) Deutsche Welle shall be directly responsible for preparing a four-year Task Plan, utilizing all information and assessments important to its mission, particularly its expertise in foreign affairs. The Task Plan shall be updated annually. The plan shall be based on the outline financial data provided by the Federal Government insofar as they affect Deutsche Welle. In other respects, § 4b (6) shall apply.

(2) In the Task Plan, Deutsche Welle shall describe its programme objectives and key projects and their weighting in fulfilling the tasks, as set forth in §§ 3 and 4, for its offerings, broken down, in particular, by target areas, target groups, methods of dissemination, and types of offerings.

(3) In the Task Plan, Deutsche Welle shall describe how it contributes – particularly within the

framework of international developmental cooperation and the promotion of foreign relations – to the training and education of media personnel.

(4) The Task Plan shall also contain the relevant criteria for assessing the offerings and shall explain why the proposed methods of dissemination and types of offerings were provided for the particular target areas and target groups and how the cooperation with third parties contemplated by § 8 (1) and (4) will be carried out.

#### **§ 4b Consultation Procedure**

(1) Deutsche Welle shall forward the draft annual update of its Task Plan to the German Bundestag and the Federal Government in due time after the Federal Government's decision on the next Federal Budget and Financial Plan.

(2) The draft Task Plan shall be published in an appropriate manner to give the interested public in Germany and abroad an opportunity to comment.

(3) The Federal Government shall comment on the contents of Deutsche Welle's Task Plan within six weeks. The German Bundestag should take up this Task Plan within two months, taking the Government's position into account.

(4) The Federal Government shall notify Deutsche Welle of the financial data adopted in its ongoing budget proceedings to the extent it affects Deutsche Welle.

(5) Deutsche Welle's Broadcasting Board shall adopt the Task Plan within two months (with the consent of the Administrative Board), taking into account the comments of the German Bundestag, the Federal Government, and the public. The Task Plan shall include an estimate of operating and investment

costs during the period of the plan. If Deutsche Welle does not follow these comments in formulating its Task Plan, it shall substantiate this decision. Deutsche Welle shall be responsible for adopting the Task Plan.

(6) The amount of the Federal subsidy for Deutsche Welle shall be determined in the annual Federal Budget Act.

(7) Deutsche Welle shall publish a final version of the Task Plan reflecting the Federal subsidy.

#### **§ 4c Evaluation**

(1) Deutsche Welle shall carry out an ongoing evaluation of its offerings and their effects.

(2) Deutsche Welle shall prepare a report on the evaluations it has made of its offerings and their effects during the four-year period of the Task Plan. In so doing, it shall include the expertise of outside parties in Germany and abroad.

(3) Deutsche Welle shall forward the report prepared in accordance with paragraph 2 to the German Bundestag, the Federal Government, and the Federal Audit Office and shall publish it.

#### **§ 5 Basic principles of the programmes**

(1) The offerings of Deutsche Welle shall respect and safeguard human dignity. The stipulations of general law and the statutory provisions protecting the rights of young persons and ensuring the equality of men and women shall be observed, as shall the right of personal honour.

(2) The programmes must enable the public to form independent opinions, and must not one-sidedly support a party or other political association, a religious community, a profession or community

of interest. The moral, religious and ideological convictions of radio and television consumers shall be respected.

(3) Reporting shall be comprehensive, truthful and factual and shall be done in the awareness that Deutsche Welle programmes affect the relationship of the Federal Republic of Germany with other countries. Origin and contents of news items intended for publication shall be checked with due care. Comment shall be clearly separated from news and made recognisable as such, indicating the author's name.

### **§ 6 Impermissible offerings, protection of minors**

(1) Irrespective of criminal responsibility, offerings shall be impermissible if they

1. incite hatred against elements of the population or against a national, racial, or religious group or a group identified by its national customs and traditions, invite arbitrary acts or acts of violence against them, or attack the human dignity of others by verbally abusing, maliciously disparaging, or slandering elements of the population or the aforementioned groups;
2. describe any atrocious or otherwise inhuman acts of violence to human beings in a way that glorifies or minimises such acts of violence or portrays the atrocity or inhuman aspect of the act in a way that violates human dignity (this also applies to virtual representations);
3. glorify war;
4. violate human dignity, particularly by portraying people who are dying or are (or

have been) exposed to severe physical or mental suffering, and report about a factual event even though there is no legitimate interest in this particular form of presentation or reporting (consent being irrelevant);

5. are pornographic or portray children or minors in unnatural, sexually suggestive postures (this also applies to virtual representations);
6. are on the list in § 18 of the Act for the protection of minors or are wholly or substantially identical to a work on that list;
7. are clearly likely to seriously endanger the development of children and young people or their upbringing to become autonomous and socially competent persons, taking into account the special effect of the medium of dissemination.

§ 131 (2) of the Penal Code shall apply accordingly to cases under No. 2, above. § 86 (3) of the Penal Code shall apply accordingly to cases under No. 3, above.

(2) Once an offering has been included on the list in § 18 of the Act for the protection of minors, the prohibitions under paragraph 1 shall apply, even after substantial changes in content have been made, until a decision has been issued by the Federal Agency for Media Endangering Minors.

### **§ 6a Offerings that may impair development**

(1) If Deutsche Welle should disseminate (or make available) offerings that are likely to impair the development of children or young people into autonomous and socially responsible persons, it shall see to it that children or young people of the ages affected will usually not see or hear them.

(2) It shall be assumed that offerings are likely to impair development within the meaning of paragraph 1 if the offerings have not been cleared for children or young people of the particular age level under the Act for the protection of minors. Sentence 1 shall apply accordingly to offerings that have substantially the same content as the offering so evaluated.

(3) If an offering is presumed to have the effect of impairing the development of children and young people within the meaning of paragraph 1, Deutsche Welle may meet its obligations if the offering is disseminated or made available only between 11:00 p.m. and 6:00 a.m. If it is feared an offering may have the effect of impairing the development of children or young people under the age of 16, the offering may be disseminated or made available only between 10:00 p.m. and 6:00 a.m. With films that have not been cleared for children under the age of 12 in accordance with § 14(2) of the Act for the protection of minors, the welfare of young children must be taken into account in selecting a broadcast time.

(4) Deutsche Welle shall provide users with sufficient information about content that may impair the physical, mental or moral development of children or young people. Pursuant hereto, it shall use a system that describes the potential harm from offerings.

(5) Programme announcements with motion pictures that announce programmes subject to broadcast-time restrictions may be broadcast only at the times referred to in paragraph 3. Programmes presumed to have the effect of impairing the development of children or young people under the age of 16 must be announced by acoustic signals or identified by visual means during the entire broadcast as unsuitable for the particular age level.

(6) Deutsche Welle can place time restrictions on films to which the Act for the protection of minors does not apply to accommodate the peculiarities of broadcasting films on television, particularly with respect to television series. It may do so on a case-by-case basis or by issuing guidelines.

(7) Deutsche Welle can place time restrictions on other broadcasting formats, on a case-by-case basis, if the arrangement or treatment of the topic, the form, or presentation, viewed as a whole, is likely to impair children and young people in their development and upbringing.

(8) With respect to broadcasts intended exclusively or predominantly for countries outside Europe, the relevant time restrictions in paragraphs 3 to 6 shall reflect the local times in all parts of the target countries.

