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# Political Parties Act (Parteiengesetz, ParteienG)

Long title: **Gesetz über die politischen Parteien**

As published on 24 July 1967 (Federal Law Gazette I, Page 773); amended version published on 31 January 1994 (Federal Law Gazette I, Page 149)

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## **Section I General Provisions**

### **Article 1. Constitutional Status and Functions of the Parties**

(1) Political parties form a constitutionally integral part of a free and democratic system of government. Their free and continuous participation in the formation of the political will of the people enables them to discharge the public tasks which are incumbent upon them pursuant to the Basic Law (Grundgesetz) and which they undertake to fulfil to the best of their ability.

(2) The parties shall participate in the formation of the political will of the people in all fields of public life, in particular by:

bringing their influence to bear on the shaping of public opinion; inspiring and furthering political education;

promoting an active participation by individual citizens in political life; training talented people to assume public responsibilities;

participating in Federal, Land and Local Government elections by nominating candidates;  
exercising an influence on political trends in parliament and the government;  
initiating their defined political aims in the national decision-making processes;  
and  
ensuring continuous, vital links between the people and the public authorities.

(3) The parties shall define their aims in the form of political manifestos.

(4) The parties shall use their funds exclusively for the fulfilment of their obligations under the Basic Law and this Law.

### **Article 2. Definition of the Term "Political Party"**

(1) Parties are associations of citizens who set out to influence either permanently or for a lengthy period of time the formation of political opinions at Federal or Land level and to participate in the representation of the people in the Federal Parliament (Bundestag) or regional parliaments (Landtage) provided that they offer sufficient guarantee of the sincerity of their aims in the general character of their circumstances and attendant conditions, particularly in regard to the size and strength of their organization, the number of registered members and their public image. Party members may only be natural persons.

(2) An organization loses its legal status as a party if it has not participated for a period of six years in either a Federal election or a Landtag election with electoral proposals of its own.

(3) Political organizations are not deemed to be parties if:

1. most of their members or the members of their executive committees are foreigners; or
2. the registered seat of business is located outside the purview of the present Law.

### **Article 3. Active and Passive Legitimation**

A political party may institute legal proceedings in its own name and lawsuits may be brought against it. The same applies to its regional organizations at their highest level unless the party statutes contain provisions to the contrary.

### **Article 4. Designation**

(1) The name of a party must be clearly distinguishable from that of any existing party; this is also applicable to acronyms. In election campaigns and the elections themselves, only the registered name or acronym may be used; supplementary designations may be omitted.

(2) Regional organizations bear the name of the party plus the designation of their organizational status. This supplementary designation in connection with the name of regional organizations is only permissible if it is placed after the name of the party. The supplementary designation may be omitted in

general publicity and election activities.

(3) Regional organizations which withdraw from a party lose the right to continue to use that party's name. A newly chosen name may not merely consist of a simple addendum to the previous name. The same applies to acronyms.

### **Article 5. Equality of Treatment**

(1) Where a public authority provides facilities or other public services for use by a party, it must accord equal treatment to all other parties. The scale of such facilities and services may be graduated to conform with the importance of the parties to the minimum extent needed for the achievement of their aims. The importance of a party is judged in particular from the results of previous elections for central or regional government. In the case of a party represented in the Bundestag by a Parliamentary Party, the significance accorded to it must amount to at least half that granted to any other party.

(2) As regards the granting of public services in connection with an election Para. (1) applies only for the duration of the election campaign to parties which have submitted election proposals.

(3) The public services referred to in Para. 1 may be made dependent upon certain preconditions which all parties have to fulfil.

(4) Section IV shall remain unaffected.

## **Section II Internal Organization**

### **Article 6. Statutes and Programme**

(1) A party must have written statutes (articles of association) and a written programme. Regional organizations conduct their affairs on the basis of their own statutes provided that the statutes of their immediately superior regional organization do not contain any provisions bearing on this matter.

(2) The statutes must contain provisions on:

1. The name and acronym (if used), the registered seat and the activities of the party
2. The admission and resignation of members.
3. The rights and duties of members.
4. Admissible disciplinary measures against members and their exclusion from the party (Article 10, Paras. 3 to 5).
5. Admissible disciplinary measures against regional organizations.
6. The general organization of the party.
7. Composition and powers of the executive committee and other organs.
8. Matters which may only be decided upon by a meeting of members and representatives

pursuant to No. 9.

9. The preconditions, form and time limit for convening meetings of members and representatives and the official recording of resolutions.

10. Regional organizations and organs which are authorized to submit or sign election proposals for elections to parliaments inasmuch as there are no relevant legal provisions.

