[DE] New MDR state treaty can enter into force following ratification by state parliaments

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Following the decision of the Thüringen state parliament on 21 May 2021, all state parliaments of the *Länder* of Saxony, Saxony-Anhalt and Thüringen have now approved the amended *Staatsvertrag über den Mitteldeutschen Rundfunk* (state treaty on Mitteldeutscher Rundfunk – MDR-StV). The amended treaty can therefore enter into force on 1 June 2021.

The broadcasting corporation Mitteldeutscher Rundfunk (MDR) is a member of the *Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland* (German Association of Public Service Broadcasters - ARD) and broadcasts to viewers in Saxony, Saxony-Anhalt and Thüringen. Under Germany's federal system, with the *Länder* holding legislative competence in the media field, state treaties are required in order for the *Länder* to cooperate across their borders. State treaties require the approval of the respective state parliaments (see Article 65(2) of the constitution of the Free State of Saxony, Article 77(2) of the constitution of the Free State of Thüringen and Article 69(2) of the constitution of Saxony-Anhalt).

The first MDR-StV was adopted by Saxony, Saxony-Anhalt and Thüringen on 30 May 1991. The recently approved amendment, following adaptation to data protection rules in 2018, marks its first proper overhaul. The need to amend the treaty was triggered, in particular, by the ruling of the *Bundesverfassungsgericht* (Federal Constitutional Court – BVerfG) of 25 March 2014 (case No. 1 BvF 1/11) on the *Staatsvertrag über das Zweite Deutsche Fernsehen* (state treaty on Zweites Deutches Fernsehen – ZDF-StV), in which the court decided that no more than one third of the members of the supervisory bodies of public service broadcasters could be part of state authority or a political party. This constitutional requirement has been implemented through the new amendment, which increases the size and diversity of MDR's *Rundfunkrat* (Broadcasting Council), which must include a representative of disabled people's associations, for example (see Article 16(1)(19) MDR-StV). Meanwhile, the *Verwaltungsrat* (Administrative Council) is also enlarged from seven to ten members (see Article 22(1) MDR-StV). The themes of the environment and climate protection are also added to the programme mandate under Article 8 MDR-StV.

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The decision to expand the supervisory bodies has been heavily criticised in some quarters. It was only taken in order to enable the existing state authority and political party representatives to remain in their posts without breaching the 1/3 rule laid down by the BVerfG. MDR itself has also expressed concern about provisions that, in its opinion, threaten its independence from state authorities. This fear is based on the wording of the protocol declaration, which states that the three *Länder* should "benefit from their share of MDR income in the medium term".

With the BVerfG due to issue a ruling on the broadcasting licence fee, the members of the state parliaments are already expecting the MDR-StV to be back on their agenda again during the next legislative period.

Staatsvertrag über den Mitteldeutschen Rundfunk (MDR)

https://www.revosax.sachsen.de/vorschrift/19075-StV-MDR

State treaty on Mitteldeutscher Rundfunk (MDR)

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