

# **The Law on Political Parties**

## **(Party Law)**

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(Federal Law Gazette I, Page 3673)

### **Section I**

#### **General Provisions**

#### **Article 1**

##### **Constitutional Status and Functions of Parties**

(1) Political parties are a component of the free democratic basic order required under the Constitution. Due to their free and continuous participation in the formation of the political will of the people, they perform a public function which is incumbent on them under the Basic Law and which they undertake to fulfill 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 exerting influence on the shaping of public opinion; inspiring and furthering political education; promoting active public participation in political life; training capable people to assume public responsibilities; participating in federal, Land and local government elections by nominating candidates; exerting influence on political developments in parliament and government; incorporating their defined political aims into the national decision-making process; and ensuring continuous, vital links between the people and the instruments of state.

(3) The parties shall lay down their aims in political programs.

(4) The parties shall use their funds solely for performing the functions incumbent on them under the Basic Law and this law.

## **Article 2**

### **Definition of a Political Party**

(1) Parties are associations of citizens which exert influence permanently or for longer periods of time on the formation of the political will at federal or Land level and participate in the representation of the people in the German Bundestag or regional parliaments (Landtag) provided that they offer sufficient guarantee of the sincerity of their aims in the general character of their circumstances and attendant conditions, particularly with regard to the size and strength of their organization, their memberships and their conduct in public. Only natural persons may be members of a party.

(2) An organization shall lose its legal status as a party if it does not participate in either a federal election or a Landtag election with nominations of its own for six years.

(3) Political organizations shall not be deemed parties if

1. the majority of their members or the members of their executive committees are aliens; or
2. the registered seat of business is located outside the purview of the present law.

## **Article 3**

### **Active and Passive Legitimization**

A political party may institute legal proceedings in its own name and lawsuits may be brought against it. The same shall apply to its top regional branches, unless specified otherwise in the party statutes.

## **Article 4**

### **Designation**

(1) The name of the party must be clearly distinguishable from that of any existing party; this shall also apply to acronyms. In canvassing and the electoral procedure, only the registered name or acronym may be used; supplementary designations may be omitted.

(2) Regional branches shall bear the name of the party and the designation of their organizational status. This supplementary designation in connection with the name of regional

branches is only permissible if it is placed after the name of the party. The supplementary designation may be omitted in general advertising and canvassing.

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

## **Article 5 Equal Treatment**

(1) Where a public authority provides facilities or other public services for use by one party, equal treatment must be accorded to all parties. The scale on which such facilities and services are provided 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 shall be judged in particular from the results of previous parliamentary elections. The scale on which such facilities and services are accorded to a party that is represented in the Bundestag by a parliamentary group must be at least half that granted to any other party.

(2) With regard to the accordance of public services in connection with an election, Paragraph 1 shall apply for the duration of the election campaign only to parties which have submitted nominations.

(3) The public services defined in Paragraph 1 may be made dependent on certain pre-conditions which all parties have to fulfill.

(4) Section IV shall remain unaffected.

## **Section II Internal Organization**

### **Article 6 Statutes and Program**

(1) A party must have written statutes and a written program. The regional branches shall conduct their affairs on the basis of their own statutes, unless specified otherwise in the statutes of their immediately superior regional branch.

(2) The statutes must contain provisions on:

1. The name and any acronym used, the registered seat and the field of activities of the party.
2. The admission and resignation of members.
3. The rights and duties of members.
4. Permissible disciplinary measures against members and their exclusion from the party (Article 10, paragraphs (3) to (5)).
5. Permissible disciplinary measures against regional branches.
6. The general organization of the party.
7. Composition and powers of the executive committee and other bodies.
8. Matters which may only be decided at members' and delegates' assemblies pursuant to Article 9.
9. The preconditions, form and time limit for convening members' and delegates' assemblies and the official recording of the resolutions passed.
10. Regional branches and bodies which are authorized to submit (sign) nominations for elections to parliaments insofar as there are no relevant legal provisions.
11. A ballot among members and the procedure to be adopted when the party convention passes a resolution to dissolve the party or a regional branch or to merge with another party or parties pursuant to Article 9 (3). The resolution shall be deemed confirmed, amended or rescinded according to the result of the ballot.
12. Form and content of a financial structure which shall comply with the rules laid down in Section V of this law.

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

1. The party's statutes and program.
2. The names and functions of the members of the executive committee of the party and its Land branches.
3. The dissolution of the party or a Land branch.

Amendments to Sentence 1, nos. 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. Copies of the documents must be provided free of charge on request.

(4) For parties whose organizations are confined to the territory of a Land (Land parties), the provisions set out in this law for parties as a whole shall apply to the Land branches.

## **Article 7 Organization**

(1) Parties shall be organized in regional branches. The size and scope of the regional branches shall be laid down in the statutes. The regional structure of the party must be developed to a sufficient degree to enable individual members to participate on an appropriate scale in the formation of the political will of the party. Any party whose organization is confined to the territory of a city-state does not need to establish regional branches; it constitutes a party within the meaning of the present law. It is permissible for several regional branches to merge for organizational purposes if this does not substantially impair the branch structure of the party organization.

(2) Where there are no Land branches in a party, the provisions set out in the present law for Land branches shall apply for the next level of regional branch below that of the party itself.

## **Article 8 Bodies**

(1) The members' assembly and executive committee constitute the essential bodies of the party and its regional branches. The statutes may state that in the supra-local branches the members' assembly may be replaced by a delegates' assembly whose members are elected for a maximum of two years at members' or delegates' assemblies of the subordinate branches. Land parties without any regional branches (Article 7 (1), sentence 4) may replace the members' assembly with a delegates' assembly if they have more than 250 members. Delegates' assemblies may also be established for local branches which have more than 250 members or which cover a large geographical area.