11. An overall vote by members and the procedure to be adopted when the party convention has passed a resolution to dissolve the party or a regional organization or to merge with another party or parties pursuant to Article 9, Para. 3. The result of the overall vote determines whether the resolution is confirmed, amended or rescinded.

12. The form and content of a financial structure which satisfies the rules of Section V of this Law.

(3) The executive committee informs the Federal Returning Officer of:

1. The party's statutes and programme

2. The names of the members of the executive committee of the party and its regional organizations together with their duties.

3. The dissolution of the party or a regional organization. Amendments to sentence 1 (1) and (2) above must be notified by 31 December of the given calendar year. The relevant documents are held by the Federal Returning Officer and made available to the public for perusal and inspection. On request, copies of the documents are provided free of charge.

(4) Parties whose organization is restricted to the territory of a Land are governed by the provisions set out in the present Law for parties as a whole.

#### **Article 7. Organization**

(1) Parties are subdivided into regional organizations. The size and scope of these units are determined in the statutes. The regional structure of the party must be developed to a sufficient degree to enable individual members to participate to a suitable extent in the forming of political opinions within the party. Where the organization of a party is limited to the territory of a city-state, there is no requirement that regional organizations should be set up; it constitutes a party within the meaning of the present Law. It is permissible to merge several regional organizations for organizational purposes if they do not substantially impair the structure of the party as an organization.

(2) Where there are no Land organizations in a party, the provisions of the present Law applicable to Land organizations are valid for the next level of regional organization below that of the party itself.

#### **Article 8. Organs**

(1) The members' meeting and executive committee constitute the essential organs of the party and its regional organizations. The statutes may provide that in supra-local organizations the members' meeting may be replaced by a meeting of representatives whose members are elected for a maximum of

two years at meetings of members or representatives in subordinate organizations. Land parties without any regional organizations (Article 7, Para. 1, sentence 4) may replace the members' meeting with a representatives' meeting if they have more than 250 members. Representatives' meetings may also be convened for local organizations which have more than 250 members or which cover a wide geographical area.

(2) The statutes may also provide for other institutions or bodies which help to form policy at regional organization level. They must be explicitly designated in the statutes as such.

### **Article 9. Members' and Delegates' Assemblies (Convention, General Assembly)**

(1) The assemblies of members or delegates (convention, general assembly) constitute the supreme organ in a given regional organization. In high-level regional organizations, these are designated as party conventions and, at lower levels, as general assemblies. The provisions set out hereafter for the party conventions shall apply also to the general assembly. Party conventions are convened at least every second calendar year.

(2) Pursuant to the statutes, members of the executive committee and members of other bodies in a regional organization as well as persons falling within the group of people designated in Article 11, Para. 2, may participate in a delegates' assembly. However, in this case they may only be given voting rights on a scale corresponding to one fifth of the total number of members at the assembly who are entitled to vote.

(3) Within the framework of the competencies of a regional organization in the party, the party convention decides on programmes, statutes, subscriptions, arbitration procedure, dissolution of the party and merging with other parties.

(4) The party convention elects the chairman of the regional organization, his representatives and the other members of the executive committee, the members of any other bodies that may be established and representatives on the organs of higher-level regional organizations inasmuch as the present Law does not permit any other procedure.

(5) The party convention receives a progress report from the executive committee at least every two years and adopts resolutions in regard thereto. Prior to its general dissemination, the financial part of the report is verified by auditors appointed by the party convention.

### **Article 10. Members' Rights**

(1) Pursuant to the detailed provisions of the statutes, the competent bodies of the party freely decide on the admission of new members. No justification need be given for refusing an application for membership. Neither general nor temporary embargoes on new members are permissible. Persons who have been deprived by judicial decision of the right to vote or to be elected may not become members of a party.

(2) Members of the party and representatives in the party bodies have equal voting rights. The statutes may stipulate that the exercise of voting rights is dependent on a member paying subscription fees. A member may at any time resign from the party without notice.

(3) The statutes contain provisions governing:

1. admissible disciplinary measures against members
2. reasons for such measures;
3. those bodies within the party which may initiate disciplinary measures.

If a member is deprived of party offices or qualification to hold them, the justification for such a decision must be stated.

(4) A member may only be expelled from the party if he or she deliberately infringes the statutes or acts in a manner contrary to the principles or discipline of the party and thus seriously impairs its standing.

(5) The arbitration court competent in accordance with the arbitration procedure code decides upon expulsion from the party. The right to appeal to a higher court is guaranteed. Decisions must be justified in writing. In urgent and serious cases, the executive committee of the party or a regional association may exclude a member from exercising rights until such time as the arbitration court has reached a decision.

#### **Article 11. Executive Committee**

(1) The executive committee must be elected at least every second calendar year. It must comprise at least three members.

