

Regulations on the Use of Deutsches Rundfunkarchiv

as at 01.09.2021

These rules govern the permissible use of the archive material of the Stiftung Deutsches Rundfunkarchiv in keeping with the purpose of the foundation.

§ 1 Purpose and Scope of Application

Deutsches Rundfunkarchiv (DRA) is a foundation of ARD and Deutschlandradio. The task and purpose of the foundation is to collect and register all types of sound and image media the historical, artistic or scientific value of which justifies storing them and making them available for use for the purposes of art, science, research, education or teaching.

In accordance with the purpose of its foundation the DRA makes its archive material available for projects from the fields of the arts, culture, education, research and teaching.

As a joint facility of the ARD network the DRA undertakes to fulfil the societal mission of the media network in the fields of the arts, culture, education and information. This core ethos shapes the archive's work in and for public service broadcasting.

For private use, copies of radio or television programmes from the inventory of Deutsches Rundfunkarchiv may be ordered through the recording service at [rbb media GmbH](#).

Commercial uses are not covered by the scope of application of these Regulations on Use. As a non-profit foundation the DRA is not allowed to support any commercial use projects. rbb media GmbH is mandated by the ARD broadcasting corporations to perform the commercial exploitation of the DRA inventories.

§ 2 Types of Use

To facilitate use

- the archived materials in the original, as a copy or as a transcript are presented to the user for viewing, for listening to or for examination;
- information about the content of materials is provided.

A loan of the archive material is only possible in exceptional cases as stipulated under Section 6 of these Regulations on Use.

On principle it is possible to make copies of the content of original materials if this action does not damage archive material and does not contradict other provisions of these Regulations on Use. A fee is charged for making copies (see Section 10).

Use of archive material from deposits by ARD broadcasting corporations is only possible if the DRA is authorised to make this available to third parties on the basis of existing safekeeping agreements with the individual broadcasting corporations or if the depositor has allowed the respective use. The archive holdings of ARD material may only be made available for internal ARD purposes and/or for academic/scientific purposes. Special permission is required from the DRA for the making of photocopies or other reproductions. Permission to examine material is generally required for the use of internal ARD inventories.

§ 3 Application for Use

(1) A written application – for instance by email, application form on the DRA website or by mail – and approval by the archive is required for the use of archive material. The use of the archive is an arrangement under private law.

(2) In the written application the users must enter their name and address or the address of the institution for which they are working and the purpose of the use. Their projects must be described as precisely as possible. If an applicant is acting on behalf of a third party, the name and address of that person or organisation must also be stipulated. The DRA is entitled to have the application for use with its rights and obligations confirmed by the customer. Archive researches on the part of the German public service broadcasting corporations for internal purposes do not require an application for use.

(3) The archive may process the personal data cited in point 2 for handling and facilitating the use and for statistical purposes. After a second year following the end of use the DRA will always delete all the respective personal data unless a specific situation indicates that the procedures governing use have not yet been completed or that a contractual relationship has been entered into which makes it necessary to store personal data for a longer period of time.

Additional obligations regarding data protection is are laid down in the Annex on Data Protection appended to these Regulations on Use.

(4) The users undertake to respect personal privacy rights and copyrights as well as interests worthy of protection of affected persons and third parties when making use of findings taken from archive material. The user shall be liable for any violations of these rights and interests. The users may be obligated to declare in writing that they will respect the personal privacy rights and copyrights as well as interests worthy of protection of affected persons and third parties.

(5) The users undertake to send sample copies of any publication substantially based on the use of archive material of Deutsches Rundfunkarchiv (see Section 7).

§ 4 Permission for Use

(1) Permission for Use: the applicant only attains a right of use after being granted express permission by the DRA in response to the written application. There is no legal right to use of the archive.

The DRA may refuse permission for use if, in particular:

- the intended purpose of use is not allowed within the scope of these Regulations on Use and pursuant to the statutes of the DRA;
- the user violates or has violated the conditions of use or does not comply with the requirements for use issued to the user;
- subjective third-party rights worthy of protection may be adversely affected;
- internal archive reasons (for instance preservation of the archive material) prevent use;
- the purpose of use can be adequately served through other sources, particularly by examining available reproductions or publications.