(9) At the request of the Director-General, the Deutsche Welle Broadcasting Board can deviate from the presumption in paragraph 2. This shall apply, in particular, to offerings that were evaluated more than 15 years ago. The supreme Land youth authorities must be informed of the contrary evaluation.

(10) Paragraphs 1 and 4 shall not apply to news broadcasts and radio and television broadcasts on current political events and comparable offerings in telemedia as long as there is a legitimate interest in this form of presentation or reporting.

## **§ 7 Officer for the protection of young people**

(1) The Director-General shall appoint an officer for the protection of young people.

(2) The officer for the protection of young people shall be the contact person for broadcasting participants and users and shall advise the Direc-



tor-General in matters relating to the protection of minors. Deutsche Welle shall allow this person to timely and appropriately participate in all programme procurement matters, in the production, acquisition, planning, and designing of offerings, and in all decisions relating to the protection of minors, and shall inform this person fully about its offerings. The officer can propose to the Director-General that offerings be modified or restricted.

(3) The officer for the protection of young people must have the expertise required for fulfilling his functions and shall not be bound by any instructions when carrying out his duties. The officer may not be penalized for performing his duties and must be provided with the resources needed to perform them. To the extent this person is an employee of Deutsche Welle, he shall be released from performing his job – with continuation of pay – to the extent necessary to perform his duties.

(4) The officer for the protection of young people at Deutsche Welle shall regularly exchange experiences with the corresponding officers of the broadcasting institutions of the Länder joined together to form the ARD, of the ZDF and the private companies broadcasting programmes for the whole of Germany.

#### **§ 7a Accessibility (barrier-free access)**

(1) Deutsche Welle shall within the framework of its technical and financial abilities steadily and step by step make additional offerings free of barriers accessible to people with disabilities.

(2) Deutsche Welle shall report to the Broadcasting Board on the measures taken to provide barrier-free access and shall send these reports to the competent supreme Federal authority for Culture and the Media every three years, beginning on 1 November 2022.

This supreme Federal authority shall then submit the reports to the European Commission.

### **Subsection 3 Performance of duties**

#### **§ 8 Cooperation with third parties**

(1) Deutsche Welle shall closely cooperate with public broadcasting institutions in Germany and abroad in fulfilling its mission and attaining its objectives. Deutsche Welle shall set out the cooperation with domestic public broadcasting institutions in public law agreements. It may use programmes made by the public broadcasting institutions of the Länder as part of its overall programme or may give its own programmes to these institutions for further use.

(2) Deutsche Welle may cooperate with other broadcasters in terms of production and commercial use of programmes and to this end may also hold shares in other companies within the framework of § 59. The production of programmes as per sentence 1 must not predominantly be for commercial use.

(3) Cooperation with broadcasting institutions and broadcasters as per paragraphs 1 and 2 is permissible unless it affects the editorial independence of Deutsche Welle.

(4) In fulfilling its duties, Deutsche Welle shall mutually cooperate with other institutions, particularly with those involved with international relations, culture, economics, and science.

#### **§ 9 Productions**

(1) Deutsche Welle shall fulfil its duties by disseminating programmes which

1. are planned and produced by Deutsche Welle (own productions),

2. are produced by Deutsche Welle in cooperation with third parties (joint productions),
3. are produced by a third party instructed to do so by Deutsche Welle (outsourced productions),
4. are purchased from third parties (third party productions).

(2) In accordance with Community Law, Deutsche Welle shall reserve the main part of the overall broadcasting time earmarked for films, television plays, series, documentaries and comparable productions for the broadcasting of European productions in order to reflect the variety existing in the German-speaking countries and the rest of Europe, as well as to promote European films and television productions. In its offering, Deutsche Welle shall act to ensure that European works account for at least 30 per cent of its offering of audiovisual media services on demand in the meaning of § 2 (1) (8) of the German Telemedia Act (Telemediengesetz) and that such works are highlighted.

(3) Deutsche Welle's own productions, joint productions and European works by independent producers shall each form an adequate proportion of the films, television plays, series, documentaries and comparable productions of Deutsche Welle. An appropriate quota of works by independent producers shall be reserved for recent productions which are broadcast within five years of being made.

(4) Deutsche Welle will not broadcast films for the first two years after their release at cinemas, unless the proprietors and Deutsche Welle have agreed otherwise.

(5) It is not permissible for third parties to influence the form and content of Deutsche Welle programmes. If Deutsche Welle uses outsourced,

joint or third party productions, it is responsible for ensuring that such productions comply with the provisions of this Law, in particular with the provisions in §§ 4 to 6.

## § 10 Advertising

(1) Advertising is any statement which directly or indirectly serves to promote the sale of goods and services, including immovable objects, rights and obligations, or the image of persons or legal entities which are engaged in an economic activity, and in return for remuneration or similar consideration or as self-promotion is included in broadcasting or in a telemedium. Advertising is in particular radio/television advertising, sponsoring and product placement.

(2) Advertising must not violate human dignity or contain or promote any discrimination on the basis of gender, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.

(3) Advertising must not be misleading or damage consumer interests, and must not promote behaviour which jeopardises the health and safety of consumers or the protection of the environment. Advertising may not inflict physical or psychological harm on children or young people. Advertising which is also aimed at children or young people or involves children or young people must not harm their interests or exploit their inexperience. Advertising thus must not

1. contain direct appeals to buy or rent goods or services to children or young people which exploit their inexperience and gullibility;
2. directly appeal to children or young people to influence their parents or third parties to purchase the advertised goods or services.
3. take advantage of the special trust that chil-

dren or young people have in parents, teachers and other persons or

4. show children or young people in dangerous situations without any legitimate reason for such.

(4) The advertising of alcohol must comply with the following criteria:

- a) It must not be aimed at children or young people or specifically appeal to children and young people through its manner of presentation or portray minors consuming alcohol.
- b) In no event may a connection be made between improved physical performance and alcohol consumption or driving and alcohol consumption.
- c) It must not suggest that the consumption of alcohol leads to social or sexual success.
- d) It must not suggest that alcohol has a therapeutic, stimulating, calming or problem-solving effect.
- e) Consumption of alcohol without moderation must not be promoted, nor must abstinence and moderation be presented in a negative light.
- f) The alcohol content of beverages must not be emphasised as a positive feature.

(5) Advertising and advertisers must not have an influence on the contents or editing of the remaining programme.

(6) Advertising must be clearly recognisable as such. Visual signals on television and acoustic signals on radio must clearly separate it from other programme components. Subliminal techniques must not be used in advertising. It is permissible to reserve a portion of the broadcast image for ad-

vertising, if the advertising is clearly separated from the rest of the programme visually and is designated as such. As part of Deutsche Welle's cooperation with the ARD public broadcasting institutions of the Länder and with ZDF, advertising received from the public broadcasting institutions, added to the image at a later date, or modified is permissible; the same shall apply mutatis mutandis to the use of product placements contained on programmes.

(7) Continuous advertising programmes are permissible provided the element of advertising is conspicuous as a major element of the programme. They must be announced as continuous advertising programmes at the start and marked as such throughout their entire duration.

(8) Masked advertising is impermissible. Masked advertising means the mentioning or presentation of goods, services, names, brands or activities of a manufacturer of goods or supplier of services during programmes where this is intended for the purpose of advertising and may mislead the general public with regard to the actual purpose of this mentioning or presentation. A mentioning or presentation is deemed to be for the purpose of advertising, in particular, if it is made in return for payment or other consideration.

(9) Newsreaders or persons who regularly present programmes about the current political situation must not appear on television commercials.

