

[DE] New Rundfunk Berlin-Brandenburg state treaty enters into force

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On 14 December 2023, the state parliaments of Berlin and Brandenburg adopted the *Staatsvertrag über den Rundfunk Berlin-Brandenburg* (state treaty on the Berlin-Brandenburg state broadcasting authority – *rbb-Staatsvertrag*), which had been signed by Brandenburg on 3 November 2023 and by Berlin on 17 November 2023. Following the exchange of ratification documents, the treaty entered into force on 1 January 2024.

The new legal framework for Rundfunk Berlin-Brandenburg (Berlin-Brandenburg state broadcasting authority – rbb) replaces the *Staatsvertrag über die Errichtung einer gemeinsamen Rundfunkanstalt der Länder Berlin und Brandenburg* (state treaty on the establishment of a joint broadcasting authority for Berlin and Brandenburg) of 25 June 2002. It takes into account all the subsequent changes to media law applicable across all 16 German *Länder* under the *Medienstaatsvertrag* (state media treaty), which entered into force on 7 November 2020 and has since been amended several times. It also addresses the consequences of the scandals involving rbb that hit the headlines in 2022. The new state treaty should help to counteract structural weaknesses comprehensively and in a pre-emptive way. It should also promote better monitoring, greater efficiency, clearer decision-making processes, an effective compliance system and maximum transparency at rbb. The rbb supervisory bodies will be professionalised in order to boost their respective monitoring powers and ensure more secure decision-making processes in general and in relation to rbb's efficiency in particular. Their members will also need to meet minimum expertise and knowledge requirements. The board of directors will evolve into a panel of experts, with voluntary positions becoming paid roles. Rules on incompatibility and conflicts of interest should ensure that supervisory activities are independent and functional.

Since public broadcasting is funded through the broadcasting levy, supervisory body members and the rbb director-general bear a high level of public responsibility. The state treaty therefore requires them to meet with due diligence obligations and liability standards for the first time. With transparency in mind and in view of rbb's public remit and financing, it lays down numerous publication and disclosure obligations in order to strengthen the legitimacy and public acceptance of public service broadcasting in general. These particularly include the publication of the pay structures for non-collective pay scale employees and

the capping of the director-general's salary.

The regional focus of rbb will be strengthened under the treaty, including through the appropriate distribution of the broadcaster's resources and locations. Its remit will also be made more flexible in order to support licence fee stability and public acceptance. For example, to help it respond flexibly to digitisation and changing media consumption, rbb will be given greater freedom to comply with the rules on how its services should be disseminated.

In accordance with the ZDF judgment of the *Bundesverfassungsgericht* (Federal Constitutional Court) of 25 March 2014, rbb's *Rundfunkrat* (Broadcasting Council) must become more socially diverse in order to represent the views and experiences of disabled people and members of the LGBTQ+ community.

With the strict director-general principles being replaced by a directorial system, rbb's management structure will become collegial in form.

The new board of directors will comprise of the director-general and members nominated by the director-general and appointed by the *Rundfunkrat* for a maximum term of five years. It will play a part in making important decisions such as determining the fundamental aspects of programming strategy.

To protect it from corruption and improve transparency, rbb will also undergo regular corruption checks (risk analysis) and adopt an anti-corruption code of conduct.

Staatsvertrag über den Rundfunk Berlin-Brandenburg vom 3. November 2023 und 17. November 2023

<https://bravors.brandenburg.de/sixcms/media.php/68/GVBI I 27 2023-Anlage.pdf>

State treaty on the Berlin-Brandenburg state broadcasting authority of 3 and 17 November 2023

Gesetzesdokumentation des Berliner Abgeordnetenhaus

https://www.landtag.brandenburg.de/sixcms/detail.php?id=brandenburg_01.c.36750.de

Legislative documents of the Berlin state parliament

