



# EMDR Europe Association

## “Procedure for Conflict Resolution”

**Ratifying Committee:** EMDR Europe Board

**Ratified – Date:** November 3<sup>rd</sup>, 2019

**Review – Date:**



## Procedure for Conflict Resolution

### Article 1 INTRODUCTION

This document has been prepared in response to the important developments experienced by EMDR Europe Association over the past few years. These developments include rapid growth in membership together with the associated challenges that arise as the organization has grown in size and complexity. Further significant growth in membership is anticipated in the coming years.

Managing and resolving disputes and conflicts in a safe, consistent, fair and transparent manner is central to the values and objectives of EMDR Europe Association. Drawing on the experience of dealing with disputes in past years, the present document specifies the procedures to follow in case of conflict, dispute or complaint being brought to the attention of EMDR Europe Association (EMDREA), in accordance with art 6.4 of the Articles of Constitution of EMDR Europe Association.

### Article 2 CONFLICT RESOLUTION: DEFINITIONS

2.1. Conflicts, disputes, and complaints can be brought to the attention of the President and the Executive Committee (EC). In the following text, conflicts, disputes and complaints will be referred to as "issues" or "cases".

2.2. Conflicts, disputes and complaints can be raised by or/and against different actors or entities in the context of EMDR in Europe: clients/patients, individual members (non-practitioner, practitioner, consultant, trainer), National Associations (NA), training organizations, EMDREA Committees, people holding a function in EMDREA, or EMDREA as an association.

### Article 3 WHERE TO ADDRESS COMPLAINTS

Complaints must be addressed to the President of EMDREA (eventually with a copy to all the other members of the EC). Members of the EC who may be directly or indirectly involved in the case shall also be informed that an issue has been addressed.

The President of EMDREA will confirm the reception of the case within a maximum of 20 days.

## Article 4 MEANS TO RESOLVE A CASE

### 4.1. The different means to resolve a case are:

- Information
- Mediation
- Arbitration

### 4.2. Definitions:

Information: Give information and advice; refer to guidelines, procedures, constitution, examples of how similar cases have been resolved in the past ("best practice"); etc.

Mediation: The attempt to settle a dispute through active participation of a third party (mediator) who works to find points of agreement and make those in conflict agree on a fair result.

Arbitration: A process for the resolution of dispute wherein the parties to a dispute refer it to one or more persons (the arbitrators), by whose decision they agree to be bound. The arbitrators' decisions, indications and recommendations have to be respected.

Mediation differs from arbitration in which the third party (arbitrator) acts much like a judge.

Information, mediation and arbitration are different levels of action that are taken gradually if the former one failed. Mediation will be proposed only if information has not achieved a resolution of the case. Arbitration will be proposed only if mediation has not been successful or has been refused.

### 4.3. Conflict of interest

During the handling of a case, if it appears that an EC member is involved directly or indirectly in the issue, he/she shall be informed and he/she cannot be part of the handling of the case and he/she will not have access to any further information, discussion and correspondence about the case.

If the issue is against the EC as a group or entity, the OD&C Committee will take over the handling of the case and follow these regulations. In such a case, the OD&C will report to the EMDREA Board. In such a case, the OD&C replaces the EC wherever it is mentioned in this document.

Members of the OD&C who are members of the EC must step out of the handling of the case.

If any situation arises that has not been foreseen by this document, the EC and the OD&C will look for the fairest solution and report to the EMDREA Board at the next EMDREA Board meeting.

### 4.4. The persons handling the cases

The cases can be handled by the following persons:

- members of the EC;
- individuals outside the EC with appropriate expertise appointed by the EC.

Information (as explained in article 4.2.) shall be given by one EC member (appointed by the

EC).

Mediation and Arbitration (as explained in article 4.2.) shall be undertaken by EC members (chosen by the EC) or by individuals outside the EC also chosen by the EC.

## Article 5 FIRST EVALUATION OF THE COMPLAINT

5.1. The EC (after consultation of the OD&C Committee if necessary) shall consider if the case – considering its contents and/or possible impact for the Association and/or EMDR therapy - should be handled by the bodies of EMDREA or not.

To do so the President / EC gathers necessary information and contacts all parties to collect their points of view.

5.2. The EC will make sure that appropriate measures and/or actions at the National Association level have been exhausted and/or have not resulted in a resolution of the case. If (more) measures/actions can be taken at the level of the National Association, then the EC/President gives advice to the parties in this regard (if necessary, with the support of the OD&C Committee).