(2) denial and withdrawal of the permission for use: if a user seriously or repeatedly violates the provisions of these Regulations on Use, or if the continued use of archive material has otherwise become unreasonable due to particular circumstances, the user may be temporarily or permanently prevented from using the DRA. The permission for a right of use that has already been granted may also be revoked at any time in such cases.

§ 5 Periods of Protection and Shortening of a Period of Protection for Non-Published Archive Material

The periods of protection are based on certain statutory regulations that apply to public archives.

(1) Non-published archive material may be used no earlier than ten years after the documents were created.

(2) Non-published archive material which is subject to particular confidentiality legislation may only be not be used until thirty years after creation of the documents.

(3) Non-published archive material which, in terms of its intended purpose or essential content, relates to a natural person (i.e. regarded as personal non-published archive material) may be used no earlier than ten years after the death of the respective person. If the year of death cannot be determined or can only be determined with an unreasonable amount of effort the period of protection shall end ninety years after the birth of the respective person. If the year of birth is also unknown to the archive the period of protection for personal non-published archive material shall end sixty years after the creation of the respective document.

(4) The periods of protection stipulated in point 3 shall not apply to the non-published archive material documenting the activities of persons as figures of contemporary history or as holders of an office or function if they have performed their official duties or a function in a broadcasting institution and if they themselves are not affected parties. Due consideration must be given to the interests of third parties worthy of protection.

(5) The periods of protection pursuant to points 1 and 2 may be shortened in individual cases upon application unless the public interest conflicts with this option and if the use is necessary for the conduct of an academic or scientific project and if it is ensured that the interests worthy of protection of the respective person and third party are not adversely affected or if the public interest in conducting the academic or scientific project substantially outweighs the interests worthy of protection. The use can in such cases be made subject to certain conditions and requirements.

(6) The periods of protection pursuant to point 3 may be shortened if

1. the person affected or, after their death, their spouse, their partner in a long-term relationship, their children or their parents have approved the use, or

2. the use is essential for addressing an existing lack of evidence or for other reasons that are in the legal interest of a third party, or

3. the use is necessary for conducting an academic/scientific project and if it can be ensured that the interests worthy of protection of the respective person and third party are not adversely affected or if the public interest in conducting the scientific project considerably outweighs the interests worthy of protection.

(7) Any shortening of periods of protection must be applied for in writing, stating the reasons. It may only be applied for only with regard to specified individual units of archival material or narrowly defined groups of archived items.

(8) The chair of the DRA has the final decision on any such shortening. The applicant is to be notified of the decision.

(9) If in the case of point 6 the approval for shortening the period of protection has been obtained from one of the entitled persons, the written form of the application may be waived.

§ 6 Borrowing, lending periods, deletion and appeal

Borrowing of original archive material is only possible in exceptional cases and only after receiving express permission of the DRA. The archive material must be returned to the DRA immediately after use and certainly no later than when the approved lending period expires. The obligation to return material also includes any copies made of image and sound storage media if this has been agreed between the contractual parties. If the lending period is exceeded, a fee of € 3.00 shall be charged for the first reminder and a fee of € 7.00 for the second reminder. After an unsuccessful second reminder to return the archive material the DRA shall be entitled to demand compensation equivalent to the damages due that would be charged for the loss of the respective archive material (see Section 10).

Copies of image and sound storage media which have been made by users upon application and for which no obligation to return has been agreed must be destroyed when the Agreement on Use expires. Digitally available contents must be deleted. The process must be documented. Deutsches Rundfunkarchiv is entitled to receipt of the protocol data. The user is forbidden to pass on the image and sound storage media to third parties.

§ 7 Use and Publication of the Archive Material

1. If the use of archive material of the DRA affects the rights of third parties, these must either be compensated by the user or the user must obtain appropriate declarations from the rights holders for granting the respective right of use and prove to the DRA that this has been done. The user shall also release the DRA from all third party claims which could arise due to a possible violation of copyrights.