(2) Pursuant to the statutes, the executive committee may include members of parliament and other high-ranking persons in the party if they hold office or mandate as the result of an election. The proportion of members not elected under the provisions of Article 9 (4), may not exceed one-fifth of the total number of executive committee members. The chairman and the treasurer of a party may not exercise comparable functions in any political foundation associated with the party.

(3) The executive committee manages the regional organization and conducts its affairs in accordance with the law and the statutes as well as the resolutions of the supreme bodies of the party.

It represents the regional organization pursuant to Art. 26, Para. 2, of the Civil Code (Bürgerliches Gesetzbuch) unless the statutes provide otherwise.

(4) An executive presiding committee may be formed from the members of the executive committee to implement the resolutions of the latter and to carry out regular and particularly urgent executive committee business. Its members may also be elected by the executive committee or stipulated in the statutes.

#### **Article 12. General Party Committees**

(1) Members of general party committees and similar bodies endowed pursuant to the statutes with wide powers to deliberate or decide on questions of party policy and organization may also be elected by subordinate regional organizations.

(2) The chairman and members of the group of persons named in Article 11, Para. 2, may also belong to such a body by virtue of the terms of the statutes. The proportion of non-elected members may not



exceed one third of the total membership of this body; it may be augmented by the election of non-voting members with advisory functions, but in this case it must still represent under half of the total number of members.

(3) The tenure of office of members elected to the bodies named in Para. 1 is a maximum of two years.

### **Article 13. Composition of Delegates' Assemblies**

The composition of a delegates' assembly or that of any other body wholly or partly comprising representatives from regional organizations is laid down in the statutes. The number of representatives from a regional organization is primarily calculated on the basis of the number of represented members. The statutes may provide that the composition of the rest of the representatives from the regional organization, at most one half of the total, shall be determined in accordance with the proportion of votes polled at regional organization level in previous parliamentary elections. The exercise of the right to vote may be made dependent on the payment of the regional organization's subscription fees.

### **Article 14. Party Arbitration**

(1) The party and the highest-level regional organizations set up courts of arbitration to settle and decide disputes between the party or a regional organization and individual members as well as differences of opinion about the interpretation and implementation of the statutes. Joint courts of arbitration may be set up to serve a number of regional organizations at district level.

(2) The members of these courts of arbitration may only be elected for a maximum period of four years. They may not be members of the executive committee of the party or a regional organization or be in the employment of the party or a regional organization or draw regular emoluments from them. They are independent and not bound by any instructions.

(3) The statutes may provide that the courts of arbitration, in general or in a particular case, comprise associate judges nominated on a parity basis by the litigants.

(4) The functions of the court of arbitration are governed by a court of arbitration code designed to ensure that litigants are given a fair hearing and to guarantee the rejection of any prejudiced member of the court of arbitration.

### **Article 15. Decision-Making in Party Organs**

(1) The party organs adopt their resolutions on the basis of a simple majority vote inasmuch as a higher majority vote is not stipulated by law or by the statutes.

(2) The ballots for members of the executive committee and representatives to delegates' assemblies as well as to the bodies of higher-level regional organizations are secret. Voting at other elections is not secret unless voters object when asked to confirm such procedure.

(3) The statutory provisions governing the submission of motions must be such as to ensure the democratic forming of opinions and in particular adequate discussion of the proposals put forward by minorities. At the delegates' assemblies of higher-level regional organizations, at least the representatives of the regional organizations at the next two lower levels must be granted the right to introduce motions. No commitment to the resolutions of other bodies is permissible at elections and

polls.

### **Article 16. Measures against Regional Organizations**

(1) The dissolution and exclusion of subordinate regional organizations or the termination of whole regional organization bodies are permissible only in cases of serious infringement of party principles or discipline. The statutes stipulate:

1. the reasons justifying the measures
2. which higher-level regional organization and which regional organization body may adopt such measures.

(2) In order to implement a measure in pursuance of Para. 1, the executive committee of the party or a higher-level regional organization must receive the confirmation of a more senior body. The measure is invalid if it is not confirmed at the next party convention.

(3) An appeal to a court of arbitration against measures adopted under Para. (1) is permissible.

### **Section III Nomination of Candidates for Election**

#### **Article 17. Nomination of Candidates**

Candidates for election to parliament must be chosen by secret ballot. The nomination procedure is governed by the election laws and the party statutes.

### **Section IV Public Financing**

#### **Article 18. Principles and Extent of Public Financing**

(1) The State shall grant the parties funds to partly finance their general activities pursuant to the Basic Law. The criteria for the distribution of public funds shall be the parties' performance in European, Bundestag and Landtag (state parliament) elections, the sum of its membership contributions and the amount of donations received.