(2) The statutes may also provide for other institutions (bodies) which help in the formation of opinion at regional branch level. They must be explicitly designated as such in the statutes.

## **Article 9**

### **Members' and Delegates' Assemblies (Party Convention, General Assembly)**

(1) The members' or delegates' assembly (party convention, general assembly) is the supreme body of a regional branch. In higher-level regional branches, this assembly is called a "party convention" and, at the lowest level, a "general assembly"; the provisions for the party convention set out below shall also apply to the general assembly. Party conventions shall convene at least once every second calendar year.

(2) Pursuant to the statutes, members of the executive committee and members of other bodies of a regional branch as well as members of the group of people defined in Article 11 (2) may be members of a delegates' assembly, but in this case the number of them eligible to vote must not exceed a fifth of the total number of assembly members.

(3) On the basis of the competence of a regional branch within the party, the party convention shall decide on party programs, statutes, subscriptions, arbitration procedures, the dissolution of the party and mergers with other parties.

(4) The party convention shall elect the chair of the regional branch, his deputies and the other members of the executive committee, the members of any other bodies that may be es-

established and delegates in the bodies of higher-level regional branches unless the present law permits another procedure.

(5) The party convention shall receive a progress report from the executive committee at least every two years and shall pass a resolution on it. Prior to its presentation, the financial part of the report shall be verified by auditors elected by the party convention.

## **Article 10**

### **Members' Rights**

(1) Pursuant to the detailed provisions of the statutes, the competent bodies of the party shall freely decide on the admission of new members. No reasons need to be given for rejecting an application for admission. Neither general nor temporary bans on admission shall be permissible. Persons who have been deprived by judicial decision of their eligibility for office or of their right to vote may not become members of a party.

(2) Party members and delegates in the party bodies shall have equal voting rights. Pursuant to the detailed provisions of the statutes, the exercise of voting rights can be made dependent on members having paid their membership fees. A member may resign from the party at any time without notice.

(3) The statutes shall contain provisions stipulating

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

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

(4) A member may only be expelled from the party if he deliberately infringes the statutes or the principles of discipline of the party, thereby inflicting serious damage on the party.

(5) The arbitration court defined as competent under the arbitration procedure code shall decide on expulsions from the party. The right to appeal to a higher arbitration court must be guaranteed. Decisions must be justified in writing. In urgent and serious cases calling for

immediate action, the executive committee of the party or a regional branch may exclude a member from exercising his rights until the arbitration court has reached a decision.

## **Article 11**

### **Executive Committee**

(1) The executive committee shall be elected at least every two calendar years. It must comprise at least three members.

(2) By virtue of 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) must not exceed one fifth of the total number of executive committee members. The chairperson and treasurer of a party may not exercise comparable functions in any political foundation associated with the party.

(3) The executive committee shall manage the regional branch and conduct its affairs in accordance with the law and the statutes as well as with the resolutions of the higher-level bodies of the party. It shall represent the regional branch in accordance with Article 26 (2) of the Civil Code (Bürgerliches Gesetzbuch) unless the statutes specify 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 institutions endowed pursuant to the statutes with extensive powers for deliberating or deciding on questions of party policy and organization may also be elected by subordinate regional branches.

(2) The chairperson and members of the group of persons defined in Article 11 (2) may also belong to such a body by virtue of the statutes. The proportion of non-elected members



must not exceed one third of the total number of members of this body; it may be augmented by non-voting members with merely advisory functions, but even in this case the proportion of non-elected members must still be less than half of the total number of members.

(3) Members of the bodies specified in Paragraph 1 shall hold office for a maximum of two years.

### **Article 13**

#### **Composition of Delegates' Assemblies**

The composition of a delegates' assembly or of any other body wholly or partly comprising delegates from regional branches must be laid down in the statutes. The number of delegates from a regional branch shall primarily be calculated on the basis of the number of members represented. The statutes may stipulate that the composition of the remaining delegates, no more than half of the total number, shall be determined in accordance with the proportion of votes obtained at regional branch level in previous parliamentary elections. The exercise of this right to vote may be made dependent on the fulfillment of the regional branch's requirement to pay its membership fees.

### **Article 14**

#### **Party Arbitration Courts**

(1) Courts of arbitration shall be set up at least at party level and at the top-level regional branches to settle and decide on disputes between the party or a regional branch and individual members as well as on disputes over the interpretation and implementation of the statutes. Joint courts of arbitration may be set up for several regional branches at district level.

(2) The members of the arbitration courts shall be elected for a maximum of four years. They must not be members of the executive committee of the party or a regional branch, be employed by the party or a regional branch, nor receive regular income from them. They shall be independent and not be subject to instructions.

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

(4) The functions of the arbitration court shall be governed by an arbitration court code designed to guarantee litigants a legal hearing, fair proceedings and the challenge of a member of the arbitration court for bias.

## **Article 15**

### **Formation of Will in the Bodies**

(1) The bodies shall adopt their resolutions on the basis of a simple majority vote unless a higher majority vote is prescribed by law or by the statutes.

(2) The elections of the members of the executive committee and of the delegates to delegates' assemblies as well as to bodies of higher-level regional branches shall be secret. Voting may be open at all other elections unless voters object when asked.

(3) The statutory provisions governing the filing of motions must be such as to ensure a democratic formation of will and in particular the adequate discussion of proposals also put forward by minorities. At least the delegates of the regional branches at the next two lower levels must be granted the right to file motions at the assemblies of higher-level regional branches. Any commitment to resolutions taken by other bodies shall be impermissible at elections and polls.

## **Article 16**

### **Measures Against Regional Branches**

(1) The dissolution and expulsion of subordinate regional branches or the removal from office of whole bodies of the aforementioned shall be permissible only in cases of serious infringement of party principles or discipline. The statutes shall stipulate

1. the reasons for which the measures shall be permissible;
2. the higher-level regional branch and the body of that regional branch that may pass such measures.