(10) Any political, ideological or religious propaganda is impermissible. § 17 shall remain unaffected.

(11) The transmission of religious services or children's programmes must not be interrupted by commercials.

(12) Television commercials must be shown en bloc between individual programmes.

(13) If advertising during a television programme is specifically and frequently aimed at viewers from a country which has ratified the European Agreement on cross-border television but which is not an EU member state, any stricter regulations on television advertising applicable in that state must not be bypassed.

Sentence 1 shall not apply if agreements in this respect have been concluded with the country concerned.

(14) The annual average of total advertising time on Deutsche Welle's overall television programme shall amount to a maximum of 20 minutes on working days. Advertising time that has not been fully utilised may be subsequently used on working days up to a maximum of five minutes. A higher proportion of advertising is permissible in broadcasts for regional areas of distribution. The duration of spot advertising on television must not exceed 20 per cent over a one-hour period.

(15) Commercial programmes in the form of direct offers to the public for the sale, purchase and lease of products or the supply of services (television sales) are impermissible.

(16) The Broadcasting Board shall issue guidelines for the implementation of paragraphs 2 to 15.

### § 11 Sponsoring

(1) Sponsoring means the contribution by a person, legal entity or association which is not involved in broadcasting activities, in the provision of telemedia or the production of audiovisual works, to the direct or indirect financing of telemedia or a particular programme in order to promote a name,

brand, image of a person, their activity or performance.

(2) In the case of offerings which are partly or wholly sponsored, a reasonably short but clear announcement that the offering is funded by a sponsor must be made at the beginning and end of the offering. Within this framework the announcement may also be made through moving pictures. Alongside or instead of the sponsor's name, it is also possible to fade in his company logo or a brand name.

(3) Sponsors must not influence the contents and slot of a sponsored offering in such a way as to prejudice the responsibility or editorial independence of Deutsche Welle.

(4) Sponsored offerings must not encourage the sale, purchase and lease of products or services of the sponsor or a third party. In particular, relevant special hints must be avoided.

(5) News programmes and offerings about the current political situation must not be sponsored.

(6) The Broadcasting Board shall issue guidelines for the implementation of paragraphs 1 to 6.

### § 12 Making programmes available to third parties

Deutsche Welle may permit foreign radio and television providers or third parties to retransmit abroad programmes, which were originally produced or distributed by Deutsche Welle to feed such programmes into foreign cable networks or use them otherwise if this contributes to the fulfilment of Deutsche Welle's chartered task and if commercial sale of the programmes released by third parties can be excluded. Foreign radio and television providers and third parties have no claim on programmes of Deutsche Welle.

### § 13 Transcription

(1) Deutsche Welle may produce programmes in German or other languages that are ready for broadcasting for foreign broadcasters (transcription).

(2) The use of programmes produced as per paragraph 1 for other purposes than radio or television, the forwarding of these programmes to third parties by foreign broadcasters and the commercial sale of the programmes by third parties are not permitted. If programmes are released for a one-off transmission within a certain period of time, it must be contractually ensured that they are erased by the third party after transmission.

### § 14 Printed matter

Deutsche Welle may publish printed matter regarding its programmes to the extent that this is necessary for the fulfilment of its function.

### § 15 Broadcast technology

(1) For the fulfilment of its function under § 3, Deutsche Welle may use the same technical possibilities of transmission as are available to the public broadcasting institutions of the Länder. This shall also include the access to and transmission of programmes via satellite.

(2) Deutsche Welle may rent any radio and television stations in Germany and abroad it requires for the fulfilment of its function. Abroad, Deutsche Welle may also set up, maintain and run the necessary radio and television stations.

(3) Deutsche Welle's programmes may be transmitted via satellite and, abroad, may be distributed terrestrially and fed into foreign cable networks. Deutsche Welle shall also use the frequencies allocated to it in the short and medium wave range for the transmission of its radio programmes. In

addition, Deutsche Welle shall transmit its radio programmes from rented radio stations or its own relay stations abroad.

## Subsection 4

### Third party rights

#### § 16 Right of announcement

Deutsche Welle shall grant the Federal Government without delay and free of charge the necessary broadcasting time for making official announcements in the event of a crisis, disaster or any other situation of considerable danger.

#### § 17 Broadcasting time for third parties

Appropriate broadcasting time must be granted to the Evangelical Churches, the Catholic Church and the Jewish Community, at their request, for the transmission of religious ceremonies and celebrations and other religious programmes, including those concerning the issue of their public responsibility. Other religious organisations governed by public law and represented throughout the entire federal German territory must be duly considered.

#### § 18 Counterstatement

(1) Deutsche Welle shall undertake to disseminate on television or radio the counterstatement given by a person or authority affected by an allegation made in a Deutsche Welle programme.

(2) There is no obligation to disseminate the counterstatement

1. if the affected person or authority has no justified interest in the dissemination, or
2. if the counterstatement is not reasonable in terms of length, in particular if it considerably exceeds the length of the part of the programme objected to.

(3) The counterstatement must be limited to facts and must not have a punishable content. It must be made in writing and signed by the person or authority affected or their legal representative. The person or authority affected or their representative may only request the dissemination of the counterstatement if it was received by Deutsche Welle immediately after or at the latest three months after dissemination of the allegation objected to. The programme to which objection has been made and the allegation objected to must be indicated in the counterstatement.

(4) The counterstatement must be disseminated without delay as part of the same programme as contained the allegation objected to, as well as at the same time of day, or, if this is not possible, at a broadcasting time which is equal to the broadcasting time of the programme objected to. The dissemination shall take place without interruptions, comments or omissions. A reply to the counterstatement is only admissible if it is limited to facts.

(5) The counterstatement shall be disseminated free of charge.

(6) In the event that Deutsche Welle refuses to disseminate the counterstatement or does not undertake any measures, the person or authority affected may appeal to the courts. At the affected person's or authority's request, the court may instruct Deutsche Welle to disseminate a counterstatement in the form indicated in paragraph 4. The provisions of the Code of Civil Procedure on the procedure for temporary injunctions shall apply accordingly. It is not necessary to substantiate that the claim is in jeopardy. A procedure on the merits shall not take place.

(7) Paragraphs 1 to 6 shall not apply to truthful

reports about public meetings of the European Parliament, of the legislative bodies of the Bund, of the Länder, of representatives of local authorities and community associations, or of the courts; nor do they apply to programmes as per §§ 16 and 17.

(8) A counterstatement of a counterstatement cannot be requested.

### **§ 19 Petitions and complaints**

(1) Everyone has the right to approach Deutsche Welle with petitions and suggestions concerning programmes.

(2) Petitions maintaining that basic principles of programmes have been violated (complaints about programmes) shall be filed immediately after transmission of the programme. The Director-General shall give written notification of the decision on a complaint about a programme within one month of receipt of the petition.

(3) The Director-General shall submit the complaint about a programme as well as his/her final statement to the Broadcasting Board for information. If the Director-General does not adjust a complaint about a programme or does not do so within the period of time indicated in paragraph 2 sentence 2, the person making the complaint may approach the Broadcasting Board, who will then decide on the complain. The Director-General must clearly indicate this possibility in his/her statement.

(4) All further details are regulated in the articles of association, which may provide that the Broadcasting Board entrusts a complaints committee with the decision as per paragraph 3 sentence 2.

