

# Statute of the Bundesstiftung Magnus Hirschfeld<sup>1</sup>

## Preamble

The Federal Republic of Germany, represented by the Federal Ministry of Justice has, by deed dated 27<sup>th</sup> October 2011, established the "Magnus Hirschfeld Foundation" (*in German: Bundesstiftung Magnus Hirschfeld*) as a foundation under civil law, and provided a Statute on the same day. In exercising its statutory duties, the founder is represented by the Federal Ministry of Justice.

## § 1

### Name, legal form and seat of the Foundation

- (1) The foundation carries the name "Bundesstiftung Magnus Hirschfeld".
- (2) It is an independent foundation under civil law.
- (3) The Foundation is located in Berlin.

## § 2

### Charitable Purposes

(1) The Foundation exclusively and directly pursues charitable purposes as defined in the "tax-privileged purposes" section of the tax code. The purpose of the Foundation is to promote education, science and research, in particular to

1. to remember Nazi persecution of homosexuals,
2. scientifically research and present the life and work of Magnus Hirschfeld and the life and social environment of homosexual men and women who have lived and live in Germany, and
3. to counteract societal discrimination against homosexual men and women in Germany.

(2) The purposes of the Statute are achieved in particular through

1. the initiation and promotion of education and the development of an appropriate network,
2. technical cooperation with universities, educational and research institutions,
3. independent scientific research and the encouragement and promotion of scientific research and its publication,
4. the collection, documentation and scientific evaluation of materials and eyewitness reports, and
5. the implementation of exhibitions, conferences, discussion forums and similar events.

The purpose of the Statute referred to in clause 1, sentence 2, number 3 is implemented mainly through measures under sentence 1 number 1.

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<sup>1</sup> Statute of 27<sup>th</sup> October 2011, amended on 29<sup>th</sup> August 2016

### § 3

#### **Use of funds**

- (1) The Foundation acts selflessly and does not primarily pursue its own economic interest.
- (2) The Foundation's funds may only be used for statutory purposes. It may not favor individuals unrelated to the purposes of the Foundation through expenditures, or through disproportionately high remuneration.

### § 4

#### **Foundation assets**

- (1) The initial assets of the Foundation are derived from the Foundation's fiscal contract. The endowment is to be preserved undiminished in its inventory. In the years 2011 and 2012 the assets in the amount of a share of respectively up to 2 percent of the initial assets can be used so that the foundation can take immediate action. Thereafter, the assets are to be replenished accordingly within a period of three years.
- (2) The Foundation is authorized to accept donations and other contributions to the extent that they are compatible with the Foundation's purposes. The Foundation may also accept donations without a defined purpose on the basis of a testamentary disposition and free reserves as defined in § 62(1), number 3 of the Fiscal Code.
- (3) Income from the Foundation's assets and the benefits accruing from them may be used only for the purposes of the Foundation's objectives.
- (4) The formation of reserves is permitted, insofar as the tax benefits of the Foundation are not affected.

### § 5

#### **Bodies of the Foundation**

Bodies of the Foundation are

1. the Board of Trustees,
2. the Chair,
3. the Advisory Board.

### § 6

#### **Board of Trustees**

- (1) The Board of Trustees consists of 15 members and the members to be appointed by the German Bundestag. The number of members nominated by the German Bundestag is to be the smallest possible where, in any case, each faction can name at least one member and the majority relationships are maintained as much as possible, but no more than nine.

(2) The Board of Trustees will additionally receive nominations from

1. the Federal Ministry of Justice – two members,
2. the Federal Ministry of the Interior – one member,
3. the Federal Ministry of Finance – one member,
4. the Federal Ministry for Family, Senior Citizens, Women and Youth – one member,
5. the Federal Ministry for Education and Research – one member,
6. the Professional Association for Homosexuality and History e.V. – one member,
7. the Queer Nations Initiative e.V. – one member,
8. the Lambda Youth Network e.V. – one member,
9. the Lesbian Ring e. V. – one member,
10. the Lesbian and Gay Federation in Germany (LSVD) e. V. – one member,
11. the Ecumenical Group of Homosexuals and the Church (HuK) e.V. – one member,
12. the QueerNetz.de e.V. – one member,
13. the Völklinger Kreis e.V. – one member,
14. the Women's Business Network (Wirtschaftsweiber) e.V. – one member.

(3) The persons nominated by the German Bundestag must be members of the German Bundestag.