(2) The executive committee of the party or a higher-level regional branch must receive confirmation of a measure provided for in Paragraph 1 from a senior body. The measure shall be repealed if it is not confirmed at the next party convention.

(3) It is permissible to appeal to an arbitration court against measures provided for in Paragraph 1.

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

**Article 17**  
**Nomination of Candidates for Election**

The nomination of candidates for elections to parliaments must be by secret ballot. The nomination procedure shall be as prescribed by the electoral laws and party statutes.

**Section IV**  
**State Funding**

**Article 18**  
**Principles and Volume of State Funding**

(1) The parties shall receive funds as a contribution towards the funding of the duties generally incumbent upon them under the Basic Law. The allocation of state funds shall depend on the success a party achieves with the voters in European, Bundestag and Landtag elections, on the sum of its membership and deputy fees and on the amount of money it obtains from donations.

(2) The maximum total volume of state funds which may be paid to all parties each year shall be 133 million euros (absolute upper limit).

(3) Under the state partial funding program, the parties shall each year receive:

1. 0.70 euro for each valid vote cast for its list or

2. 0.70 euro for each valid vote cast for a party in a constituency or polling district whose list was not approved in a Land, and
3. 0.38 euro for each euro which it has obtained as bestowals (membership fee, deputy fee or rightfully obtained donation); in this context, only bestowals up to 3,300 euros per natural person shall be taken into account.

Notwithstanding Numbers 1 and 2 above, the parties shall receive 0.85 euro for every vote they obtain up to four million valid votes.

(4) Parties which, according to the final election result, have obtained at least 0.5 percent of the valid votes cast for lists at the latest European or Bundestag elections or 1 percent in a Landtag election shall be entitled to state funds in accordance with Paragraph 3, nos. 1 and 3; in order to qualify for payments under Paragraph 3, sentence 1, no. 1 and sentence 2, the party must meet these requirements in the election concerned. Parties which, according to the final election result, have obtained 10 percent of the valid votes cast in a constituency or polling district shall be entitled to state funds under Paragraph 3, no. 2. Sentences 1 and 2 shall not apply to parties of national minorities.

(5) The amount of state funds must not exceed the annual income gained by a party under Article 24 (4), nos. 1 to 7 (relative upper limit). The sum of the funds made available to all parties must not exceed the absolute upper limit.

(6) Upon publication of the statements of account by the President of the German Bundestag of the parties represented in the German Bundestag, the Bundestag shall, in accordance with Article 23 (2), sentence 3, decide on the adaptation of the amount of the absolute upper limit (Article 18 (2)). To this effect, the President of the Federal Statistical Office shall submit a report to the German Bundestag by 30 April of each year concerning the development of the price index of expenditures typical for a party with respect to the previous year. With a weighting factor of 70 percent, this price index shall be based on the general consumer price index, and with 30 percent, on the index of the agreed monthly salaries of employees of central, regional and local authorities.

(7) The Federal President may appoint an independent expert commission on questions of political party funding.

(8) If a party is dissolved or banned, it shall lose its eligibility for support under the state partial funding program from the date of its dissolution.

## **Article 19**

### **Filing of an Application for State Partial Funding**

(1) The parties must apply to the President of the German Bundestag in writing by 30 September of the year of entitlement for the fixing and disbursement of the state funds for the year of entitlement as defined by the Law. Applications must be submitted by an executive committee member who under the party statutes is responsible for financial affairs and must contain the address to which mail is to be delivered and bank account particulars. It is sufficient for the party's national branch to submit a common application for the whole party. Partial applications are permissible. In case state funds for a party have already been fixed for the year preceding the year of entitlement, the President of the German Bundestag will fix the sum without further application. The party must notify the President of the German Bundestag of any changes concerning the fixing procedure immediately. If no such notification is given, the party shall be liable.

(2) Applications for installments must be submitted in writing to the President of the German Bundestag by the 15th of the month preceding the next installment. Applications may be submitted for several installments for the year at the same time. Paragraph 1, sentences 5 to 7 shall apply *mutatis mutandis*.

## **Article 19a**

### **Fixing Procedure**

(1) The President of the German Bundestag shall fix the volume of state funds each eligible party is entitled to for the previous year (year of entitlement) by 15 February each year. He may only fix and disburse state funds for a party pursuant to Articles 18 and 19a on the basis of a statement of account that corresponds to the provisions in Section V. If, before fixing the volume of state funds, the President of the German Bundestag institutes proceedings pursuant to Article 23a (2) with regard to a statement of account that has been submitted in due time, he shall only provisionally fix the state funds for this party on the basis of its statement of account and shall disburse these funds against a security deposit equivalent to the probable financial obligations of the party (Articles 31a to 31c). He will definitely fix the volume of state funds after the conclusion of the procedure.

(2) The basis for fixing the volume of state funds is the number of valid votes obtained by the eligible parties by 31 December of the year of entitlement in the latest European, Bundestag or Landtag elections and the bestowals published in the statements of account (Article 18 (3), sentence 1, no. 3) for the previous year (accounting year). The President of the German Bundestag shall record the valid votes for each party qualified for consideration under Article 18 (4) in a vote account and keep it up to date.

(3) The party shall submit its statement of account to the President of the German Bundestag by 30 September of the year following the accounting year. The President of the German Bundestag can extend this deadline by up to three months. If a party does not submit its statement of account on time, it shall once and for all forfeit its entitlement to state funds linked to bestowals (forfeiture of bestowal share). If a party has not submitted its statement of account by 31 December of the year following the year of entitlement, it will once and for all forfeit its entitlement to state funds for the year of entitlement (forfeiture of the electoral vote share). The deadline will be met regardless of the correctness of the content if the statement complies with the form specified in Article 24 and the auditor's certificate is attached pursuant to Article 30 (2). The amounts fixed and disbursed to the other parties shall remain unaffected.