## § 20 Right of appeal

(1) Whoever believes that their rights have been violated by Deutsche Welle processing their personal details, may approach the data protection officer at Deutsche Welle (appeal).

(2) If the violation of basic principles of programmes as per § 19 is claimed at the same time as an appeal is filed, the data protection officer at Deutsche Welle shall immediately advise the Director-General and, at the same time, provide him/her with a statement of opinion on the contents of the appeal. If the Director-General agrees with the data protection officer's statement of opinion, § 19 paragraphs 2 and 3 shall apply to the further procedure. If the Director-General, however, wishes to deviate in his/her decision from the part of the Deutsche Welle data protection officer's statement of opinion concerning the appeal, he/she shall submit the appeal to the Administrative Board for a final decision. The Administrative Board's decision is binding for the Director-General. Further details are regulated in the articles of association.

(3) If a complaint about a programme as per § 19 is linked to an appeal, the Director-General shall forward this petition to the data protection officer at Deutsche Welle for a statement of an opinion. Paragraph 2 sentences 2 to 4 shall apply accordingly.

## § 21 Conservation of evidence

(1) Original and complete sound recordings, and in the case television programmes also visual recordings, must be made of all programmes distributed by Deutsche Welle and kept.

(2) The conservation period is three months from the date of transmission of the programme. If an objection to a programme is raised within this period, the recording must be kept until such time as the complaint has been adjusted by a final court decision, by

settlement in court or by other means.

(3) If someone substantiates in writing or electronically that their rights have been affected by a Deutsche Welle programme, they may demand to see a recording of the programme and, at their own expense, have copies made by Deutsche Welle.

## Subsection 5 Responsibility for programmes

### § 22 General responsibility

(1) Whoever has instructed or permitted the broadcasting of a programme shall be responsible for its content and form in accordance with general legal provisions and the special provisions of this Act. Whoever has failed to duly perform their duties shall also be held responsible.

(2) It is assumed that the Director-General shall be responsible for the transmission of all programmes. If and to the extent that a deputy acted on his/her behalf, the assumption shall apply to that person. Sentences 1 and 2 above are not applicable to criminal matters or matters of administrative fines.

(3) The content and form of programmes for which Deutsche Welle has granted broadcasting time in accordance with §§ 16 and 17, shall be the responsibility of the person to whom broadcasting time was granted.

(4) The responsibility of other persons, in particular of the author, producer or designer of a programme, shall remain unaffected.

### § 23 Disclosure obligation

(1) On request, Deutsche Welle shall disclose the name and business address of the Director-General or of others responsible for a programme if so re-

quested. Deutsche Welle shall furthermore provide the following information easily, directly and permanently accessible as part of its overall offering:

1. name and address,
2. information which make quick and direct contact and efficient communication possible, including the electronic mail address,
3. a statement that Deutsche Welle is subject to the legal jurisdiction of the Federal Republic of Germany and
4. information on the supervisory authority in charge.

(2) Deutsche Welle shall make available to the competent supreme Federal authority for Culture and the Media any information it requires to fulfil its duty of supplying information and reporting, namely in accordance with the following provisions:

1. Article 16 paragraph 3 of Directive 2010/13/EU of the European Parliament and the Council dated 10 March 2010 on the co-ordination of certain provisions laid down by law, regulation or administrative action of the Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95 dated 15 April 2010, p. 1; L 263 dated 6 October 2010, p. 15) which has been amended by Directive (EU) 2018/1808 (OJ L 303 dated 28 November 2018, p 69), and
2. Article 6 paragraph 2 in connection with Article 19 of the European Agreement on cross-border television dated 5 May 1989 (Federal Gazette 1994 II p. 638), amended by the Protocol of the Council of Europe from 9 September 1998 (Federal Gazette 2000 II p. 1090), entered into force on 1 March 2002.

## Section 2

### Structure of the Institution

#### Subsection 1 General provisions

##### § 24 Bodies

(1) The bodies of Deutsche Welle are

1. the Broadcasting Board,
2. the Administrative Board,
3. the Director-General.

(2) The Broadcasting Board and the Administrative Board are the executive bodies of Deutsche Welle.

(3) The members of the executive bodies serve in an honorary capacity.

##### § 25 Incompatibility of office and activities

(1) Membership in the executive bodies of Deutsche Welle is mutually exclusive. The Director-General cannot not be a member of an executive body.

(2) Members of the executive bodies must not pursue any commercial or other interests which are likely to jeopardise the fulfilment of their duties as members of one of Deutsche Welle's executive bodies. In particular, they must not at the same time be members of a body

1. of another public broadcasting institution or private broadcaster,
2. of an association of public broadcasting institutions or private broadcasters,
3. of an *incorporated*<sup>1</sup> company governed by

<sup>1</sup> In § 25 (2) sentence 2 no. 3 of the Deutsche Welle Act (DWG) the word "incorporated" has been added due to the expected entry into force of the Act on the Modernisation of Law Governing Partnerships (Gesetz zur Modernisierung des Personen-gesellschaftsrechts) in the course of 2021.



private law which, directly or indirectly, has a contractual agreement for the supply of radio or television programmes or parts thereof with a public broadcasting institution or private broadcaster, or

4. of an institution under public law which is entrusted with the approval and supervision of broadcasters governed by private law.

Sentence 2 above shall not apply to members of supervisory or executive bodies of companies of which Deutsche Welle is a shareholder, seconded by Deutsche Welle.

(3) Members of the executive bodies must not work for Deutsche Welle or one of the broadcasting stations, associations of broadcasting stations, companies or firms indicated in paragraph 2 sentence 2 in return for payment either on the basis of a service agreement or contract of employment, as a free-lance employee or otherwise, unless it is a matter of delivering occasional lectures and is not a permanent lectureship.

(4) The members of the Broadcasting Board who have been elected by specific social groups and organisations, as well as the members of the Administrative Board elected by the Broadcasting Board and belonging to these groups and organisations must not be members of the European Parliament or of legislative bodies of the Bund or one of the Länder or of the Federal Government or the government of one of the Länder.

### **§ 26 Independence**

(1) When performing their duties, the members of the executive bodies shall represent the interests of the general public. They are not bound by a mandate or instructions.

(2) Members of the executive bodies must not be prevented from assuming office and carrying out their duties, and they must not be disadvantaged in their service or employment because of their membership. In addition, it is also impermissible to dismiss them on the grounds of their membership in one of the executive bodies or give them notice of termination. If they are in service or employment, they must be granted the time required to carry out their duties.

### **§ 27 Term of office**

(1) The term of office of the executive bodies is five years starting in each case on the date of the first meeting.

(2) After expiry of the term of office, the executive bodies shall continue the ordinary business until such time as the corresponding newly formed bodies meet for their constituent meeting.

### **§ 28 Dismissal and premature withdrawal**

(1) The public bodies as well as the social groups and organisations may dismiss their elected or appointed member if his/her activity for the authority entitled to elect or appoint ceases.

(2) In addition, members shall be deemed to have terminated their office if they no longer fulfil the preconditions under § 25 and the relevant executive body resolves accordingly.

(3) If a member withdraws prematurely, a successor shall be elected or appointed for the remaining term of office in accordance with the provisions applicable to the election or appointment of the member who has withdrawn.

### § 29 Appointing new members

(1) No later than four months prior to expiry of the term of office of the Broadcasting Board, its Chairman shall ask the authorities entitled to elect or appoint members, to elect or appoint the members of the new Broadcasting Board.

