

# Ethics and Arbitration Committee of the DVG e.V.

## 1. PROCEDURES FOR THE SUBMISSION OF COMPLAINTS

### 1.1 Initial contact

General questions on the processing of and criteria for complaints can be answered on the telephone or by e-mail by any member of the Committee (hereinafter referred to as the "EAC").

The information sheet of the Ethics and Arbitration Committee (EAC), the Ethics Guidelines of the DVG and this document, the procedures of the EAC, can be sent on request.

Complaints by a member of the DVG or a non-member should be submitted in writing and contain the following:

- a description of the accusation;
- the releases from the obligation to confidentiality required by the EAC;
- a declaration by the person submitting the complaint to the effect that s/he renounces all rights to request from the EAC or its representatives by court order any documents or information pertaining to the complaint for the purpose of private legal proceedings
- if necessary an application for suspension of the five-year time limit

### 1.2 Examination of the possibility of arbitration

For all complaints submitted it will be investigated whether arbitration talks are expedient and possible, on the condition that the complainant and the person about whom the complaint has been made are willing.

### 1.3 Assessment of complaints

The EAC will then check each complaint to establish whether the competence criteria are fulfilled, the complaint is justified, an arbitration appropriate and possible and whether the complaint has been submitted within the five-year time limit.

Anonymous complaints will not be considered.

The EAC will also examine the earnestness and intention of the complaints submitted. Assertions that are implausible, speculative and/or inconsistent will not be considered.

If a complaint itself violates ethical guidelines and principles the EAC can take action against the complainant him-/herself.

Counter-complaints will not be considered so long no solution has been arrived at regarding the original complaint.

Several simultaneous complaints against one member can be considered jointly if the respective legitimate claims to confidential treatment of the complainants, witnesses or the person about whom the complaints have been made are not thus jeopardised.

This assessment by the ESK shall take place within one month after the complaint has been submitted in full to the ESK in accordance with §1.1. This period may be extended by a further month if the ESK clarifies the possibility of conciliation according to §1.2.

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## **1.4 Notification of the person about whom the complaint has been made**

When a complaint has been accepted for processing the EAC will inform the person about whom the complaint has been made in writing.

This written notification will contain an exact description of the alleged behaviour concerned and state which specific sections of the Ethics Guidelines the person is accused of having violated.

The EAC will enclose with this letter:

- a copy of the written description of the accusation;
- all additional material submitted by the complainant or in his/her name,
- the Ethical Guidelines of the DVG, the procedures of the EAC and a declaration according to which the information submitted by the person about whom the complaint has been made can be included in the documentation of the enquiry if further proceedings follow and all material received from the complainant is to be handled confidentially.

## **1.5 The requirement of a personal statement**

Although the person about whom the complaint has been made has the right to obtain the advice of a lawyer in all phases of the proceedings, s/he must make a personal statement of his/her position regarding a complaint about unethical behaviour and may not delegate this to a lawyer or third party. If the person about whom the complaint has been made gives good reasons as to why s/he is unable to make a personal statement the EAC can waive this condition.

## **1.6 Deadline for the response of the person about whom the complaint has been made**

After receipt of the complaint the accused person has a period of 30 days within which to make a statement regarding the complaint.

If a justified application is submitted the deadline for a response to the complaint by the EAC can be extended.

## **1.7 Additional or alternative measures**

The EAC can request additional information from the complainant or any other suitable source. The EAC can also recommend that the complaint be referred to a competent supervisory body or a court of law.

## **1.8 Written notification**

The complainant and the person about whom the complaint has been made will be informed of any changes occurring and/or new information received during the enquiry and will be given the opportunity to comment before this information and/or changes are employed by the EAC in the ongoing proceedings.

They will also be notified in writing when the enquiry has been concluded.

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## **1.9 Appearance in person**

The EAC can request the person about whom the complaint has been made to appear in person before the EAC. The said person has no right to a personal appearance.