(4) The calculation of the relative upper limit (Article 18 (5)) shall be based on the income published in the statements of account for the accounting year pursuant to Article 24 (4), nos. 1 to 7.

(5) During the fixing procedure, first the absolute limit (Article 18 (2)) must be observed and then the relative limit for each party (Article 18 (5)). If the total sum of state funds calculated exceeds the absolute limit, the parties shall only be entitled to a volume of state funds equal to their proportion of that sum.

(6) The state funds for the valid votes obtained in Land elections shall be disbursed to the party's Land branch at the rate of 0.50 euro per vote; any reductions made under Paragraph 5 shall not be taken into consideration if they can be made within the scope of the disbursements that have to be made by the Federation (Article 21 (1), sentence 1, alternative 2). The remaining state funds shall be disbursed to the party's national branch or, if the party is only represented at Land level, to the Land branch.

## **Article 20**

### **Installments**

(1) Parties entitled to state funds must be granted installments on the amount established by the President of the German Bundestag. Such payments shall be calculated on the basis of the funds allocated to each party in the previous year. Installments shall be paid on 15 February, 15 May, 15 August, and 15 November; they must not exceed 25 percent of the total sum fixed for the party concerned for the preceding year. If there are signs that a party might be obliged to reimburse funds, the grant may be made dependent on a security deposit.

(2) Installments must be reimbursed by the parties immediately if they exceed the amount fixed or if a party has no entitlement to them. If the amount fixed shows that there was an over-payment, the President of the German Bundestag shall assess the amount that has to be reimbursed as part of the administrative act comprising the fixing and shall take this amount into account directly.

(3) Article 19a (6) shall apply mutatis mutandis.

## **Article 21**

### **Provision of Federal Government Funds, Payment Procedure and Examination by the Federal Audit Office**

(1) The funds provided for in Articles 18 and 20 shall in the case of Article 19a (6), sentence 1, be disbursed to the parties by the Laender, in other cases by the Federation through the President of the German Bundestag. The President of the German Bundestag shall bindingly inform the Laender of the amounts accruing to the Land branches of the parties.

(2) The Federal Audit Office shall examine whether the President of the German Bundestag in his capacity as the agent administering the funds has fixed the volume of the state funds and disbursed them in accordance with the provisions of this Section, and whether the procedures specified in Article 23a have been duly carried out.

## **Article 22**

### **Internal Financial Compensation**

The parties' national branches shall make adequate arrangements for the adequate financial compensation of their Land branches.

## **Section V**

### **Rendering of Account**

#### **Article 23**

#### **Obligation to Render a Public Statement of Account**

(1) The executive committee of the party shall render public account, truthfully and to the best of its knowledge and belief, of the origin and use of funds and of the party's assets at the end of the calendar year (accounting year) in a statement of account. Before the statement of account is forwarded to the President of the German Bundestag, it shall be discussed by the executive committee of the party. The party's national executive committee, the executive committees of the Land branches, and the executive committees of regional branches comparable to Land branches shall each be responsible for their rendering of account. Their statements of account shall be signed by the chairperson and by an executive committee member who has been elected by the party convention and is responsible for financial affairs, or by an executive committee member elected by the body which, under the statutes, is responsible for financial affairs. These executive committee members responsible for financial affairs shall affirm by their signature that the information contained in their statements of account is given truthfully and to the best of their knowledge and belief. The statement of account for the whole party shall be compiled and signed by a member of the national executive committee who has been elected by the party convention and is responsible for financial affairs, or by a member of the national executive committee who has been elected by the body which, under the statutes, is responsible for financial affairs.

(2) The statement of account must be scrutinized by a certified auditor or auditing company in accordance with Articles 29 to 31. In the case of parties which do not meet the requirements of Article 18 (4), sentence 1, first half of the sentence, the statement of account may be scrutinized by a sworn public accountant or a certified auditing company. It must be submitted to the President of the German Bundestag within the time period fixed in Article 19a (3), sentence 1, first half of the sentence, and circulated by him as a Bundestag printed paper. If a party does not meet the requirements of Article 18 (4), sentence 1, first half of the sentence, and neither earns any income nor owns assets in excess of 5,000 euros in the ac-



counting year, it may submit an unaudited statement of account to the President of the German Bundestag. The President of the German Bundestag may publish statements of account that have been submitted in unaudited form. The party statement of account shall be submitted to the next national party convention after its publication for discussion.

(3) The President of the German Bundestag shall examine pursuant to Article 23a whether the statement of account has been prepared in accordance with the regulations of Section V. The result of the examination shall be recorded in the report specified in Paragraph 4.

(4) The President of the German Bundestag shall report to the German Bundestag every two years on the trend in the financial situation of the parties and on the parties' statements of account. In addition, he shall prepare annual comparative abstracts of the parties' income and expenditure and their assets. The reports shall be circulated as Bundestag printed papers.

### **Article 23a**

#### **Examination of the Statement of Account**

(1) The President of the German Bundestag shall examine the correctness of the form and content of the submitted statement of account. He shall determine whether the statement of account corresponds to the regulations of Section V. A new examination shall only be permissible before the end of the time period fixed in Article 24 (2).

(2) If concrete evidence is available to the President of the German Bundestag that information contained in a party's statement of account is inaccurate, he shall give the party concerned an opportunity to comment. The President may require the party to have the correctness of its comments confirmed by its certified auditor or auditing company, sworn public accountant or certified auditing company.

(3) If the comments required under Paragraph 2 do not clear up the concrete evidence available to the President of the German Bundestag of inaccuracies in the statement of account, the President of the German Bundestag may, in agreement with the party concerned, commission a certified auditor or auditing company of his choice to examine whether the statement of account corresponds to the regulations of Section V. The party must permit the auditor commissioned by the President of the German Bundestag to access and inspect all

the supporting documents required for the examination. The costs of this procedure shall be borne by the President of the German Bundestag.