5.3. However, the EC may offer mediation to both parties at any time to help resolve the issue, independently from any action taken at the national level and the content of the issue.

5.4. In any case, the EC will give consideration to all parties and act for the good of EMDR therapy, for the membership and the organization.

5.5. The phase of the first evaluation shall not last more than two months.

## Article 6 INFORMATION

6.1. Some cases can be dealt with successfully by giving information to the person raising the issue.

6.2. The EC shall give the information directly to the complainant within two months.

6.3. The EC can seek information from experts outside of the EC if necessary.

## Article 7 NOMINATION OF MEDIATORS AND ARBITRATORS

Mediators and arbitrators are nominated by the EC (proposed by members of the EC and voted within the EC).

Mediators and arbitrators should:

- have appropriate expertise to consider how the matter may be resolved;
- have no direct or indirect involvement with the case;
- have no personal relationship with the persons involved in the case;
- have good experience in and knowledge about the organization and the functioning

of EMDREA (for example, Board members, former Board members, former EC members);

- in cases where knowledge of the EMDR organization is not central, individuals outside the EMDR community may be nominated when they have specific expertise (for example legal expertise, mediation, organizational expertise, arbitration) and when necessary;
- have the language skills necessary for the case, if individuals involved in the case do not speak (well enough) English to ensure that the case will be handled respectfully to all parties. If not, the EC will consider the use of translators/interpreters.

When choosing mediators and arbitrators, these criteria shall be applied in the best possible way.

## Article 8        MEDIATION

8.1. Mediation shall be proposed only if the information level of the process has not achieved a resolution of the case within the given timeframe.

8.2. Mediation is the attempt to settle a dispute through active participation of a third party (mediator) who works to find points of agreement and make those in conflict agree on a fair result. By accepting a mediation, all parties accept to work towards a fair result of the conflict. If not, mediation cannot be conducted. Accepting a mediation means that all parties accept to reach out to the other party with the help of the mediators.

8.3. The mediation and the mediators have to be accepted by all involved parties before mediation can properly start. The EC shall nominate two mediators, who must be accepted by all parties. One or the other party can refuse the one or both mediators once. The second proposal of mediators must then be accepted. Otherwise, the mediation process shall be terminated, and an arbitration will be proposed.

8.4. By accepting the mediation, all parties accept to share all necessary documents with the mediators.

8.5. All necessary documents shall be sent to the mediators in due time as decided by the mediators.

All material in possession of the President / EC shall be sent to the mediators. Mediators collect all data in a drop box or in files. They are careful in the way they handle these documents, respectful of the law on data protection, of the confidentiality of some data to third parties, and taking in consideration the impact of some data from one party to the other party.

8.6. The mediators have the right to demand other documents from all parties. They formally ask all concerned parties to give their statements on the disputed issue(s). A deadline is set up for all parties to send remaining documents and statements. All parties should respect this deadline. If they cannot respect this deadline, they should present good reasons and propose another deadline. The mediators decide whether this new deadline is acceptable or not. The final decision lies in the hand of the mediators.

8.7. The mediation should last no longer than 6 months. After 3 months a brief written report should be sent to the President/EC and all involved parties.

At the end of the mediation process, a report is written by the mediators, and sent to the EC and to the involved parties. The participation of the involved parties will be taken into consideration in the final conclusion.

8.8. Reasonable cost incurred by the mediator involved should be paid for by EMDREA (transport, hotel and restaurant, if meetings with the parties are necessary).

## Article 9        ARBITRATION

9.1. Arbitration can be proposed only if mediation has not been successful or has been refused.

9.2. Arbitration is a process for the resolution of dispute wherein the parties to a dispute refer it to arbitrators, by whose decision they agree to be bound. Mediation differs from arbitration in which the third party (arbitrator) acts much like a judge. By accepting an arbitration, all parties agree to be bound to the decisions and recommendations of the arbitrators and to duly respect these decisions and recommendations.

9.3. The arbitration and the arbitrators have to be accepted by all involved parties. The EC proposes three arbitrators to the parties. The appointment of the arbitrators should be made officially and informed to the parties. Parties can ask for the replacement of one arbitrator, if they consider this arbitrator is unsuitable. If the next proposed arbitrator is refused, then the arbitration shall be cancelled.