(2) No later than four months prior to expiry of the term of office of the Administrative Board, its Chairman shall ask the public bodies indicated in § 31 paragraph 2 and the Chairman of the Broadcasting Board to elect or appoint the members of the new Administrative Board.

(3) The number of members of each executive body shall be reduced according to the time and extent that the right to elect or appoint members is not exercised.

(4) When electing or appointing members, the best efforts shall be made to bring about or maintain an equal representation of men and women.

### § 30 Reimbursement of costs

Members of the executive bodies shall be entitled to an expense allowance as well as to travel expenses, day-allowances and overnight accommodation allowances. Further details are regulated in the articles of association.

## Subsection 2 The Broadcasting Board

### § 31 Constitution

(1) The Broadcasting Board shall comprise 17 members.

(2) Two members of the Broadcasting Board shall each be elected by the German Bundestag and the Bundesrat. Three members shall be appointed by the Federal Government.

(3) The following social groups and organisations shall each appoint one member of the Broadcasting Board:

1. the Evangelical Church,
2. the Catholic Church,
3. the Central Council of Jews in Germany,
4. the Confederation of German Employers' Associations (BDA) in agreement with the Federation of German Chambers of Industry and Commerce (DIHT),
5. the leading union organisations,
6. the Deutscher Sportbund (German Sports Federation),
7. Internationale Weiterbildung und Entwicklung (InWent) gGmbH (Capacity Building International, Germany),
8. the Deutscher Kulturrat (German Council of Culture),
9. the Deutsche Akademie für Sprache und Dichtung (German Academy of Language and Literature), and
10. the College Rectors' Conference

(4) A deputy shall be appointed or elected for each member of the Broadcasting Board. In the absence of the regular member, the deputy member shall participate in meetings of the Broadcasting Board and its committees with full authority.

### § 32 Duties

(1) The Broadcasting Board shall represent the interests of the general public at Deutsche Welle. It shall decide on issues of fundamental importance for Deutsche Welle, advise the Director-General in general matters regarding programmes and work towards the fulfilment of the intended purpose of the overall programme.

(2) The Broadcasting Board shall supervise compliance with the basic principles of programmes (§ 5) and general guidelines on programmes. It may establish that certain programmes have violated the basic principles of programmes. The Broadcasting Board may instruct the Director-General to rectify such violation or to avoid it in future. It is not admissible for the Broadcasting Board to check individual programmes prior to transmission, unless there are already unequivocal indications that a particular programme will violate the basic principles of programmes.

(2a) The Broadcasting Board shall adopt the Task Plan for Deutsche Welle based on a draft from the Director-General.

(3) The Broadcasting Board shall have the following duties in particular:

1. publication and amendment of Deutsche Welle's articles of association,
2. publication and amendment of guidelines on programmes,
3. election and dismissal of the Director-General,
4. election and dismissal of members of the Administrative Board in accordance with § 36 paragraph 1 no. 2,
5. appointment and dismissal from office of the data protection officer at Deutsche Welle
6. setting up of committees of the Broadcasting Board,
7. election and dismissal of members of committees of the Broadcasting Board,
8. publication or amendment of the internal regulations of the Broadcasting Board,
9. publication or amendment of the guidelines on sponsoring,
10. publication or amendment of the guidelines on advertising.

(4) The Broadcasting Board shall be heard in fundamental financial and personnel matters. This shall apply, in particular, to confirming the business plan and to the formal approval of the Director-General by the Administrative Board.

### § 33 Meetings

(1) The Broadcasting Board shall hold an ordinary meeting every three months at least. In addition, extraordinary meetings must be held if requested by six members or the Director-General.

(2) The meetings of the Broadcasting Board are not open to the public. The Broadcasting Board may resolve to open its meetings to the public.

(3) The Chairman, or a member of the Administrative Board instructed by him/her, and the Director-General shall attend the meetings of the Broadcasting Board. They shall be heard on request.

(4) A staff representative shall attend the meetings of the Broadcasting Board and may be heard on issues which are not programme-related.

### § 34 Resolutions and elections

(1) A quorum of the Broadcasting Board shall exist if, having been duly summoned, the majority of its members are present.

(2) Resolutions by the Broadcasting Board shall generally require the majority of votes of the members present. Resolutions on violations of the basic principles of programmes that have been established as such, as well as on the publication or amendment of the internal regulations shall require the majority of votes of its members. A two-thirds majority of its members' votes shall be required for

1. the publication or amendment of Deutsche Welle's articles of association,
2. the dismissal of the Director-General,
3. the dismissal of a member of the Administrative Board conforming to § 36 paragraph 1 no. 2,
4. the dismissal of a member of one of the committees of the Broadcasting Board.

(3) Paragraph 1 shall apply accordingly to elections.

(4) The Broadcasting Board shall elect a chairman and his/her deputy from among its members by secret ballot and with a majority of its members' votes.

(5) The Broadcasting Board shall elect the Director-General with a two-thirds majority of its members' votes. If a two-thirds majority of the members' votes is not achieved after the second ballot, the majority of the members shall be decisive.

(6) Paragraph 2 sentence 1 shall apply accordingly to other elections.

### § 35 Committees

(1) The Broadcasting Board shall form from among its members a programme committee each for radio and television. In addition, it may set up other committees.

(2) The committees shall prepare the resolutions of the Broadcasting Board for each area of duties. They shall submit an annual written report about their activity to the Broadcasting Board.

(3) Further details are regulated in the internal regulations.

## Subsection 3 The Administrative Board

### § 36 Constitution

(1) The Administrative Board shall comprise seven members, of which

1. one member shall be elected or appointed each by the German Bundestag and the Bundesrat, as well as one member by the Federal Government,
2. four members belonging to the groups and organisations indicated in § 31 paragraph 3 shall be elected by the Broadcasting Board.

(2) Suggestions for the members to be elected as per paragraph 1 no. 2 may be submitted by members of the Broadcasting Board or by the social groups and organisations indicated in § 31 paragraph 3.

(3) A deputy shall be appointed or elected for each member of the Administrative Board. The deputy member shall, in the absence of the regular member, participate in meetings of the Administrative Board with full authority.

### § 37 Duties

(1) The Administrative Board shall supervise the management duties of the Director-General, excluding the preparation and planning of programmes. At any given time, the Administrative Board may request a report from the Director-General, inspect Deutsche Welle's documentation, visit sites and examine procedures.

(1a) The Broadcasting Board's resolution adopting the Task Plan for Deutsche Welle shall require the consent of the Administrative Board (based on a draft from the Director-General).

(2) In addition, the Administrative Board shall have the following duties:

1. conclusion and termination of the Director-General's employment contract,
2. representation of Deutsche Welle in legal transactions involving the Director-General as well as in the event of a legal dispute between Deutsche Welle and the Director-General
3. confirming of Deutsche Welle's business plan,
4. approval of the annual accounts,
5. publication and amendment of financial regulations,
6. giving formal approval to the Director-General's management,
7. publication and amendment of the internal regulations of the Administrative Board.

(3) The consent of the Administrative Board shall be required for

1. the conclusion and termination of directors' contracts of employment,
2. the conclusion of tariff agreements,
3. the purchase and sale of companies and shareholdings,
4. the purchase and sale of properties as well as charges on properties,
5. the procurement of any kind of equipment and assumption of any other obligation where the commercial value exceeds EUR 300,000 in each case and where it is not a matter of contracts for the making and supply of programme components,
6. expenditures in excess of the budget and unbudgeted expenditures,
7. the publication and amendment of Deutsche Welle's articles of association.