(4) After the conclusion of the procedure, the President of the German Bundestag shall render a decision stating, if applicable, inaccuracies in the statement of account and fixing the amount which is equivalent to the inaccurate information. The decision must state whether the inaccuracy originates from an infringement of the provisions concerning the bill of income and expenditure, the asset and liability statement or the explanatory part (Article 24 (7)).

(5) A party whose statement of account contains inaccuracies must correct the statement of account and, upon decision by the President of the German Bundestag, must resubmit either the whole or part of the statement of account. This statement of account must be confirmed by a certificate of a certified auditor or auditing company, a sworn public accountant or certified auditing company. If the amount to be corrected does not exceed 10,000 euros in a particular case or 50,000 euros per accounting year and party, the correction may be made in the statement of account for the following year, notwithstanding Sentences 1 and 2.

(6) Corrected statements of account shall be published wholly or partly as Bundestag printed papers.

(7) Any findings made as part of this procedure which do not concern the party's rendering of account as such, must not be published or forwarded to other state agencies of the Federal Republic of Germany. After the conclusion of the examination, they must be destroyed immediately by the President of the German Bundestag.

### **Article 23b**

#### **Obligation to Report Inaccuracies in the Statement of Account**

(1) If a party obtains knowledge of inaccuracies in the statement of account that it has submitted to the President of the German Bundestag in due time and form, the party shall immediately report this fact to the President of the German Bundestag.

(2) If a party reports an inaccuracy, it will not be subject to the legal consequences specified in Article 31b or 31c if, at the date of receipt of the report, no concrete evidence of these inaccuracies was known publicly or was neither known to the President of the German

Bundestag nor had been discovered in an official procedure and the party fully discloses and corrects the facts and figures. The unlawfully received financial benefits shall be returned to the President of the German Bundestag within a time limit he sets.

(3) Article 23a, paragraphs (5) and (6) shall apply mutatis mutandis.

## **Article 24**

### **Statement of Account**

(1) The statement of account shall comprise a statement of operating results based on a bill of income and expenditure in compliance with the provisions of this Law, a related asset and liability statement and an explanatory part. Taking into consideration the principles of proper bookkeeping, it shall provide information in accordance with the actual conditions on the origin and use of funds and on the party's assets.

(2) The regulations of commercial law which apply to all merchants and which govern the rendering of accounts, especially the assessment and valuation of assets, shall apply mutatis mutandis, unless specified otherwise in this Law. The accounting documents, account books, balance sheets and statements of account must be stored for ten years. The period of storage shall commence at the end of the accounting year.

(3) The statement of account of the whole party shall incorporate separate statements of account for the party's national branch and the Land branches as well as statements of account of the subordinate regional branches of each Land branch. Land branches and their subordinate regional branches shall attach to their statements of account a complete list of all donations received, together with the names and addresses of the donors. The national branch shall compile these lists to determine the annual total amount of donations by each donor. The Land branches shall keep the statements of account of their subordinate regional branches together with their own accounting documents.

(4) The bill of income shall include:

1. Membership fees
2. Deputy fees and similar regular contributions
3. Donations from natural persons
4. Donations from legal entities
5. Income from entrepreneurship and participations

6. Income from other assets
7. Income from organized events, distribution of printed material and publications and other activities associated with income
8. State funds
9. Other income
10. Grants from party branches
11. Gross income from items 1 to 10.

(5) The bill of expenditure shall include:

1. Personnel expenditure
2. Operating expenditure
  - a) for day-to-day business
  - b) for general political work
  - c) for election campaigns
  - d) for the management of assets, including any interest accruing therefrom
  - e) other interest
  - f) other expenditure.
3. Grants to party branches
4. Gross expenditure for items 1 to 3.

(6) The asset and liability statement shall comprise:

1. Property assets
  - A. Capital assets:
    - I. Fixed assets
      1. Property in the form of houses and real estate
      2. Office equipment
    - II. Financial assets
      1. Participations in companies
      2. Other financial assets
  - B. Working capital:
    - I. Claims on party branches
    - II. Claims under the state partial funding program
    - III. Monetary assets
    - IV. Other assets
  - C. All property assets (total of A and B)

## 2. Debits

### A. Reserve funds:

- I. Pension obligations
- II. Other reserve funds

### B. Liabilities

- I. Liabilities towards party branches
- II. Reimbursement obligations under the state partial funding program
- III. Liabilities towards banking institutions
- IV. Liabilities towards other lenders
- V. Other liabilities

### C. Gross debits (total of A and B)

## 3. Net assets (positive or negative)

(7) An explanatory part shall be appended to the asset and liability statement which must comprise in particular the following items:

1. a list of the participations in companies as specified in Paragraph 6, no. 1 A II 1, as well as of the companies' direct and indirect participations as recorded in their annual accounts, stating in each case the name and address and the share and amount of nominal capital; the list must further indicate the share of the capital, the equity capital and the results recorded by the companies in the last business year for which annual accounts are available. Information on the participations listed in the companies' annual accounts shall be given as contained in the annual accounts. Participations within the meaning of the present law are shares as defined in Article 271 (1) of the Commercial Code;
2. designation of the main products of media enterprises, if participations in such enterprises exist;
3. at five-year intervals, a valuation of the property in the form of houses and real estate and of the participations in companies in accordance with the Valuation Law (property in the form of houses and real estate pursuant to Article 145 f. of the Valuation Law).

(8) The statement of account must show the total amount of bestowals made by natural persons up to 3,300 euros per person as well as the total amount of bestowals made by natural persons which exceed the amount of 3,300 euros separately.