2. The archive material provided by the DRA for use may not be duplicated, transferred to third parties or commercially exploited in any other way. Public reproduction of archive material shall not only require the granting of exploitation rights by the creator but also the express permission of the DRA. For the accreditation of sources, the following set of information shall be given to designate archive material used from the DRA inventories:

- DRA inventories: Stiftung Deutsches Rundfunkarchiv, type of inventory, archive number or signature (for photos also: creator)
- ARD deposits: Stiftung Deutsches Rundfunkarchiv, deposit, site details, archive number or signature

The archive material provided by the DRA for use is made available exclusively for the requested use and is therefore only allowed to be used for the purpose of use stipulated in the approved application. If the archive material is to be used for another purpose or used at a time not covered by the permitted use the user must obtain renewed permission from the DRA.

3. In the case of works (print, audio or audiovisual publications) that are outside the scope of programming use by the public service broadcasting corporations and are created using archive material, sample copies of such works must be provided free of charge immediately upon publication or release and sent to the DRA Infoservice as follows:

- In the case of works for the purposes of education, research and teaching: Scientific/academic works 1, in the rest of the sector 2, all others 5 sample copies.

4. Making content publicly available (online publication)

When activating a website that publishes contents provided by the DRA the user must send a link to that internet offering by email to the DRA Infoservice.

§ 8 Handling Archive Material

All archive material must be handled with the utmost care. In the event of loss of or damage to archive material, damages to an appropriate amount must be paid to the DRA (see Section 10). Apart

from demanding receipt of damages, the DRA may exclude the user from any further use. The given order of the archive material must be retained. No alterations or additions (markings, underlinings, deletions, etc.) may be made. Any markings by users on image media (installation notes, registration marks, etc.) or scratches on negatives or transparency slides shall be regarded as damage and will therefore trigger a claim for compensation. Damage which prevents the archive material being used again shall result in the same amount of compensation as would be charged for loss. The archive material must not be changed through any editing/processing/manipulation by the user. An alteration/permanent edit shall be regarded the same as a case of damage. To protect the audio and audiovisual archive material the user, when viewing films and cassettes or listening to audio tapes, may not fast forward or fast rewind the recordings. After use, all materials must be wound back to "start". Digital formats of the DRA may not be edited, processed or changed. Permanent storage of digital formats is explicitly prohibited. No later than three months after using digital formats of the DRA the user must inform the DRA of the deletion of the files after their temporary storage.

§ 9 Reproduction

(1) Depending on the technical capabilities of Deutsches Rundfunkarchiv, reproductions of the archive material may be made on data media or made digitally unless there are conservation and copyright grounds that prevent this and only if the DRA has been assured that any interests worthy of protection of relevant persons or of third parties will not be adversely affected.

(2) User may only make reproductions on their own devices with the express permission of the DRA, which may be granted in exceptional cases with regard to material from the written documents inventory.

§ 10 Costs

Charges for using archive material are set by the respectively valid list of cost reimbursements for DRA services, which contains the fixed reimbursement rates for personnel and material expenses. If users have to utilise services provided by third parties (for instance for reproductions of image media, copies of video and audio recordings), the user shall also bear those costs. Use in accordance with the *Regelungen über den Zugang für Wissenschaft und Forschung zum Archivgut der öffentlich-rechtlichen Rundfunkanstalten in der Bundesrepublik Deutschland und des Deutschen Rundfunkarchivs* (Regulations on access to the public broadcasting corporations in the Federal Republic of Germany and to Deutsches Rundfunkarchiv for science and research) is subject to the charges set out in ARD's standard Annex on Cost Reimbursement instead of the DRA's own general list of cost reimbursements for services. Use of the archive inventories within the scope of the ARD programme exchange scheme (including the ARD network's joint facilities) is free of charge.

When borrowed material is lost, compensation must be paid at the following rates:

- BETA cassette (SP, DIGI or IMX) € 250
- Sound storage medium (DVD, CD or similar) € 100
- Duplicate slide/negative/photo/programme booklet or similar € 150
- Unique slide/negative/photo/programme booklet or similar € 500
- Unique film copy or similar € 6,000

The damages to be paid by the user for other items of archive material are determined on the basis of their value, which depends not only on the material value but can take into account the historical significance.