(2) The maximum annual amount of public funds which may be granted to all parties together shall be DM 230 million (absolute limit) at the time of entry into force of this provision.

(3) The parties shall receive each year

1. DM 1.00 for each valid vote cast for the party list or
2. DM 1.00 for each vote cast for the party in a constituency where in the state concerned a list for that party was not permissible, and
3. DM 0.50 for each DM received from other sources (members' subscriptions or lawful donations); only amounts up to DM 6,000 per person are taken into account.

In derogation of numbers 1 and 2 above, the parties shall receive DM 1.30 per vote up to five million

valid votes.

(4) Parties who according to the final result of the most recent European or Bundestag election have polled at least 0.5 % or, in a state election, 1 % of the valid votes cast for the party lists shall be entitled to public funds in accordance with Para. 3, Nos. 1 and 3; in order to qualify for payments under Para. 3, Sentence 1 No. 1 and Sentence 2, a party must meet these requirements in the election concerned. Parties who according to the final election result have obtained 10 % of the valid votes cast in a constituency have a right to public funds under Para. 3, No. 2. The first and second sentences do not apply to parties of national minorities.

(5) The amount of public funds may not exceed the party's own annual income (relative limit, Article 24, Para. 2, Nos. 1 to 5 and 7). The amount of funds made available to all parties together may not exceed the absolute limit.

(6) Upon the entry into force of this Law the Federal President shall appoint a committee of independent experts. This committee shall initially draw up a "basket" of goods and services that represent typical party expenditure. Using this as a basis the committee shall each year, beginning in 1995 and relating to 1991, determine the increase in the prices of party-relevant items. The committee shall submit the results to the President of the German Bundestag. The committee shall be appointed for the duration of the term of office of the Federal President.

(7) Before making any changes in the structure and amount of public financing in excess of the price increases established in accordance with Para. 6, the committee referred to in Para. 6 shall submit recommendations to the German Bundestag. This applies especially to the assessment whether conditions have changed considerably and whether, therefore, an adjustment of the total volume or a change in the structure of public financing is called for.

(8) If a party is dissolved or banned it shall from then on receive no public funds.

#### **Article 19. Assessment Procedure**

(1) The parties must write to the President of the German Bundestag by 30 September of each year requesting that the public fund entitlement be established and disbursed. Applications submitted after that date shall not be considered.

(2) The President of the German Bundestag shall on 1 December determine the amount of public funds for each entitled party for the current year.

(3) The basis for assessing the amount of public funds is the number of valid votes which the parties concerned have polled in the most recent European, Bundestag and state election up to 31 October of the current year and the payments received and published in the statements of income and expenditure (Article 18, Para. 3, No. 3) for the previous year. The President of the German Bundestag records the valid votes of each party which qualify for public funds according to Article 18, Para. 4, in a "vote account" which is carried forward.

(4) If a party's statement of income and expenditure for the previous year is received too late for consideration under Para. 2, the payments received and recorded in the previous statement of accounts shall be used as a temporary basis for assessment. If the statement has not been submitted by 31 December the final assessment shall be made without consideration of payments to the party that has

failed to submit its statement of accounts. Any discrepancy between the temporary and the final amount shall be credited or debited as the case may be.

(5) The calculation of the relative ceiling (Article 18, Para. 5) shall be based on the party's own income for the preceding year as indicated in the statement of accounts.

(6) First the absolute limit (Article 18, Para. 2) shall be determined and then the relative limit for each party (Article 18, Para. 5). Should the total public funds thus calculated exceed the absolute limit the parties shall only be entitled to public funds in the amount corresponding to their proportion of that sum.

(7) Advance payments pursuant to Article 20 shall be deducted from the full amount to be established.

(8) Public funds payable for valid votes in state elections shall be made to the party's state organization at the rate of 1 DM per vote; reductions under Para. 6 shall not be taken into consideration. The payment of the remaining public funds shall be made to the party's national organization or, if the party is only represented at state level, to the state organization.

#### **Article 20. Advance Payments**

(1) Parties entitled to public funds shall upon application be granted advance payments. Such payments shall be calculated on the basis of the funds allocated in the previous year. Advance payments shall be made on 15 February, 15 May and 15 August; they may not exceed in each case 25 % of the total amount allocated to the party concerned for the preceding year. Should there be reason to believe that a party may eventually be obliged to repay funds, a security deposit may be demanded.

(2) Applications for advance payments must be submitted in writing to the President of the German Bundestag by the 15th of the previous month. Applications made after that date shall not be considered. An application may be made for several advance annual payments simultaneously.

(3) Advance payments shall be repaid if they exceed the allocated amount or the party fails to qualify for public funds.

(4) Article 19, Para. 8, shall apply *mutatis mutandis*.