(9) The statement of account shall be preceded by a summary covering the following items:

1. Income of the whole party in accordance with Paragraph 4, nos. 1 to 9, and their total
2. Expenditure of the whole party in accordance with Paragraph 5, nos. 1 and 2, and their total
3. Surplus or deficit
4. Property assets of the whole party in accordance with Paragraph 6, no. 1 A I and II and B II to IV, and their total
5. Debit items of the whole party in accordance with Paragraph 6, no. 2 A I and B II to IV, and their total
6. Net assets of the whole party (positive or negative)
7. Gross income, gross expenditure, surpluses or deficits as well as net assets of the three organizational levels - national branch, Land branches and their subordinate regional branches.

In addition to the absolute figures for Numbers 1 and 2, the percentage rate of the income sum pursuant to Number 1 and of the expenditure sum pursuant to Number 2, respectively, must be indicated. The relevant figures for the preceding year must be indicated for the purpose of comparison.

(10) The number of members as of 31 December of the accounting year must be indicated.

(11) The party may attach additional explanations to the statement of account.

(12) Public grants appropriated for political youth organizations shall not count towards the absolute upper limit. They must be indicated in a party's statement of account for information purposes but shall not be included in its bill of income and expenditure.

## **Article 25**

### **Donations**

(1) Parties are entitled to accept donations. Donations can be given in cash up to the amount of 1,000 euros. Party members who receive donations for a party shall immediately forward them to an executive committee member who in accordance with the statutes is responsible for financial affairs. Donations to a party shall be considered obtained when they reach the area of disposal of an executive committee member responsible for financial affairs

or of a full-time staff member of the party; donations that are forwarded back to the donor immediately after receipt shall not be deemed as having reached the party.

(2) Parties are not allowed to accept the following donations:

1. Donations from public corporations, parliamentary factions and groups as well as factions and groups of municipal agencies;
2. Donations from political foundations, incorporated bodies, associations of individuals and funds which, under the statutes, the foundation charter or other rules and regulations and by virtue of the actual business, are intended exclusively and directly for non-profit-making, charitable or church purposes (Articles 51 to 68 of the Tax Code).
3. Donations from outside the area of application of this Law unless
  - a) these donations accrue to a party directly from the assets of a German citizen as defined by the Basic Law, a citizen of the European Union or a business enterprise more than 50 per cent of whose shares are owned by Germans as defined by the Basic Law or by a citizen of the European Union or whose principal residence is located in a member state of the European Union;
  - b) they are donations to parties of national minorities in their ancestral country which are granted to them from states bordering on the Federal Republic of Germany and in which members of their ethnic community live, or
  - c) they are donations of no more than 1,000 euros from an alien.
4. Donations from professional associations which were bestowed on them with the proviso that they be forwarded to a political party.
5. Donations from enterprises that are fully or partly under state ownership or are administered or managed publicly if the state has more than a 25 per cent holding.
6. Donations which exceed 500 euros and whose donors cannot be determined, or donations from an anonymous third party which have evidently been forwarded.
7. Donations that are clearly made to the party in the expectation of or in return for a specific economic or political advantage.

8. Donations solicited by a third party against a payment from the party if the payment exceeds 25 per cent of the value of the solicited donation.

(3) Donations and deputy fees in excess of a total of 10,000 euros given to a party or to one or more of its regional branches in a calendar year (accounting year) must be recorded in the statement of account, together with the names and addresses of the donors and the total amount of the donations. Single donations in excess of 50,000 euros shall be reported to the President of the German Bundestag immediately. He shall publish the donation as a Bundestag printed paper as soon as possible, stating the name of the donor.

(4) The party shall immediately forward inadmissible donations as defined in Paragraph 2 to the President of the German Bundestag, or at the latest together with the submission of the statement of account for the respective year (Article 19a (3)).

## **Article 26**

### **Definition of Income**

(1) Income is any cash payment or benefit of monetary value received by the political party unless special stipulations apply to specific types of income (Article 24 (4)). Exemption from customary obligations and the assumption of responsibility by others for events and measures with which explicit canvassing is done for a political party, the release of reserve funds and the increased valuation of capital assets shall likewise be considered income.

(2) All income shall be entered in its full amount in its appropriate place and shall be included in the asset and liability statement.

(3) Non-monetary assets shall be assessed at the prices normally paid in the ordinary course of business for identical or comparable services.

(4) Voluntary party work shall as a matter of principle be unpaid work. Payments in kind, and services provided by party members on a non-commercial basis and usually free of charge shall not be counted as income. The reimbursement of costs and expenses shall remain unaffected.

(5) Fees and state funds which are appropriated from the outset for quota allocation among several regional branches shall be booked to the branch which will ultimately receive them.



**Article 26a**  
**Definition of Expenditure**

(1) Expenditure is any cash payment or benefit of monetary value made by the party unless special stipulations apply to specific types of expenditure (Article 24 (5)), as well as the use of income which the party has received under Article 26 (1), sentence 2. Scheduled and non-scheduled depreciation on assets and the formation of reserve funds shall likewise be considered expenditure.

(2) Article 26 (2) shall apply mutatis mutandis.

(3) At the time of disposal, assets shall be booked as expenditure at their book value.

(4) Expenditure arising from the internal settlement between party branches shall be booked to the branch which bears the expenditure.

**Article 27**  
**Individual Types of Income**

(1) Membership fees shall only be regular payments a member pays by virtue of statutory provisions. Deputy fees shall be regular payments that a holder of a public elective office (deputy) pays in addition to his membership fee. Donations shall be payments exceeding the aforementioned contributions. They shall also include special assessments and collections as well as monetary bestowals of all kinds unless they are usually made free of charge by party members on a non-commercial basis.