(4) The German Bundestag and the authorized nominating body in accordance with clause 2, number 2-14 shall designate an alternate member for each member. The alternate member may attend Board of Trustees meetings only if the member does not participate. The members appointed by the Federal Ministry of Justice will represent each other.

(5) To ensure equal consideration of the interests of homosexual women and homosexual men, the authorized naming bodies under clause 2, number 7 and 10 may also appoint themselves as a member. At the same time they nominate two representatives of different sexes who exercise membership rights in common and equally. The alternate member appointed under clause 4 is not named in this case, with the members representing each other.

## § 7

### **Appointment and dismissal of members, alternate members and representatives of the Board of Trustees**

(1) In accordance with § 6 clause 2, members appointed to the Board of Trustees, alternate members and representatives are appointed by the founder for the term of four years, the members appointed by the German Bundestag and alternate members in accordance with § 6 clause 1 for the duration of each legislative period. One re-appointment is allowed. After the end of the term, members of the Board of Trustees remain in office until a successor is appointed.

(2) If a member of the Board of Trustees, an alternate member or a representative vacates the office early, a substitute is appointed for the remainder of the term of office. Until the post is filled, the remaining members of the Board of Trustees form the board alone. A member or alternate member designated by the German Bundestag is disqualified if he withdraws from the German Bundestag.

(3) The members, alternate members and representatives, unless they are active part-time, serve as volunteers. They have no claim to compensation for travel costs or other expenses.

- (4) The founder can dismiss a member, a deputy member or a representative early if
1. there are important grounds or
  2. the naming party so requests and designates a new member, alternate member, or new representative.

## § 8

### **Tasks of the Board of Trustees**

- (1) The Board of Trustees supports and oversees the management by the Chair. Executive measures that are of fundamental or of particular importance for the Foundation and its development require the consent of the Board of Trustees. This includes in particular decisions on
1. the fundamentals of the research and education program, including the broad allocation of Foundation funds for research projects and educational work,
  2. the principles of asset management and
  3. important personnel actions.
- (2) The Board of Trustees is also responsible for
1. the appointment and dismissal of the Chair (§ 10),
  2. the establishment of the Advisory Board (§ 12),
  3. the adoption of Foundation procedures (§ 14);
  4. approving the business plan (§ 15 clause 4),
  5. the receipt of annual financial statements, the determination of the auditor for auditing the financial statements (§ 15 clause 5) and the discharge of the Chair,
  6. approval of the progress report (§ 16),
  7. amending the Statute (§ 17) and
  8. the dissolution of the Foundation (§ 18).

## § 9

### **Resolutions by the Board of Trustees**

- (1) The Board of Trustees shall make its decisions in meetings that are held at least once per calendar year. The Board has a quorum if more than half of its members or alternate members are present. The Chair is entitled to speak at meetings.
- (2) The Chair of the Board of Trustees is appointed by the Federal Ministry of Justice for the founder. The Chair shall convene meetings with a notification of the individual items on the agenda, chairs the meetings, and notes the results of voting. The Chair shall convene a meeting if at least one third of the members of the convocation have requested this in writing, stating the purpose and reasons.
- (3) The Board of Trustees shall take its decisions by a majority of members present, unless this Statute provides otherwise. In the case of a tie, the vote is decided by the Chair.

(4) Decisions of the Board of Trustees may be taken outside a meeting if the required majority of participating members give their assent to the decision in writing or in text form. The Board has a quorum when more than half of the members participate in the vote.

(5) Decisions of the Board of Trustees on budgetary and personnel matters including the discharge of the Chair shall require the consent of the founder.

## § 10

### **Appointment and dismissal of the Chair**

(1) The Chair is held by a single, real person. The Chair is elected by the Board of Trustees with a majority of two thirds of the members present for the term of five years. One reelection is allowed. After the expiration of the term of office, the Chair will continue business until the new Chair is elected.

(2) The Board of Trustees may dismiss the Chair before the expiration of the term of office only if there is an important cause. The dismissal of the Chair is to occur with the election of a new Chair.

(3) If a Chair should resign before the end of the term, a new Chair is elected for a full term of five years.

(4) The Foundation is represented to the Chair by the President of the Board of Trustees.

(5) The founder appoints the first Chair and represents the Foundation in the conclusion of the employment contract with this Chair.

## § 11

### **Tasks of the Chair**

(1) The Chair conducts the business of the Foundation, unless it is assigned to the Board of Trustees. The Chair represents the foundation in and out of court.