8. appointment or dismissal from office of the data protection officer at Deutsche Welle.

The amount indicated in sentence 1 no. 5 may be adjusted in the articles of association in line with economic development.

(4) The Director-General shall undertake to advise the Administrative Board prior to the conclusion of contracts for the making and supply of programme components, where the contractual value exceeds in each case the amount indicated in paragraph 3 sentence 1 no. 5.

(5) The Administrative Board shall be heard prior to the dismissal of the Director-General by the Broadcasting Board.

### **§ 38 Meetings**

(1) The Administrative Board shall hold an ordinary meeting no less than every two months. In addition, extraordinary meetings must be held if requested by a member or the Director-General.

(2) The Chairman of the Broadcasting Board or a member of the Broadcasting Board instructed by him/her may attend the meetings of the Administrative Board. They shall be heard on request.

(3) The meetings shall not be open to the public.

### **§ 39 BResolutions and elections**

(1) A quorum of the Administrative Board shall exist if, having been duly summoned, the majority of its members are present.

(2) Resolutions by the Administrative Board shall generally require the majority of votes of the members present. The majority of votes of the members shall be required to approve the budget, publish or

amend the financial regulations, publish or amend the internal regulations, as well as for approving the publication and amendment of the articles of association and for the approval of a resolution on the planning of tasks.

(3) The Administrative Board shall elect a chairman and his/her deputy from among its members by secret ballot and with a majority.

#### **Subsection 4 The Director-General**

##### **§ 40 Election and term of office**

(1) The Broadcasting Board shall elect the Director-General by secret ballot for a term of six years. Re-election is admissible. After expiry of his/her term of office, he/she shall carry on the ordinary business until the term of office of the elected successor begins.

(2) The Director-General's duties may only be carried out by persons who

1. are permanently or habitually resident in the Federal Republic of Germany,
2. have legal capacity
3. are fully liable to prosecution under criminal law
4. have the capacity to hold public offices, and
5. have not forfeited their basic rights.

##### **§ 41 The Deputy of the Director-General**

If the Director-General is dismissed or withdraws, his/her deputy shall carry on the ordinary business until such time as the term of office of the elected successor begins.

##### **§ 42 Duties**

(1) The Director-General shall manage Deutsche Welle independently. He/she shall be solely responsible for the preparation and planning of programmes and for the operating of the institution as a whole. The Director-General shall ensure that programmes comply with statutory regulations. The rights of the other bodies shall remain unaffected.

(2) The Director-General shall represent Deutsche Welle in and out of court.

(3) The Director-General shall publish internal regulations for Deutsche Welle, which shall regulate the responsibilities of the individual directorates as well as the course of business within the individual directorates.

##### **§ 43 Withdrawal and dismissal**

(1) The contract of employment of the Director-General shall terminate on expiry of his/her term of office.

(2) The Broadcasting Board may dismiss the Director-General at any given time prior to expiry of his/her term of office. However, the Director-General shall be heard prior to such a decision being made. If the Broadcasting Board decides to dismiss the Director-General, the Administrative Board shall terminate the contract of employment of the Director-General.

(3) In the event of a dismissal as per paragraph 2 above, the Director-General shall continue to receive his/her fee for the duration of his/her term of office in accordance with the contract of employment.

## Section 3

### Financing of the Institution

#### Subsection 1 Finance

##### § 44 Guaranteed financing

The financing of offerings which are necessary for Deutsche Welle under this Act shall be guaranteed, whereby the development of broadcast technology shall be taken into consideration.

##### § 45 Income

(1) Deutsche Welle shall be financed with the annual subsidy and financial support from the Bund and other income.

(2) The amount of the subsidy from the Bund shall be determined on the basis of the Budget Act of the Bund.

(3) Deutsche Welle's Task Plan (§§ 4a and 4b) shall be ensured by the plan's four-year time period, the Federal Government's medium-term financial plan, and the decisions of lawmakers on the budget.

##### § 46 Principles of Financial Management

(1) Deutsche Welle shall be independent in its financial management, unless this law provides or permits otherwise.

(2) Deutsche Welle shall perform its own commercial accounting in accordance with the Commercial Code.

(3) In agreement with the Federal Audit Office and in consultation with the Federal Government, Deutsche Welle shall adopt its own financial regulations, which shall regulate in detail the establishment and

implementation of the business plan, cash management and book-keeping, as well as the accounting of Deutsche Welle.

(4) In principle, the employees of Deutsche Welle may not be placed in a better position than comparable employees of the Bund. The approval of the Federal Government must be obtained before entering into wage agreements that would place the employees of Deutsche Welle in a better position than comparable employees of the Bund – contrary to Sentence 1.

(5) The provisions on purposes that entail eligibility for tax concessions – §§ 51 to 68 of the Fiscal Code – shall apply accordingly.

##### § 47 Significance and effects of the business plan

(1) The business plan of Deutsche Welle (business plan) shall serve to establish and cover the extent of funding which is anticipated as necessary to fulfil the duties of Deutsche Welle in each financial year. The business plan shall form a binding basis for the budget and economic management.

(2) Claims or liabilities shall neither be substantiated nor voided by the business plan.

##### § 48 Establishing the business plan

(1) Deutsche Welle shall prepare a business plan for each financial year in accordance with the principles of economic efficiency. The financial year shall be the calendar year.

(2) The business plan shall contain:

1. a profit plan in which the anticipated income and expenditures for the financial year shall be presented in the format of a profit-and-loss account,

2. an investment plan, which presents the measures planned for increasing current and non-current assets,
3. a financial budget, which lists internal resources, anticipated covering funds, and expenditures for investments,
4. a transitional statement of account for income and expenditures conforming to the Bund's budget system,
5. a staffing schedule,
6. management principles

(3) Income and expenditures shall be balanced on the transitional statement of account referred to in paragraph 2, No. 4.

(4) Deutsche Welle's financial regulations can provide for additional information to be accepted into the business plan.

(5) Deutsche Welle shall forward the transitional statement of account, the staffing plan, and the management principles referred to in paragraph 2, Nos. 4 to 6, to the Federal Government and the Federal Audit Office.

#### **§ 49 (repealed)**

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#### **§ 50 Costs eligible for cover**

(1) Estimates may be declared eligible for cover in Deutsche Welle's business plan or its financial regulations in accordance with the following paragraphs.

(2) The profit plan's estimates (§ 48 (2), No. 1) for staff expenses, program expenses, operating expenses, and investments can be declared to be mutually eligible for cover as long as they relate to cash transactions. The same shall apply to staff expenses, corporate administrative expenses, and investments

in the transitional statement of account (§ 48 (2), No. 3).

(3) The profit plan's estimates (§ 48 (2), No. 1) for staff expenses, program expenses, operating expenses, and investments may be exceeded by up to 30% if savings are made in other areas as long as they relate to cash transactions. The same shall apply to staff expenses, corporate administrative expenses, and investments in the transitional statement of account (§ 48 (2), No. 3).

#### **§ 51 (repealed)**

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#### **§ 52 Provisional financial management**

Deutsche Welle shall establish the business plan in good time so as to ensure that it can be implemented on 1 January of the following year. If Deutsche Welle has not established the business plan for the following year by the end of the current financial year, Deutsche Welle may make all payments necessary to

1. fulfil its statutory duty of supplying programmes to the same extent as previously,
2. fulfil its legal obligations, and
3. continue construction work, acquisitions and other services, provided the necessary amounts were already approved in a previous budget, until such time as the business plan has been established.