(2) Other income as defined in Article 24 (4), no. 9, must be broken down and provided with explanatory notes if, in one of the breakdowns shown under Article 24 (3), it exceeds 2 per cent of the total income received under Article 24 (4), nos. 1 to 6. Furthermore, income exceeding a value of 10,000 euros in a particular case must be disclosed. Inheritances and legacies must be recorded in the statement of account, together with their amounts and the names and last addresses of the testators, if their total value exceeds 10,000 euros.

**Article 28**  
**Asset and Liability Statement**

(1) The asset and liability statement must list each asset of an acquisition value of more than 5,000 euros (including turnover tax).

(2) Assets must be assessed at their acquisition and production cost less scheduled depreciation. As regards property in the form of houses and real estate, no scheduled depreciation shall be allowed.

(3) Party branches below the level of Land branches may book income and expenditure in the year of receipt or payment, respectively, even if the relevant claims or liabilities arose in the preceding year. Articles 249 to 251 of the Commercial Code may be disregarded where statements of account are prepared for the party branches concerned.

**Article 29**  
**Audit of the Statement of Account**

(1) The audit specified in Article 23 (2), sentence 1, shall apply to the party's national branch, its Land branches and to at least ten subordinate regional branches chosen by the auditor. The audit must include the bookkeeping. The audit must examine whether the legal provisions have been observed. The approach used in the audit must be such that inaccuracies and infringements of the legal provisions will be detected if the audit is performed with due professional care.

(2) The auditor may require the executive committees and the persons authorized by them to furnish any information and evidence he may need to perform his auditing duty with due care. He must therefore also be allowed to examine the documents used to compile the statement of account, the books and written documents as well as the cash balance and existing assets.

(3) The executive committee of the regional branch to be audited shall provide the auditor written assurance that all the income, expenditure and assets for which it is liable to account are included in the statement of account. Reference may be made to the assurance provided by the executive committees of subordinate regional branches. It is sufficient for the executive committee member responsible for financial affairs to provide this assurance.

**Article 30**  
**Audit Report and Auditor's Certificate**

(1) The result of the audit must be set out in writing in an audit report which must be delivered to the executive committee of the party and to the executive committee of the audited regional branch.

(2) If no objections are to be lodged after the final result of the audit, the auditor must confirm by means of a certificate that, after a dutiful audit and on the basis of the party's account books and documents as well as the information and evidence furnished by the executive committees, the statement of account as audited (Article 29 (1)) complies with the provisions of this Law. If objections are to be lodged, the auditor must refuse to provide this confirmation in his auditor's certificate or modify it accordingly. The names of the regional branches audited must be stated in the auditor's certificate.

(3) The auditor's certificate must be attached to the statement of account to be submitted and published verbatim in accordance with Article 23 (2), sentence 3.

**Article 31**  
**Auditors**

(1) A certified auditor or a sworn public accountant may not be an auditor if he

1. holds an office or a function in the party or for the party or has held one during the last three years;
2. in the course of keeping the accounts or preparing the statement of account required to be audited, he has participated in more than just auditing work;
3. is the legal representative, employee, member of the supervisory board or partner of a legal or natural person or of a partnership or the owner of an enterprise if the legal or natural person, the partnership or one of its partners or the specific enterprise may not be the party auditor pursuant to Number 2;
4. in the auditing, employs a person who may not be an auditor pursuant to Numbers 1 to 3.

(2) An auditing company or a certified auditing company may not be an auditor if:

1. pursuant to Paragraph (1), no. 3, as the partner of a legal person or a partnership or pursuant to Paragraph (1), no. 2 or 4, it may not be an auditor;
2. pursuant to Paragraph (1), no. 2 or 3, one of its legal representatives or partners may not be an auditor.

(3) The auditors, their assistants and the legal representatives of an auditing company who assist in the audit are obliged to discharge their duties conscientiously and impartially and to exercise discretion. Article 323 of the Commercial Code shall apply *mutatis mutandis*.

## **Section VI**

### **Procedures for Inaccurate Statements of Account and Penal Provisions**

#### **Article 31a**

##### **Return Claims for State Funds**

(1) If bestowals were unlawfully indicated in the statement of account (Article 18 (3), no. 3, sentence 1) and the state funds that the party was entitled to were therefore wrongly fixed, the President of the German Bundestag shall revoke the fixing of the state funds pursuant to Article 19a (1). This shall not apply if the correction is made in the statement of account for the following year (Article 23a (5), sentence 3). Article 48 (2) of the Administrative Procedure Act shall not apply.

(2) No revocation shall be possible after the end of the time period fixed in Article 24 (2).

(3) With the revocation, the President of the German Bundestag shall fix the amount that has to be reimbursed by the party in an administrative act. If a settlement emerges in the further course of the state funding procedure, the difference shall be taken into account in the next installment paid to the party.

(4) The amounts fixed and disbursed to the other parties shall remain unaffected.

(5) The parties shall include provisions in their statutes in case action pursuant to Paragraph 1 is caused by Land branches or subordinate regional branches.

### **Article 31b**

#### **Inaccuracy of the Statement of Account**

If the President of the German Bundestag detects inaccuracies in the statement of account during his examination under Article 23a, the party shall be liable to pay twice the amount equivalent to the inaccurate information unless Article 31c applies. If inaccuracies in the asset and liability statement or the explanatory part refer to property in the form of houses and real estate or to participations in companies, the liability shall amount to 10 percent of the assets not listed or listed inaccurately. The President shall determine the party's liability to pay the amount by an administrative act. Article 31a, paragraphs (2) to (5), shall apply *mutatis mutandis*.

### **Article 31c**

#### **Illegally Obtained or Unpublished Donations**

(1) A party which has accepted donations in contravention of Article 25 (2) and not forwarded them to the President of the German Bundestag in accordance with Article 25 (4) shall be liable to pay three times the amount equivalent to the illegally obtained amount of money; donations already surrendered shall be taken into account. A party which fails to publicize donations in its statement of account in accordance with the provisions of this Law (Article 25 (3)) shall be liable to pay twice the amount equivalent to the amount of money not publicized in accordance with the provisions of this Law. The President shall determine the party's liability to pay the amount by an administrative act. Article 31a, paragraphs (2) to (5), shall apply *mutatis mutandis*.