9.4. By accepting an arbitration, all parties accept to share all necessary documents with the arbitrators and that the President/the EC transmit all documents in their possession to the arbitrators. All necessary documents should be sent to the arbitrators in due time as decided by the arbitrators. All material in the possession of the President / EC should be sent to the arbitrators. Arbitrators collect all data in a drop box. They are careful in the way they handle these documents, respectful of the law on data protection, of the confidentiality of some data to third parties, and taking in consideration the impact of some data from one party to the other party. The arbitrators have the right to demand other documents to both parties. They formally ask all concerned parties to give their statements which describe the nature of the complaint. The arbitrators would make the documents available to the concerned parties, assuring a transparent process and making sure the authenticity of content of the documents.

9.5. A deadline is set up for both parties to send remaining documents and statements. Both parties should respect this deadline. If they cannot respect this deadline, they should present good reasons and propose another deadline. The arbitrators decide whether this new deadline is acceptable or not. The final decision lies in the hand of the arbitrators.

9.6. Reasonable cost incurred by the arbitrators involved should be paid for by EMDREA (transport, hotel, and restaurant, if meetings with the parties are necessary).

9.7. The arbitrators reflect on the material and base their reflection on existing documents from EMDREA (Code of Ethics, Constitution, procedures, etc.) and best practice over the years, as well as other documents and sound judgement where no precedent exists in the history of EMDR Europe Association (depending on the case and the types of parties involved).

9.8. The arbitration shall be no longer than 6 months. After 3 months a brief written report should be sent to the President/EC and to the involved parties.

9.9. At the end of the arbitration process, the arbitrators send their written report to the EC

and to the involved parties. In their final written report, the arbitrators summarize the case and formulate conclusions, recommendations, actions, and possible sanctions, to be taken. The participation of the involved parties will be taken into consideration in the final conclusion. They may also propose improvements to be implemented in various EMDREA documents to be handled by the EC, by appropriate EMDREA Committee and/or by the EMDREA Board.

9.10. The EC makes sure that these actions and sanctions will be carried out. The EC is responsible for the follow up of the case. The EC makes sure that conclusions and recommendations which involve possible changes in the EMDREA constitution and procedures will be worked on and implemented in due time regarding the issue.

9.11. If the conclusion of the arbitrators is the exclusion of a National Association, the EC brings the case to be voted by the EMDREA Board as required by the EMDREA Constitution. In such a case, the final report of the arbitrators shall be communicated to all EMDREA Board members, following the procedures for the organization of Board meetings.

## Article 10      SANCTIONS

This article applies to sanctions that can be formulated against members (National Associations) and also individuals. The sanctions are decided by the EC, and the President makes sure that the sanctions are implemented.

10.1. Sanction against a NA includes:

- official warning signed by the President. After three warnings to a NA, the case will be discussed again, and other sanctions may be considered;
- suspension for a defined period of time (cf. article 3.3.4 of the EMDREA Constitution);
- exclusion of the NA from EMDREA (cf. article 3.3.4 of the EMDREA Constitution, and article 9.11. of this document).

10.2. Here is the list of possible sanctions that the arbitrators can formulate against individuals:

- official warning (in writing, signed by the President). After 3 warnings to an individual, the case will be discussed again, and other sanctions may be taken by the EC;
- removal of the right to represent the NA in any future meetings of the EMDREA Board
- ineligibility for a function in the EMDREA Board or/and an EMDREA Committee (time frame to be defined by the EC);
- dismissal from a position in the EMDREA Board or an EMDREA Committee (time frame to be defined by the EC) with ineligibility (time frame to be defined by the EC).

10.3. Sanctions taken to individuals will be by default communicated to the NA of the person sanctioned and to the EMDREA Board.

10.4. At each EMDREA Board meeting, in the Executive Committee report, the EC/President will inform the Board members about ongoing mediations and arbitrations and their results if available at the time of the Board meeting as well as any restrictive measures that have been decided.

## Article 11 CARE OF DATA

During and after the process of a case, special care to ensure confidentiality should be given to data collected from all parties. Any individual involved in the handling of cases should follow the EU regulations on data protection: ways of communicating, sharing of documents, storage of documents.

## Article 12 JURISDICTION

Jurisdiction is Switzerland, canton of the official office of the EMDR Switzerland Association. Any dispute, controversy, or claim arising out of, or in relation to this document including interpretation, validity, breach of termination thereof shall be resolved in accordance with the Swiss law.

**OD&C - Budapest, November 3<sup>rd</sup>, 2019**