## **2. ASSESSMENT AND SANCTIONS**

In the event that the EAC comes to the conclusion that no violation of the DVG Ethics Guidelines has taken place it shall justify its decision in writing.

In the event that it concludes that the violations of the DVG Ethics Guidelines have been committed by a member it shall impose a sanction or issue an injunction and justify this in writing. This decision is to be expressed in such a way that the rights to personal privacy of third persons are protected.

The assessment of the ESK shall take place within 3 months after receipt of the statement of the accused according to §1.6. This period may be extended by one month if face-to-face meetings according to §1.9 are necessary for the assessment and these cannot be carried out in the online procedure according to the assessment of the ESK.

## **3. POSSIBLE SANCTIONS AND ORDERS**

The EAC may make use of the following measures.

### **3.1 Drawing attention to unethical behaviour and order to refrain**

It is appropriate to draw attention to unethical behaviour as a sanction when the Ethical Guidelines have been violated but in all probability no or only minor harm has been inflicted on another person or the profession has not suffered any essential damage and the violation was also not so serious in other respects that a more severe sanction would need to be imposed.

### **3.2 Resignation by mutual consent**

If the accused person admits his/her misconduct adequately in writing after the Committee has informed him/her that a complaint has been submitted, the EAC can suggest that the member leave the association by mutual consent.

If the person about whom the complaint has been made accepts the recommended solution that s/he should leave by mutual consent the EAC shall present to the Executive Committee a copy of a statutory declaration of resignation together with the file on this case and the justification for the recommendation of a resignation by mutual consent under the conditions stated in the statutory declaration.

The Executive Committee will accept the resignation of the person about whom the complaint has been made under the conditions stipulated in the statutory declaration of resignation within 180 days unless it is convinced that such a step would not be in the interests of the DVG and/or the public.

If the resignation is accepted by the Executive Committee, the EAC will notify the complainant and the person about whom the complaint has been made of the decision. A copy of the statutory declaration of resignation will be delivered to the complainant.

### **3.3 Passing on of the decision**

The Executive Committee can order the EAC to pass the decision on the final action taken to other appropriate instances.

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## **3.4 Other measures**

The EAC can also recommend other measures, e.g. training or supervision or issue other specific instructions.

## **3.5 Recommendation to the Executive Committee to dissolve the membership**

The Executive Committee can dissolve the membership on the recommendation of the EAC.

It is appropriate to dissolve the membership if the Ethical Guidelines have been violated and the violation was such that in all probability severe harm was inflicted on another person or the profession or was so serious in some other respect that such a measure is justified.

## **4. RENEWED COMPLAINTS AFTER CONCLUSION OF THE PROCEEDINGS**

Requests by the complainant for re-opening of proceedings that have already been closed are only possible if new information ((documentary) evidence) is simultaneously submitted.

The EAC will decide whether the proceedings are to be re-opened after examining the new information.

## **5. APPEALS AGAINST DECISIONS OF THE ESK**

In the case of appeals against a decision of the ESK, the Board shall appoint two members of the DVG to handle the appeal. An appeal with the grounds for appeal shall be submitted to the DVG Board within one month of the notification of a decision of the ESK.

Grounds for an appeal shall be,

- a) that the correct procedure under the Code of Ethics and this Procedure has not been followed by the ESK; or
- b) that specific reasons are given to support the outcome of the complaint handling as manifestly unreasonable in relation to the substance and scope of the complaint.

The two members of the DVG handling the appeal shall have access to all materials provided to the ESK as an appeal body. For the duration of their work, the DVG members are obliged to cooperate with the appeal body, on the basis of the obligation to cooperate with the ESK set out in the ethical guideline.

The Appellate Body shall be appointed by the Board within one month of receipt of the appeal. After this appointment, the ESK is obliged to provide all documents within one month. The appeal body shall make its decision within 3 months after receipt of these materials and report its decision to the Board. The Board of Directors informs the submitting person as well as the ESK about the result of the appeal instance.

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