

## **Recommendations for Joint Staff Representation (Best Practice)**

*[adopted by the Board of Trustees on 17 November 2023]*

The following recommendations are intended to take into account the differing legal frameworks for employees with a German contract and employees with a non-German (local) contract under the German Federal Staff Representation Act (Bundespersönlichkeitsvertretungsgesetz (BPersVG)) and, as a binding measure, to contribute to a positive work environment at the Max Weber Foundation (Max Weber Stiftung, MWS).

### **1) Representation by the delegate of the locally employed staff**

#### **a) Summary of the state of the legislation**

- In accordance with Section 120 (2) BPersVG, the delegate of the locally employed staff is elected for four years and, according to subsection 3, takes receipt of suggestions, applications and complaints from the locally employed staff in internal, social and personal matters and represents these staff in relation to the head of the unit and the staff council.
- In matters materially concerning the special interests of locally employed staff, in particular prior to the hiring or dismissal of locally employed staff and prior to the issuing of general administrative orders where the staff council has a right to participate, the delegate shall be given the opportunity to comment before a resolution is passed (Section 120 (3), sentences 3 and 5 BPersVG).
- In these matters that require a hearing, the delegate has the right to submit proposals to the unit management (Section 120 (3), sentence 4 BPersVG).
- In the monthly meetings with the unit management, the arrangement of the day-to-day operations is also to be dealt with, in particular all matters materially affecting the employees (Section 120 (4) in conjunction with Section 65 BPersVG).

#### **b) Recommendations**

- With a view to treating all employees equally as far as possible in staff representation matters, the safeguarding of the interests of the locally employed staff beyond the points referred to in a) is brought about by their delegate in keeping with the rights of the staff council.

- In matters concerning the special interests of the locally employed staff, the unit management makes available to the delegate of the locally employed staff sufficient information to enable the delegate to perform his/her functions without limitation. This relates in particular to contractual matters as well as measures concerning local law.
- In addition to general notification and participation procedures (inter alia by means of confidential talks with the unit management, including information for official use where necessary), this also includes matters of co-determination in accordance with Sections 78 to 80 BPersVG. These matters include, among other things, questions relating to working time and the duty roster, further training measures, general rules of conduct, health protection and accident prevention, the design of workplaces as well as the introduction and use of technical equipment that can monitor the conduct or performance of the employees.

## **2) Management of the staff representation of the locally employed staff**

### Summary of the state of the legislation

- The delegate may establish consultation hours during the working time; the costs and the expenditure on materials incurred as a result of the activity are borne by the unit (Section 120 (4) in conjunction with Sections 45, 46 BPersVG).
- The delegate must maintain secrecy in respect of the matters and facts that come, or have come, to his/her knowledge in the course of exercising his/her office. The duty of secrecy does not apply to matters or facts that are public knowledge or that, in terms of their significance, do not require secrecy (Section 11 BPersVG).
- The delegate is entitled and, at the request of the head of the unit or a quarter of the employees eligible to vote, obliged to convene an extraordinary meeting of the locally employed staff and to put on the agenda the matter on which a discussion has been requested (Section 120 (4) in conjunction with Section 59 (2) BPersVG).

## **3) Joint staff representation at the level of the institutes abroad**

### a) Summary of the state of the legislation

- The staff council and the delegate of the locally employed staff work together in a spirit of trust in accordance with Section 120 (3) BPersVG. In this respect, the staff council must give the delegate the opportunity to comment prior to the passing of a resolution on matters materially concerning the special interests of the locally employed staff.

#### b) Recommendations

- The delegate of the locally employed staff and the staff council regularly act jointly as representatives of all employees of the unit. They communicate with each other confidentially and coordinate staff representation matters and initiatives concerning the whole workforce.
- They regularly jointly conduct the monthly talks with the unit management.
- They regularly jointly conduct the staff meetings.
- Work agreements concerning all employees in the unit are concluded by the staff council and the unit management regularly with co-negotiating and co-signing by the delegate.

### **4) Joint staff representation at Foundation level**

#### a) Summary of the state of the legislation and the Articles of Association

- A staff representative who is elected by the chairpersons of the local staff councils from their midst for a term of four years performs the duties of the general staff council (Section 18 (1) of the Articles of Association).
- A representative of the staff takes part in the meetings of the Foundation Board as a permanent guest with the right to table motions and to speak (Section 7 (2) of the Act for the Establishment of a Foundation German Humanities Institutes Abroad (Gesetz zur Errichtung einer Stiftung Deutsche Geisteswissenschaftliche Institute im Ausland (DGIAG)). The guest's right is exercised for the whole staff either by the general staff council or by a person elected by the delegates of the locally employed staff from their midst (Section 18 (2) of the Articles of Association).

#### b) Recommendations

- Analogously to the general staff council, the delegates of the locally employed staff likewise elect a person from their midst as a general staff representative for four years.
- The general staff council and the general staff representatives of the locally employed staff work together in a spirit of mutual trust and act jointly as representatives of all employees of the MWS.
- The general staff council and the general staff representatives of the locally employed staff conduct monthly talks with the Board of Directors of the MWS concerning cross-site personnel, social or organisational matters.
- Collective work agreements are concluded by the general staff council and the Board of Directors regularly with co-negotiating and co-signing by the general staff representatives of

the locally employed staff.

- The general staff council and the general staff representatives of the locally employed staff coordinate in due time which of these two bodies will take part in the respective next meeting of the Foundation Board, and they inform the Board of Directors thereof. Participation takes place as jointly agreed upon between the general staff council and the general staff representatives of the locally employed staff or on an alternating basis according to calendar years.

## **5) Implementation**

- The best practice paper is made known to all employees of the MWS.
- It is recommended to all responsible bodies as a basis for action. There is no legal entitlement to measures that go beyond the BPersVG.
- The paper is to be updated as necessary with regard to the experiences gained at the institutes and at Foundation level.