#### **§ 53 Implementation of the business plan**

The implementation of the business plan shall be based on the principles of economic efficiency. §§ 55, 56 paragraph 1, §§ 55, 56 (1), 58, and 59 of the Federal budgetary regulations shall apply accordingly.



### § 54 Costs in excess of the budget and unbudgeted costs; supplementary business plan

(1) Expenditures that exceed the estimates in the profit plan (§ 48 (2), No. 2) or for which there are no estimates (costs in excess of the budget and unbudgeted costs) shall be permissible only if they are unforeseen and unavoidable and their cover is ensured by the business plan. The same shall apply to payments that exceed estimates in the transitional statement of account or for which there are no estimates. Costs in excess of the budget and unbudgeted costs which may have a considerable effect on Deutsche Welle's need for subsidy, therefore require the consent of the Federal Government.

(2) Costs in excess of the budget and unbudgeted costs require the approval of the Administrative Board. If costs cannot be postponed, the Director-General must obtain the approval of the Administrative Board without delay.

(3) Deutsche Welle shall establish a supplementary business plan if

1. it emerges that, in carrying out the business plan, the transitional statement of accounts at § 48 (2), No.4 cannot be balanced despite having made use of all possibilities for savings, or
2. costs in excess of the budget and unbudgeted costs amounting to more than one per cent of Deutsche Welle's overall costs must be paid for.

(4) The provisions of §§ 47, 48, and 50 shall apply accordingly.

### § 55 Annual accounts

Deutsche Welle shall draw up its annual accounts for each financial year. The annual accounts shall comprise

1. the statement of net worth (balance sheet),
2. the profit plan (profit-and-loss account),
3. the cash-flow statement (sources-and-application-of-funds statement),
4. an account of the income actually collected and the expenditures actually made in the past financial year in conformity with the system at § 48 (2), No. 4, and
5. the annual report to explain occurrences of particular importance.

For this, the provisions governing large corporations within the meaning of § 267 of the German Commercial Code shall be applied accordingly, unless otherwise required by this Act, Deutsche Welle's financial regulations, or the peculiarities of Deutsche Welle as a public broadcasting company. Deutsche Welle shall submit the approved annual accounts and the annual report to the Federal Government and the Federal Audit Office without delay.

### § 56 Audits

(1) The Federal Audit Office shall audit the budget management and financial management of Deutsche Welle in accordance with § 111 of the Federal budgetary regulations. § 44 (1), Sentence 3 of the Federal budgetary regulations shall not be affected by this.

(2) The Federal Audit Office and the Federal Government shall be informed by Deutsche Welle about all transactions which are important for the commercial and financial situation of Deutsche Welle. Deutsche Welle shall make available to the Federal Audit Office any documents which the Office deems necessary to fulfil its duties.

(3) The Federal Audit Office shall inform the Director-General about the outcome of the audit, so that he/she may comment on the results within a period

of time to be determined by the Office, and shall also advise the Federal Government.

(4) The Federal Audit Office may advise the German Bundestag, the Bundesrat and the Federal Government of particularly important matters at any given time. If it reports to the German Bundestag and Bundesrat, it shall inform the Federal Government at the same time.

(5) Deutsche Welle shall have its annual accounts audited by an auditor. § 53 (1), Nos. 1 and 2 of the Budget Principles Act of 19 August 1969 (BGBl. I, p. 1273) shall be applied. If the auditor's report differs from that of the Federal Audit Office, the findings of the Federal Audit Office shall have precedence.

### § 57 Notification

Deutsche Welle shall publish the established business plan as well as its approved annual accounts in the Federal Gazette without delay.

## Subsection 2

### Assets, Shareholdings, Construction Work

#### § 58 Assets

(1) The objects procured with the subsidy provided by the Bund in accordance with § 45 form part of Deutsche Welle's assets. They shall be exclusively used for the purposes of broadcasting.

(2) Paragraph 1 sentence 1 shall not apply to properties, buildings and other constructions where the Bund has given these to Deutsche Welle free of charge.

(3) In the event that Deutsche Welle is dissolved, the Bund shall receive all Deutsche Welle's assets on condition that the Bund shall use these exclusively and directly for the benefit of the general public.

#### § 59 Shareholdings

(1) Deutsche Welle may only have a share in companies that pursue a commercial or other economic purpose if

1. this contributes to the fulfilment of Deutsche Welle's function under the law,
2. the cover of associated costs is guaranteed,
3. the Deutsche Welle's liability is limited to a certain amount, and
4. the statutory provisions applicable to the legal form of the company or the company's articles of association provide for a supervisory board or an equivalent body.

(2) With respect to shareholdings, Deutsche Welle must

1. ensure for itself or jointly with other public broadcasting institutions the necessary influence on the management of the company, in particular appropriate representation on the supervisory board, and
2. ensure that the relevant companies undertake to advise Deutsche Welle of any business transactions that are important in terms of finance or programmes.

(3) The Federal Audit Office shall inspect the budget management and economic management of companies in which Deutsche Welle has a shareholding, where Deutsche Welle, directly or indirectly, has the majority of shares. If Deutsche Welle does not have a majority shareholding, the rights as per §§ 53 and 54 of the Budget Principles Act shall be agreed in the shareholders' agreement or the articles of association.

### **§ 60 Construction work**

(1) Building maintenance work, including interior decoration, as well as reconstruction work which is necessary to meet the technical requirements of broadcasting, but which does not interfere with the actual structure of buildings, on properties, buildings or other constructions owned by the Bund but given to Deutsche Welle free of charge, shall entirely be the responsibility of Deutsche Welle. The Federal Property Office shall be involved in each case in the annual inspections carried out to establish the necessary building maintenance works. The Construction Office of the Bund and the Federal Property Office shall be advised of reconstruction work in the sense of sentence 1 above.

(2) Reconstruction work as well as the construction of all new buildings or extensions of buildings on properties, buildings and other constructions owned by the Bund and given to Deutsche Welle free of charge, which are not indicated in paragraph 1, shall be carried out by the Bund as federal construction work.

(3) The guidelines for carrying out construction work for the Bund under the Financial Construction Office, RBBau, shall apply accordingly to building maintenance work and new buildings, reconstruction work or extensions.

## **Section 4**

### **Supervision**

#### **§ 61 Exclusion of professional supervision**

Deutsche Welle shall not be subject to professional supervision (Fachaufsicht) by the state.

#### **§ 62 Legal supervision**

(1) The Deutsche Welle shall be subject to legal supervision (Rechtsaufsicht) by the Federal Government.

(2) Within the framework of legal supervision, the Federal Government shall have the right to indicate in writing to a body of Deutsche Welle, determined in each case by the Federal Government, measures or omissions which represent a violation of this Act, and may determine an appropriate period of time within which such violations are to be rectified.

(3) If such contravention has not been rectified within the specified period, the Federal Government shall instruct Deutsche Welle to undertake such measures as shall be determined in detail by it [i. e. the Federal Government], at the expense of Deutsche Welle. Deutsche Welle may file an action with the Administrative Court against instructions as per sentence 1 above.

(4) Prior to taking measures as per paragraphs 2 and 3, the Federal Government may specify an appropriate period for the body of Deutsche Welle responsible in each case, within which it shall fulfil its duties.