#### **Article 21. Provision and Disbursement of Federal Funds**

(1) The funds provided for in Articles 18 and 20 shall in the case of Article 19, Para. 8, first sentence, be disbursed by the Länder, in other cases by the Federal Government to the parties through the President of the German Bundestag.

The President of the German Bundestag shall bindingly inform the Länder of the amounts to which the party organizations at Land level are entitled.

(2) The Federal Audit Office shall examine whether the President of the German Bundestag as the agency administering the funds has determined and disbursed them in accordance with the provisions of this Section.

#### **Article 22. Internal Party Financing**

The national organizations of the parties shall make adequate arrangements for the distribution of funds to their Land organizations.

## **Section V Presentation of Accounts**

### **Article 23. Statutory Obligation to Publish Accounts**

- (1) The executive committee of the party shall make a public statement of the origins and the use of funds received by its party within a calendar year (accounting year) as well as of the assets of the party in a statement of accounts.
- (2) The statement of accounts must be scrutinized by a certified auditor or auditing company in accordance with Articles 29 to 31. In the case of parties who do not meet the requirements of Article 18, Para. 4, first sentence, the statement of accounts may be scrutinized by a chartered accountant. It must be submitted by 30 September of the year following the accounting year to the President of the German Bundestag and be circulated by the latter as a Bundestag paper. The President of the German Bundestag can extend the limit by up to a maximum of three months in extenuating circumstances. The party statement of accounts shall be submitted for discussion to the federal party convention following its publication.
- (3) The President of the German Bundestag shall examine whether the statement of accounts is in accordance with the regulations of Section V. The result of the scrutiny shall be recorded in the report in accordance with Para. 5.
- (4) The President of the German Bundestag may not determine a party's allocation of public funds under Articles 18 and 19 so long as a statement of accounts in accordance with the provisions of Section V is still outstanding. Payments under Article 18 shall be based on the statement of accounts to be submitted for the preceding year, payments under Article 20 on the statement of accounts submitted for the preceding year. If a party fails to submit the report by 31 December of the following year it shall forfeit its claim to public funds; allocations and disbursements to the other parties shall remain unaffected.
- (5) The President of the German Bundestag shall submit annually to the German Bundestag a report on the state of party finances and on the statements of accounts of the parties. The report shall be circulated as a Bundestag paper.

### **Article 23a. Illegal Donations**

- (1) Should a political party obtain donations illegally or use funds not in accordance with the regulations of this Law or fail to publicise them in the statement of accounts (Article 25, Para. 2), it shall forfeit public funds to an amount double the total sum illegally obtained or not publicised in accordance with the provisions of this Law. The illegally obtained donations shall be surrendered to the Presidium of the German Bundestag.
- (2) Donations as set out in Article 25, Para., 1 sentence 2 shall be regarded as illegally obtained inasmuch as they are not immediately transferred to the Presidium of the German Bundestag in contravention of Article 25, Para. 3.

(3) The Presidium of the German Bundestag shall, at the beginning of the next calendar year, transfer such funds received within any calendar year to facilities or institutions serving charitable, church, religious or scientific purposes.

(4) The political parties shall incorporate in their statutes regulations to cover the event that measures are caused by regional organizations or their district organizations in accordance with Para. 1.

#### **Article 24. Statement of Income and Expenditure**

(1) The statement of accounts shall comprise accounts of income and expenditure and an account of assets. It shall be drawn up in accordance accepted bookkeeping principles and with due regard for the purposes of this Law. The statement of accounts of the political party in its entirety shall incorporate the statements of accounts separately showing federal and state organizations and the statements of accounts of the subordinate organizations of each respective state organization. The state organizations and their subordinate organizations shall attach to their statements of account a complete list of all donations together with the names and addresses of the donors. The party state organizations shall keep the partial reports of the district organizations subordinate to them in collective form in their own accounting documents.

(2) Income includes:

1. Members' subscriptions and similar regular contributions
2. Donations from natural persons.
3. Donations from legal entities.
4. Income from assets.
5. Income from organized events, distribution of printed materials and published materials and other income-raising party activities.
6. Public funds.
7. Other income.
8. Grants from subdivisions.
9. Total income from items 1 to 8.

(3) Expenditures includes:

1. Staff
2. Current business activities.
3. General party work.

4. Elections.
5. Interest.
6. Other expenditures.
7. Allocations to subdivisions.

(4) The statement of assets comprises:

1. Property

II I. Capital assets

1. Real estate and land.
2. Equipment of premises.
3. Financial investments.

I II. Working capital

1. Claims on subdivisions.
2. Claims for public funds.
3. Monetary assets.
4. Other assets.

III. All property

2. Debts

II I. Reserves

1. Pensions.
2. Other reserves.

I II. Liabilities

1. Liabilities towards the subdivisions.
2. Liabilities towards credit institutes.
3. Other liabilities.

III. All debts

3. Net assets (positive or negative).

(5) The statement of accounts shall show separately the total contributions of natural persons up to DM 6,000 per person as well as the total contributions of natural persons which exceed the amount of DM 6,000.