§ 11 Final Provisions

1. The legal relationship between the DRA and the user is based on private law. Frankfurt am Main shall be the place of performance in respect of archive material from the Frankfurt am Main site, and Potsdam-Babelsberg in respect of the material from the Potsdam-Babelsberg site.
2. The Regulations on Use come into force on 1 September 2021. The provisions of the previous regulations on use shall simultaneously cease to apply.

Annex: Data Protection

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Data Protection

The Stiftung Deutsches Rundfunkarchiv is subject to the data protection provisions of the European General Data Protection Regulation (EU GDPR).

In this Privacy Policy we inform you of how the processing of personal data is handled and processed in our archive. We undertake to protect the private sphere of visitors and handle and use data in accordance with the requirements of the GDPR.

Responsible organisation

The body responsible for data processing is:

Stiftung Deutsches Rundfunkarchiv

represented by its Chair, Bernd Hawlat

Bertramstraße 8

60320 Frankfurt am Main

The responsible body decides, either alone or together with others, on the purpose and means of processing personal data (for instance, names, contact data or similar).

Data officer:

We have appointed a company data protection officer.

Email: dra-datenschutz@dra.de

For what purpose do we use your data?

We require your data for handling your enquiry, for establishing contact with you, and for drawing up a contractual agreement. The legal basis is provided by Article 6 (1) a) and b) of the GDPR. We are engaged in taking pre-contractual measures in which the data serve to protect the legitimate interests of the Stiftung Deutsches Rundfunkarchiv and, by agreeing to sign the user declaration of the DRA, you consent to the handling and processing of these personal data.

Anonymised data are also required for statistical evaluation.

What data are recorded?

Name

First name

Email address

Telephone number

Postal address

If applicable, the institution on whose behalf you are directing your enquiry for use to the DRA

We store these data exclusively for handling and processing your enquiry for use.

What happens if you do not entrust us with your data or withdraw consent?

If you do not entrust us with your data or if you revoke permission for their use, we can no longer process your enquiry for use.

For how long are your data stored?

We store your personal data for up to two years after the end of the calendar year in which the use process was completed. A longer retention period may be established through a contractual relationship. The legal basis for this is provided by the statutory retention periods and the requirements arising from the GDPR.

For instance, invoices are stored for a longer period of time pursuant to statutory regulations.

What rights do you have regarding the data we store?

Under the applicable statutory regulations you always have the right to receive free of charge information on your stored personal data, their origin and recipients and the purpose of the data processing and, if necessary, a right to rectification, blocking or erasure of these data. For this option, please contact the responsible person (data controller), whose contact details you can find at the top of this page.

Regarding this and other data protection issues you can contact us any time at the above address. You also have the right to lodge a complaint with the responsible supervisory authority if you have the impression that your data are not being treated in accordance with regulations.

Right to Lodge a Complaint with the Responsible Supervisory Authority

As a data subject you have the right to lodge a complaint with the responsible supervisory authority in the event of a violation of data protection legislation. The responsible supervisory authority regarding data protection issues is the Rundfunkdatenschutzbeauftragte ([broadcasting data protection officer](#)).

The broadcasting data protection officer

Stephan Schwarze
Kantstr. 71-73
04275 Leipzig

Tel.: 0341 300 6240

Fax: 0341 300 29 6240

E-Mail: kontakt@rundfunkdatenschutz.de

Revoking your consent to our handling and processing of your data

Many data processing procedures are only possible with your express consent (see Article 7 of the GDPR). You may withdraw the consent you have already granted to us at any time. Notifying us by email is sufficient (no form required). The legitimacy of the data handling and processing performed prior to withdrawal of consent remains unaffected by that withdrawal.

Right to data portability

You have the right to receive data which we automatically processed on the basis of your consent or in the performance of a contract and have the data handed over in a structured, commonly used and machine-readable format to you or a third party. If you request the direct transfer to another data controller this shall only be performed where technically feasible.