(2) In agreement with the Presidium of the German Bundestag, the President of the German Bundestag shall, at the beginning of the next calendar year, transfer the funds received within a calendar year to institutions serving charitable, church, religious or scientific purposes.

### **Article 31d**

#### **Penal Provisions**

(1) Anyone intent on concealing the origin or the use of party means or assets or on evading the obligation to render public account who

1. causes inaccurate data concerning the income or the assets of the party to be recorded in a statement of account submitted to the President of the German Bundestag or submits an inaccurate statement of account to the President of the German Bundestag or
2. as a recipient divides a donation into installments and credits them or has someone credit them or
3. does not forward a donation notwithstanding Article 25 (1), sentence 3,

shall be sentenced to up to three years imprisonment or fined. In accordance with Sentence 1, no one shall be punished if under the conditions set forth in Article 23b (2) they report the fact for the party pursuant to Article 23b (1) or help to report the fact.

(2) Anyone who as an auditor or an auditor's assistant gives a false report on the result of the audit of a statement of account, fails to disclose relevant facts in the audit report or grants a confirmation certificate whose content is false shall be sentenced to up to three years imprisonment or fined. Offenders acting against payment or with the intent of enriching themselves or someone else or damaging someone else shall be sentenced to up to five years imprisonment or fined.

## **Section VII**

### **Implementation of the Ban on Unconstitutional Parties**

#### **Article 32**

#### **Enforcement**

(1) Where a party or a branch of a party has been declared unconstitutional pursuant to Article 21 (2) of the Basic Law, the appropriate authorities appointed by the Land governments shall adopt within the law any measures needed to enforce the judgment as well as any additional enforcement procedures ordered by the Federal Constitutional Court. To this end, the supreme Land authorities shall have the unrestricted right to give instructions to the Land authorities and agencies which are responsible for public safety or order.

(2) Where the organization or activities of the party or of the party branch declared to be unconstitutional extend beyond the territory of a Land, the Federal Minister of the Interior shall issue the orders necessary to ensure uniform enforcement.

(3) The Federal Constitutional Court may order the enforcement to be carried out in accordance with Article 35 of the Law on the Federal Constitutional Court, notwithstanding Paragraphs (1) and (2).

(4) Objections to and action to set aside enforcement measures shall have no suspensive effect on the enforcement. Where the proceedings of an administrative court pertain to a matter which is of fundamental importance for the enforcement of a judgment, the proceedings shall be discontinued and a Federal Constitutional Court decision obtained. The Federal Constitutional Court shall also decide upon objections raised against the manner in which special enforcement measures ordered by the Court are to be carried out.

(5) In the event of a confiscation of assets, Articles 10 to 13 of the Law on Associations of 5 August 1964 (Federal Law Gazette I, p. 593) shall apply *mutatis mutandis*. The authority imposing the ban shall be the supreme Land authority or, if Paragraph (2) applies, the Federal Minister of the Interior.

### **Article 33**

#### **Ban on Substitute Organizations**

(1) There shall be a ban on the establishment of organizations which continue to pursue the unconstitutional aims of a party banned under Article 21 (2) of the Basic Law in connection with Article 46 of the Law on the Federal Constitutional Court in lieu of the said banned party (substitute organization) 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 shall declare by judgment that it is a substitute organization; Articles 38, 41, 43, 44 and 46 (3) of the Law on the Federal Constitutional Court and Article 32 of the present Law shall apply *mutatis mutandis*.

(3) Article 8 (2) of the Law on Associations shall be applied *mutatis mutandis* to other parties and organizations which, within the meaning of Article 2 of the Law on Associations, constitute substitute organizations of a banned party.

**Section VIII**  
**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 a Provision of the Civil Code**

Article 54, sentence 2 of the Civil Code shall not apply to political parties.

**Article 38**  
**Means of Coercion Available to the Federal Returning Officer**

The Federal Returning Officer may prompt the executive committee of the party to take the action specified in Article 6 (3) by means of a compulsory payment. The provisions of the Administration Enforcement Law shall apply as appropriate; the Federal Returning Officer therefore acts as an enforcement authority. The compulsory payment shall be no less than 250 euros and no more than 1,500 euros.

**Article 39**  
**Provisions Concerning Final and Transitional Arrangements**



(1) Land legislation based on Article 22, sentence 1 of this Law applicable until 1 January 1994 shall no longer apply.

(2) The calculation of state funds pursuant to Article 18 (3), no. 3, and of the relative upper limit shall be based on the bestowals indicated in the statements of account pursuant to Article 24 (2), nos. 1 and 2 of this Law in the version applicable until 31 December 2002 for the fixing of the amounts for the years 2003 and 2004. This shall apply likewise to the preparation of the statements of account for 2002.

(3) Article 23a (3) shall apply to the audit of statements of account issued from the accounting year 2002. Statements of account for 2003 may be prepared on the basis of Articles 24, 26, 26a and 28 in the version applicable from 1 January 2004.

(4) If, for the first-time application of Article 28 (2) in the version applicable from 1 January 2003, the acquisition and production cost of an asset cannot be determined without excessive cost or delay, the book values of these assets as given in the statement of account for the accounting year 2002 may be stated as original acquisition and production cost and be carried forward. If the book values have been determined in accordance with the regulations of commercial law, the same shall apply to assets on which no scheduled depreciation is to be charged pursuant to Article 28 (2). Reference shall be made to this in the explanatory part.

#### **Article 40**

**(deleted)**

#### **Article 41**

**(Entry into Force)**