(6) The report shall be preceded by a summary of:

1. income of the whole party in accordance with Paragraph 2, Nos. 1 to 7, and their total
2. expenditure of the whole party in accordance with Paragraph 3, Nos. 1 to 6 and their total,
3. any surplus or deficit,
4. property of the whole party in accordance with Paragraph 4, No. 1 I and II 2 to 4 and their total,
5. debts of the whole party in accordance with Paragraph 4, No. 2 I and II 2 and 3 and their total,
6. net assets of the whole party (positive or negative),
7. total income, total expenditure, surpluses or deficits as well as net assets of the three subdivisional levels: national organization, land organizations and district organizations.

In addition to the absolute figures for Nos. 1 and 2 the respective percentage of total income under No. 1 and total expenditure under No. 2 must be indicated.

(7) The number of members at the end of the year must be indicated.

(8) The party may attach brief explanations to the statement of accounts and especially to specific items.

(9) Public grants for party youth organizations shall not count towards the absolute and relative limits. They should be indicated in the party's statement for information purposes but are not to be included in the statement of income and expenditure.

## **Article 25. Donations**

(1) Political parties are entitled to accept donations. The following are excluded:

1. Donations from political foundations and parliamentary groups.
2. Donations from corporate bodies, associations of persons and estate which, under statutes, foundation rules or other constitutions and, by virtue of actual business procedure, are exclusively and directly intended for non-profit, charitable or church purposes (Paras. 51 to 68 of the Taxation Code)



3. Donations from outside the sphere of validity of this Law unless:

a) they flow directly to a party from the assets of a German as defined by the Basic Law, a citizen of the European Union, or of a business enterprise whose shares are more than 50 percent owned by Germans as defined by the Basic Law;

b) they are donations to parties of national minorities, transferred from countries which are adjacent to the Federal Republic of Germany and where members of their ethnic group live, by that political party's parliamentary group in the European Parliament or by a foreign member of the European Parliament, or

c) it is a donation by a foreigner not exceeding DM 1,000.

4. Donations from professional organizations which are made with the proviso that they be passed on to a political party.

5. Donations which, in each individual case, exceed DM 1,000 and whose donors cannot be determined or who are obviously merely passing on the donations of third parties not named. 6. Donations which are clearly made in the expectation of some specific economic or political advantage.

(2) Donations to a political party or to one or more of its regional organizations the total value of which in one calendar year (accounting year) exceeds DM 20,000 shall be recorded in the statement of accounts giving the names and addresses of the donors and the total amounts of the donations.

(3) Inadmissible donations as defined in Para. 1 (2) shall be passed on immediately by the political party to the Presidium of the German Bundestag.

#### **Article 26. Definition of Income**

(1) Where no special stipulation is made for individual types of income (Article 24 (2)), income is all monies or payments in money value made to the political party. Release from obligations arising in the usual manner and from the assumption of responsibility for functions and measures by others which explicitly canvass for a political party are also regarded as income.

(2) All receipts are entered in their full amount in the place provided. Article 27 (2) shall remain unaffected.

(3) Goods and services of a non-monetary nature are assessed at the prices normally paid in commercial transactions for identical or comparable services.

(4) Party work shall be voluntary. Any contributions in kind, practical work or services by members on a non-commercial basis and normally provided free of charge shall not be counted as income. Reimbursements for expenses shall not be taken into consideration.

(5) Transitory items of money and services as well as members' contributions and other receipts

earmarked from the beginning for a pro rata apportionment amongst several regional organizations are shown in the accounts at the place where they will finally be entered.

### **Article 27. Individual Income Sources**

(1) Members' contributions shall only be regular payments made on the basis of the statutes. Donations shall be any payments above such contributions, especially admission fees, special assessments and collections as well as money payments of all kinds to the extent that they are not normally provided free of charge by members on a non-commercial basis.

(2) The amounts in the sources of income named in Article 24 (2), Nos. 4 and 5, shall be entered as net amounts. The requirement to disclose this information pursuant to Article 24 (2), Nos. 2 and 3 and Para. 5 shall not be affected. Other income under Article 24 (2), No. 7 shall be broken down and explained in so far as they exceed 5 percent of the total income pursuant to Nos. 1 to 6 in the case of one of the subdivisions listed in Article 24 (1).

