



## **Mediation Guidelines**

*- adopted by the Senate of the Max Planck Society on 22 November 1974  
with immediate effect -*

### **§ 1**

Should it not be possible to resolve complaints or disputes at an institute, every employee is entitled to apply for mediation. This shall be subject to the condition that efforts to resolve the issue at the institute have failed.

Attention is drawn to the opportunities for complaint afforded by §§ 84 and 85 of the Works Council Constitution Act (Betriebsverfassungsgesetz).

Every employee who applies for mediation to be initiated has the right to inform his or her competent Works Council. Any intent to terminate his or her employment in the ordinary way while mediation is in progress will require the consent of the Works Council.

### **§ 2**

The President, in response to a proposal by the Senate, shall appoint three mediators for each Section for a term of three years.

The mediators shall be appointed from among the Section Members and Emeritus Scientific Members of the Section. One mediator for each Section shall be appointed from among the scientific staff elected to the Section.

The Section shall submit proposals to the Senate.

### **§ 3**

Mediation shall be initiated upon application to one of the mediators for the competent Section. The mediator may request written grounds for the application.

For reasons of personal interest or involvement, the mediator may decline to consider a matter submitted to him or her.

In each case, one mediator only should be engaged in each matter, this being the mediator first consulted in the matter concerned.

In case of doubt, the competent mediator will be determined by the President.

### **§ 4**

The mediator shall attempt to resolve the matter.

Should the mediator consider joint deliberation upon the matter to be necessary, after hearing the parties concerned, the mediator shall determine the place and time for said deliberation.

For the purpose of performing his or her duties, the mediator has the right to obtain such information from the parties concerned and from the institute management, as he or she shall deem necessary. With the agreement of the parties concerned, the mediator may also obtain information from third parties.

The mediator must treat all matters disclosed to him or her as confidential, and not disclose the same to parties not involved in the mediation procedure.

The mediator shall present his or her proposed solution to the parties concerned. This proposal will be deemed to be accepted if not declined by either party within a period of four weeks.

In other respects the mediator is not required to comply with specific procedural norms.

### **§ 5**

The mediators shall prepare an annual report to the President of the Max Planck Society on the number and nature of matters addressed, as well as how these were dealt with, without detailing individual cases.

### **§ 6**

Should the mediator or one of the parties concerned declare the attempt to resolve the matter to have failed, the mediator, upon application by one of the parties, shall forward the matter to the President with the request that a mediation committee be formed.

## **§ 7**

The Mediation Committee shall comprise a chairperson and two assessors.

The President shall appoint the assessors and the chairperson from among the mediators for all of the Sections, with the exception of the mediator who has already been dealing with the matter. The President may also appoint a Member of the Senate to the Mediation Committee. If a member of scientific staff is concerned in the matter, one member of the Committee shall be a scientific staff member.

Resolutions are passed by the Mediation Committee by a simple majority.

## **§ 8**

Each of the parties concerned may be represented before the Mediation Committee by a person affiliated with the Max Planck Society or may appear with a person affiliated with the Max Planck Society in support. The chairperson may request that the parties concerned appear in person.

## **§ 9**

In preparation for the hearing, the chairperson may request all necessary documents and information. Any person who may have information to contribute may be called by the chairperson as a witness.

## **§ 10**

The Mediation Committee shall conduct its proceedings in closed session.

The chairperson having heard the parties concerned shall determine the place and commencement of the proceedings.

There must be a minimum period of 4 weeks between the parties being summoned to appear and the commencement of the oral hearing. This period may be reduced with the agreement of the parties concerned.

The Mediation Committee must treat all matters disclosed to it as confidential and not disclose the same to parties not involved in the procedure.

In other respects, the Mediation Committee is not required to comply with specific procedural norms.

The matter should as far as possible be resolved in one session. Should this not be the case, but there is a prospect that agreement may be achieved in a further session, the Committee shall arrange to reconvene.

Should a party fail to appear despite being duly and properly summoned in good time, the hearing may be conducted in his or her absence.

## **§ 11**

Should the matter be resolved, the agreements reached shall be recorded in writing and communicated to the parties concerned and to the President of the Max Planck Society.

Should an agreement not be reached, the Committee shall determine the hearing to have failed. It may combine this determination with recommendations to the parties as to how the matter may be resolved.

## **§ 12**

If measures taken by organs or governing bodies of the Max Planck Society may contribute to a settlement of the dispute, the Committee may also at any stage and status of the proceedings make recommendations to the competent organs and governing bodies of the Max Planck Society. These in turn shall notify the Mediation Committee of their decision.

Should an organ or governing body be unwilling to follow the recommendation of the Mediation Committee, before reaching its decision it must instruct the Committee to again consider the matter, unless the parties immediately concerned shall have meanwhile agreed to another solution.

## **§ 13**

The parties concerned shall inform the mediator or Mediation Committee if other proceedings are pending with regard to the dispute which is the subject of mediation.

In such cases, the mediator or Mediation Committee may declare the mediation to be at an end unless the parties unanimously apply for it to be continued.

## **§ 14**

Mediation is free of charge. The function of the mediators and the Mediation Committee is honorary and unsalaried. Upon application, necessary expenses incurred by the mediators, members of the Mediation Committee and parties concerned and their representatives or supporters and other persons summoned will be reimbursed. The travel expenses regulations shall apply accordingly.

## **§ 15**

These Mediation Guidelines shall take effect upon adoption by the Senate on 22 November 1974.