(2) The Chair is employed full time for the Foundation and receives remuneration.

## § 12

### **Establishment of the Advisory Board**

(1) The members of the Advisory Board are persons who have distinguished themselves in a field related to the Foundation's purposes. They are elected by the Board of Trustees for the term of office of four years. One reelection is allowed.

(2) For the selection of members, the Board of Trustees shall particularly consider representatives of the following organizations:

1. the German Society for Sexual Research e. V.,
2. the German Society for Sociological Sexual Research e. V.,

3. the Institute for Contemporary History,
4. the Magnus Hirschfeld Association e. V.,
5. the Waldschlösschen Academy Foundation,
6. the Memorial for the Murdered Jews of Europe Foundation,
7. Association of the Friends of the Gay Museum in Berlin e. V.,

The Board of Trustees may elect further members to the Advisory Board.

(3) A member of the Advisory Board may only be dismissed by the Board of Trustees before the expiration of the term of office for an import reason. Upon dismissal the Board of Trustees may select a new member for the remainder of the term.

## § 13

### **Tasks of the Advisory Board**

(1) The Advisory Board advises the Chair and the Board of Trustees in the planning and implementation of the research and education program, including the allocation of Foundation funds for research projects and educational work.

(2) The members of the Advisory Board are volunteers. They are entitled to reimbursement for necessary travel expenses incurred in accordance with the applicable administrative provisions.

## § 14

### **Foundation Regulations**

(1) The Foundation will create regulations, which are decided by the Board of Trustees with a majority of two thirds of the members present. The Foundation Regulations shall in particular contain supplementary rules of procedure for cooperation between the organs, such as for the allocation of Foundation funds. It also regulates the operation of the Advisory Board.

(2) Adoption and amendment of the Foundation Regulations require the consent of the founder.

## § 15

### **Fiscal year; economic planning; accounting and auditing**

(1) The fiscal year of the Foundation is the calendar year.

(2) The Treasury and Accounts of the Foundation are to be maintained properly according to commercial principles.

(3) The employees of the Foundation may not be better compensated than comparable employees of the federal government.

(4) The Chair provides a business plan in time for the start of each fiscal year and submits it to the Board of Trustees for approval. For supported projects of several years in duration, the business plan must include medium-term planning. The business plan shall be developed and run according to the principles of thrift and economy. Budgetary and financial management is subject to review by the Federal Court.

(5) Within the first four months of the year, the Chair shall present an annual financial statement for the past financial year and submit it to the Board of Trustees for approval. If the Foundation is obliged to review the annual accounts, or the Board of Trustees has decided for its examination, an auditor is commissioned by the Board of Trustees in consultation with the Federal Court.

## § 16

### **Progress report**

The Chair shall produce an annual report on the activities of the Foundation for the preceding calendar year and submit it to the Board of Trustees for approval no later than four months after the end of the calendar year. The report shall also include an outlook on the future projects of the Foundation. The Chair publishes the annual report.

## § 17

### **Amendments to the Statute**

(1) The Statute can be amended by decision of the Board of Trustees with the consent of the founder. A resolution requires a majority of two thirds of the members present from the Board of Trustees.

(2) A change in the Foundation's objectives can only be adopted if deemed appropriate due to significant changes in circumstances, especially if the fulfillment of the purposes of the Foundation has become impossible. The new purposes must also be non-profit as defined in the "tax-privileged purposes" section of the tax code and by the financial authority.

(3) The decision to revise the Statutes is to be submitted the regulator for approval, and will first become effective upon the issuance of approval.

## § 18

### **Dissolution and asset seizure**

(1) The Foundation may be dissolved by decision of the Board of Trustees with the consent of the founder. The resolution requires a majority of three fourths of the members present from the Board of Trustees.

(2) The decision is to be submitted to the supervisory authority with a safety certificate from the competent tax authority for approval; it will become effective upon issuance of approval.

(3) In the case of the dissolution of the Foundation or the loss of tax-privileged purposes, the Foundation's assets return to the Federal Republic of Germany, which is to use it directly and exclusively for tax-privileged purposes.

## § 19

### **Governmental oversight**

The Foundation is subject to governmental supervision by Berlin under the provisions of the Berlin Foundation Act.

Berlin, 27<sup>th</sup> October 2011

The Federal Minister of Justice  
S. Leutheusser-Schnarrenberger