(3) The statement of income may disregard contributions in kind, practical work or services which are normally provided free of charge by party members on a non-commercial basis or which individually do not exceed the value of DM 1,000. Sentence 1 applies mutatis mutandis to the organization of meetings and party canvassing measures.

### **Article 28. Obligation to Keep Accounts**

Political parties shall keep books in respect of their accountable income and expenditure and of their assets. These shall be kept in accordance with the principles of orderly accounting and with regard for the purpose of the present Law. Accounts shall be preserved for five years. The period for which the accounts must be preserved shall commence at the end of the accounting year.

### **Article 29. Audit of the Statement of Accounts**

(1) The audit referred to in Article 23 (2), sentence 1 and Para. 3 applies to the party's national organization and its state organizations and, following the appointment of the auditor, at least four subordinate regional organizations.

(2) The auditor may require the executive committees and their authorized representatives to furnish any information and proof they may need to fulfil their auditing assignment with due care. To this extent, the auditor is allowed to examine the records required for the compilation of the statement of accounts, the books and documents as well as the contents of cash boxes and other assets.

(3) The executive committee of the regional organization shall assure the auditor in writing that the statement of accounts contains all the obligatory items of revenue, expenditure and assets. Reference may be made to the assurances given by the executive committees of subordinate regional organizations. It is sufficient if the member of the executive committee who is responsible for financial affairs renders such an assurance.

### **Article 30. Audit Report and Certificate**

(1) The results of the audit shall be set out in writing in an audit certificate which is delivered to the executive committee of the party and that of the audited regional organization.

(2) If the auditor has no objections to make after completing the audit, this is certified by a note to the effect that:

following a duly thorough examination of the party's books and documents and the information and evidence furnished by the executive committees, the annual report corresponds to the extent of the audit Article 29 (1) with the provisions of the present Law.

Where objections are raised, the auditor refuses or qualifies the certification on the audit certificate. Any audited regional organizations must be named in the audit certificate.

(3) The audit certificate is appended to the annual report before the latter is surrendered and the full text is then published in accordance with Article 23 (2), Sentence 2.

### **Article 31. Auditors**

(1) No one may be nominated as an auditor if he or she is a member of the executive committee or a general party committee, the appointed accountant or an employee of the audited party or one of its regional associations or if he or she held such a position during the three years prior to appointment.

(2) The auditors, their assistants and the legal representatives of an auditing firm participating in the audit are obliged to discharge their duties in a conscientious and impartial manner and to observe due discretion and secrecy. Art. 168 of the Joint Stock Companies Law (Corporation Law) applies *mutatis mutandis*.

## **Section VI Implementation of Bans on Unconstitutional Parties**

### **Article 32. Execution**

(1) Where a party or a party organization is declared to be unconstitutional pursuant to Art. 21, Para. 2 of the Basic Law (No. 1), the appropriate authorities appointed by the state governments adopt within the framework of the laws any measures needed to carry out the judgement and any additional execution procedure ordered by the Federal Constitutional Court. To this end, the supreme state authorities possess an unlimited right to issue mandatory instructions to such state authorities and agencies as are responsible for maintaining public security or order.

(2) Where the organization or activities of the party or that section of the party declared to be unconstitutional extend beyond the territorial borders of a state, the Federal Minister of the Interior issues the necessary orders needed to ensure their uniform execution.

(3) Pursuant to Art. 35 of the Law on the Federal Constitutional Court, the latter may carry out the execution of a judgement in a different manner to that prescribed in Paras. (1) and (2).

(4) Neither objections to a writ of execution nor an action to set it aside has any suspending effect. Where the proceedings of an administrative court pertain to a matter which is of basic importance for the execution of a judgement, the proceedings are discontinued and a decision of the Federal Constitutional Court obtained. The Federal Constitutional Court also decides upon objections to the manner in which the executory measures it has ordered are carried out.

(5) In a case of seizure of assets, Arts. 10 to 13 of the Law on Associations (Vereinsgesetz), of 5 August 1964 (Federal Law Gazette, Part I, p. 593) are applied mutatis mutandis. The authority issuing the ban on unconstitutional parties is the supreme state authority; in the case of Para. 2, this is the Federal Minister of the Interior.

### **Article 33. Banning of Substitute Organizations**

(1) It is prohibited to set up organizations which pursue the unconstitutional aims of a party banned pursuant to Art. 21, Para. 2 of the Basic Law in conjunction with Art. 46 of the Law on the Federal Constitutional Court in lieu of the said banned party (substitute) organizations, or to continue existing organizations as substitute organizations.,

(2) Where the substitute organization is a party which already existed prior to the ban on the original party or where it is represented in the Bundestag or a Landtag, the Federal Constitutional Court passes a declaratory judgement that it is a banned substitute organization; Arts. 38, 41, 43, 44 and 46, Para. 3 of the Law on the Federal Constitutional Court and Art. 32 of the present Law apply mutatis mutandis.