## Section 5

### Data protection

#### § 63 Data processing for journalistic purposes

(1) If Deutsche Welle or an auxiliary company processes personal data for journalistic purposes, only the obligations of Article 5(1)(f) in conjunction with (2), Article 24 and Article 32 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4 May 2016, p. 1; L 314, 22 November 2016, p. 72; L 127, 23 May 2018, p. 2) in the most recently amended version are to be fulfilled. Article 82 of Regulation (EU) 2016/679 shall apply, provided that there shall only be liability for insufficient measures pursuant to Article 5(1)(f), Article 24 and Article 32 of Regulation (EU) 2016/679. The persons concerned shall only be entitled to the rights set out in paragraphs 2 to 4.

(2) If the processing of personal data by Deutsche Welle for journalistic purposes leads to the dissemination of counterstatements by the person concerned or to declarations of commitment, decisions or judgments to refrain from dissemination or on the revocation of the content of the data, these counterstatements, these declarations of commitment, these decisions or judgments according to which Deutsche Welle is to refrain from dissemination or these revocations

1. shall be added to the data stored on the person concerned and kept there for the same period of time as the data itself and
2. in the case of a transmission of the data

stored on the person concerned, shall be transmitted together with these data.

(3) If someone's rights are impaired by Deutsche Welle's reporting, the person concerned may demand information about the personal data stored about him or her upon which the reporting is based. This information may be refused after weighing the interests of the parties involved which are worthy of protection, insofar as

1. one can infer from the data the persons who are participating or who have participated in the preparation, production or dissemination of offerings,
2. it is possible to infer from the data the sender or the guarantor of contributions, documents or notifications for the editorial part, or
3. the communication of researched data or data obtained otherwise would impair fulfillment of Deutsche Welle's journalistic task through tracing and revelation of the information base.

(4) The person concerned may request the immediate correction of inaccurate personal data or the addition of his or her own version in an appropriate scope. The continued storage of personal data shall be deemed to be lawful if it is necessary for the exercise of the right to freedom of expression and information or for the exercise of legitimate interests.

#### § 64 Data protection officer at Deutsche Welle

(1) Deutsche Welle shall appoint an officer for data protection at Deutsche Welle as a supervisory authority, who shall take the place of the Federal Commissioner for Data Protection and Freedom of Information in the area of data processing for

journalistic purposes. The Broadcasting Board shall decide on the details, in particular the principles of remuneration, in the articles of association with the approval of the Administrative Board. Chapters VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis to the data protection officer at Deutsche Welle, unless otherwise provided for in paragraphs 2 to 6 and in § 65.

(2) The data protection officer at Deutsche Welle shall be appointed by the Broadcasting Board with the consent of the Administrative Board. The data protection officer at Deutsche Welle shall be appointed for a period of five years. Reappointment is permissible twice.

(3) The data protection officer at Deutsche Welle must possess the

1. qualification, as evidenced by a university degree,
2. experience, and
3. expertise, especially in the field of personal data protection,

necessary for the performance of his duties and for the exercise of his powers.

(4) The data protection officer at Deutsche Welle shall be independent in the exercise of his office and only subject to the law. He or she shall not be subject to any legal or professional supervision. He shall only be subject to the supervision of the Administrative Board to the extent that his independence in the exercise of his office is not impaired thereby.

(5) The office of the data protection officer at Deutsche Welle may be held in addition to other duties only if these are compatible with the office and do not jeopardize the independence of the data protection officer at Deutsche Welle.

(6) The office of the data protection officer at Deutsche Welle shall terminate upon expiration of the term of office, upon resignation from office or upon reaching the statutory retirement age. Arrangements laid down in collective bargaining agreement shall remain unaffected.

(7) The data protection officer at Deutsche Welle may only be removed from office if he

1. has committed serious misconduct, or
2. no longer fulfils the requirements applying to the performance of his duties.

Removal from office shall be carried out by resolution of the Broadcasting Board upon proposal by the Administrative Board; the data protection officer at Deutsche Welle shall be heard prior to the decision on his removal from office.

(8) Deutsche Welle shall provide the data protection officer at Deutsche Welle with the resources required for the performance of his duties and for the exercise of his powers. Deutsche Welle shall disclose the necessary financial resources annually, publicly and separately in the business plan and shall allocate these for the data protection officer at Deutsche Welle in the execution of the budget. The data protection officer at Deutsche Welle shall be subject to financial control by the Administrative Board only to the extent that his complete independence in the exercise of his office is not thereby impaired. The data protection officer at Deutsche Welle shall be free in the choice of his employees. These shall be subject solely to the management of the data protection officer at Deutsche Welle.

## §

### **65 Duties and powers of the data protection officer at Deutsche Welle**

(1) The data protection officer at Deutsche Welle shall supervise compliance with data protection regulations insofar as Deutsche Welle or an auxiliary company processes personal data for journalistic purposes. The data protection officer at Deutsche Welle shall have the duties and powers according to Article 57 and Article 58 (1) to (5) of Regulation (EU) 2016/679. The supervision of compliance with data protection regulations shall be the responsibility of the Federal Commissioner for Data Protection and Freedom of Information only insofar as the data protection officer at Deutsche Welle is not responsible.

(2) The data protection officer at Deutsche Welle shall uphold and maintain the protection of informants when cooperating with other supervisory authorities.

(3) The data protection officer at Deutsche Welle may not impose any fines on Deutsche Welle or auxiliary companies.

(4) If the data protection officer at Deutsche Welle identifies violations of data protection regulations or other deficiencies in the processing of personal data, he shall lodge a complaint with the Director-General or the persons responsible for the auxiliary company and shall request the Director-General or the persons responsible for the auxiliary company to respond within a reasonable period of time. At the same time as the complaint is lodged, the data protection officer at Deutsche Welle shall inform the Administrative Board thereof. In their statement to the data protection officer at Deutsche Welle, the Director-General or the persons responsible for the auxiliary company shall describe the measures which have been taken as a result of the complaint. At the same time, the Director-General or those responsible for the auxiliary company shall forward a copy of the statement to the

Administrative Board.

(5) A complaint can be waived if

1. the deficiencies are insignificant or
2. it is ensured that the deficiencies are rectified without delay.

(6) The activity report of the data protection officer at Deutsche Welle shall also include information on the use of material and human resources available to the data protection officer at Deutsche Welle. In this context, Deutsche Welle's company and business secrets as well as the personal data of Deutsche Welle's employees and of auxiliary companies shall be protected. The data protection officer at Deutsche Welle shall also transmit the activity report to the bodies of Deutsche Welle as well as to the Federal Commissioner for Data Protection and Freedom of Information in addition to the institutions referred to in Article 59 sentence 1 of Regulation (EU) 2016/679. The transmission may be in written or electronic form. Publication in Deutsche Welle's online offering shall be deemed to be sufficient in order to disclose the report to the public pursuant to Article 59 sentence 3 of Regulation (EU) 2016/679.

### **§ 66 The data protection officer in the meaning of §§ 5 to 7 of the German Federal Data Protection Act (Bundesdatenschutzgesetz)**

In addition to the data protection officer at Deutsche Welle in his capacity as the supervisory authority, Deutsche Welle shall appoint a data protection officer within the meaning of §§ 5 to 7 of the German Federal Data Protection Act (Bundesdatenschutzgesetz). §§ 5 to 7 of the German Federal Data Protection Act shall apply to this officer. The data protection officer shall be appointed by the Director-General with the approval of the Administrative Board.

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