(3) Art. 8, Para. 2 of the Law on Associations is applied mutatis mutandis to other parties and organizations which, within the meaning of Art. 2 of that law, constitute substitute organizations of a banned party.

## **Section VII Final Provisions**

### **Article 34. Amendment to Income Tax Law**

### **Article 35. Amendment to Corporate Tax Law**

### **Article 36. Application of Tax Regulations**

### **Article 37. Non-Applicability of Civil Code Provisions**

Art. 54 sentence 2, and Arts. 61 to 63 of the Civil Code are not applicable to political parties.

### **Article 38. The Federal Returning Officer's Instruments of Enforcement**

The Federal Returning Officer may require the executive committee of the party to carry out the actions designated in Article 6, Para. 3, by means of a fine. The provisions of the Administrations Enforcement Law apply mutatis mutandis; to this extent, the Federal Returning Officer acts as the enforcing and executory agency. The fine amounts to at least DM 500 and at most DM 3,000.

### **Article 39. Final Settlement**

(1) Reimbursement of election campaign costs and equality adjustment payments under the Law on Political Parties as amended on 31 December 1993 and in accordance with the European Election Law as at 31 December 1993 shall be completed as follows:

1. Parties and other political associations as well as list groupings who, by virtue of their results in the last election for the European Parliament, the Bundestag or state parliament

have received advance payments on the basis of Article 28 of the European Election Law, Article 20 of the Law on Political Parties or on the basis of state regulations within the framework of the hitherto applicable Article 22 of the Law on Political Parties shall on request receive final payments. The final payments shall be calculated in such a way that, together with the advance payments, they do not exceed, in the case of a four-year electoral period, 25 % or, in the case of a five-year electoral period, 20 % of the amount most recently fixed for reimbursement of election campaign costs for each year of the current electoral period up to 31 December 1993; in this connection the proportion attributable to the basic amount under the hitherto applicable Article 18 (6) of the Law on Political Parties shall not be taken into consideration. Any payments made over and above the limit ensuing from this calculation shall be repaid. Election periods beginning in 1993 shall not be considered.

2. Equality of opportunity payments shall be made for the last time for 1993.

3. Applications for a final payment must be submitted to the President of the German Bundestag by 30 September 1994; any applications arriving after that date shall not be taken into consideration. The final payment shall be made four weeks after receipt of the application

4. Final payments to all parties shall be reduced in proportion to the amounts to which they are entitled if, together with the reimbursements for election campaign costs already granted in the years 1991 to 1993, they exceed DM 690 million.

5. The envisaged limitation of election campaign cost reimbursements under Article 18 (7) of the Law on Political Parties shall be based on the years 1990 to 1992. Should the ensuing limit be exceeded the excess amounts shall be repaid. The repayments shall be made to the Federal Government and the Länder in proportion to their actual payments.

6. Sub-paragraphs 1 and 3 to 5 shall apply to list groupings within the meaning of Article 2 of the Tenth Law amending the Federal Election Law of 8 October 1990 (Federal Law Gazette I, p. 2141), as amended by the law of 21 July 1993 (Federal Law Gazette I, p. 1217, 1594).

7. Final and opportunity equalization payments shall not be counted towards the absolute limit (Article 18 (2) in conjunction with Article 19 (6)).

8. Final payments on the basis of advance payments for state elections shall be made by the Länder to the party Land associations, otherwise by the Federal Government through the President of the German Bundestag to the parties. Article 21 shall apply *mutatis mutandis*.

(2) Regional arrangements on the basis of the previously applicable Article 22, sentence 1, of the Law on Political Parties have no further validity.

#### **Article 40. Transitional arrangements**

(1) The following applies to the allocation of public funds for 1994:

1. The calculation pursuant to Article 18 (3), No. 3 in conjunction with Article 19 (3) shall

be based on 60 % of the average amount of members' contributions and donations as indicated in the statements of account submitted for the years 1991 and 1992.

2. The establishment of the relative upper limit under Article 18 (5) shall be based on the average of a party's own income as indicated in the statements of account for the years 1991 and 1992.

3. Sub-paragraph 1 shall apply to the calculation of advance payments pursuant to Article 20

4. The only precondition for the disbursement of public funds for the year 1994 is a statement of accounts which meets the requirements of the Law as applicable until 31 December 1993.

(2) In derogation of Article 24 (1), sentence 4, the statements of account for 1994 until 1997 need not contain the names and addresses of donors of amounts up to DM 200 provided an assurance is given that the payments per donor do not exceed the limits of tax deductibility.

#### **Article 41. (Entry into Force)**

##### Statutes Homepage

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