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Act on Political Parties (Political Parties Act)

(*Parteiengesetz – PartG*)

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Part I General Provisions

Section 1 Constitutional status and functions of political parties

(1) Political parties are integral to the free democratic basic order and required under the Constitution. Through their free and continuous participation in the formation of the people's political will, they perform a public function that is required of them and guaranteed by the Basic Law.

(2) Political parties shall participate in forming the people's political will in all fields of public life, in particular by exerting an influence on the shaping of public opinion; encouraging and enhancing civic education; promoting citizens' active participation in political life; educating citizens capable of assuming public responsibilities; participating in elections at the federal, *Land* and local levels by nominating candidates; influencing political developments in parliaments and governments; contributing the political aims they have developed to the public decision-making and policy formation process; and ensuring a continuing active interrelationship between the people and the state institutions.

(3) Political parties shall specify their aims in political programmes.

(4) Political parties shall use their funds exclusively for performing the functions incumbent on them under the Basic Law and the present Act.

Section 2 Definition of 'political party'

(1) Political parties are associations of citizens which, on a continuing basis or for a longer period of time, wish to influence the development of informed political opinion at the federal level or in any of the *Länder* and to participate in representing the people in the German *Bundestag* or a *Land* parliament (*Landtag*), provided that they offer a sufficient guarantee of their sincerity in pursuing that aim, as evidenced by their actual overall situation and standing, especially as regards the size and strength of their organization, their membership numbers, and their visibility in public. Only natural persons may be members of a political party.

(2) Such an association shall lose its legal status as a political party if it has not participated, with its own nominations of candidates, in either an election to the German *Bundestag* or a *Landtag* election for six years.

(3) Political associations shall not be deemed political parties if

1. the majority of their members or of the members of their executive committee are foreigners, or
2. their registered seat or their executive office is located outside the territorial scope of application of the present Act.

Section 3 Capacity to sue (so-called active legitimation), and liability to be sued (so-called passive legitimation)

A political party may, on its own behalf, take legal action and be sued. The same shall apply to its regional/local branches of the respective highest level, unless otherwise provided by the party statutes.

Section 4 Name

(1) The name of a political party must be clearly distinct from the name of any other party already in existence; the same shall apply to short forms of the party's name. In canvassing and the election process, only the registered name or its shortened form may be used; additional descriptive designations may be omitted.

(2) Regional/local branches shall bear the name of their political party, with an indication of their organizational status. Such additional designation for subdivisions may be used only if placed after the party's name. In general advertising and in canvassing, that additional designation may be omitted.

(3) Regional/local branches which withdraw from a party shall lose the right to use that party's name. A new name chosen by such a subdivision may not consist merely of an addendum to the party's previous name. The same shall apply to shortened forms.

Section 5 Equal treatment

(1) Where a public authority makes facilities available to political parties or provides them with other public contributions and services, equal treatment shall be accorded to all political parties. The extent to which such facilities or services will be provided may be scaled back, in accordance with the respective importance of the various parties, to the minimum extent required for achieving the given party's purpose. The importance of a political party will, in particular, be assessed on the basis of the results obtained in previous parliamentary elections. For a political party represented in the German *Bundestag* by a parliamentary group, the extent of such facilities, contributions or services must amount to at least half of those granted to any other political party.

(2) As regards provision of public contributions and services in connection with an election, paragraph 1 shall, for the duration of the election campaign, apply only to political parties which have submitted nominations of candidates.

(3) Public contributions and services under paragraph 1 may be made subject to certain conditions to be met by all political parties.

(4) Part IV shall remain unaffected.

Part II Internal Organization

Section 6 Statutes and party programme

(1) A political party must have written statutes and a written programme. Regional/local branches shall regulate their affairs by statutes of their own, unless provided otherwise by the statutes of the respective next-higher branch.

(2) The statutes must contain provisions on:

1. the political party's name and any short form used, its registered seat and field of activities;
2. joining and leaving the party;
3. the rights and duties of members;
4. permissible sanctions against members, and their exclusion from the party (Section 10 paras. 3 to 5);
5. permissible sanctions against regional/local branches;
6. the party's general structure;
7. the composition and powers of the Executive Committee and of other bodies;
8. matters exclusively subject to decision-making by the assemblies of members or delegates as provided under Section 9 below;
9. the reasons, the form and time limit for convening members' and delegates' assemblies, and official recording of the resolutions passed;

10. those regional/local branches and bodies that are authorized to submit (sign) nominations of candidates for parliamentary elections, where this has not been regulated by legal provisions;
 11. a basic policy vote by all members and the procedure to be applied when a party convention has, pursuant to Section 9 para. 3, passed a resolution to dissolve the political party or any of its regional/local branches or to merge with another party or other parties. That resolution shall be deemed confirmed, amended or rescinded according to the result of the policy vote;
 12. the form and substance of a financial regulation complying with the provisions of Part V of the present Act.
- (3)** The Executive Committee shall notify the Federal Returning Officer of
1. the statutes and the party programme;
 2. the names and functions of the members of the Executive Committees of the party and its *Land* branches;
 3. the dissolution of the party or any of its *Land* branches.

Amendments to the 1st sentence, nos. 1 and 2, above shall be notified by 31 December of the given calendar year. These records shall be available for public inspection at the office of the Federal Returning Officer. Copies of such records shall be provided free of charge upon request.

(4) The provisions set out in the present Act for parties organized nationwide shall also apply to political parties that are established only in a particular *Land* ("*Land* parties").

Section 7 Organizational structure [*federal, Land, and local levels*]

(1) Political parties shall be organized in regional and/or local branches. The size and level of regional/local branches shall be laid down in the party's statutes. Such territorial subdivisions must be extensive enough to allow individual members to participate, on an adequate scale, in the party's policy and decision-making processes. A political party whose organization is confined to the territory of a city-state is not required to establish regional branches; it shall constitute a party within the meaning of the present Act. Several regional/local branches may form an association in organizational terms, provided that this does not substantially impair the branch structure of the party's organization.

(2) Where a political party does not have any *Land* branches, the provisions set out in the present Act for *Land* branches shall apply to the regional/local branches of the next level below that of the party itself.

Section 8 Bodies

(1) The assembly of members and the Executive Committee are indispensable bodies of a political party and its regional/local branches. The statutes may stipulate that in supra-local branches, the members' assembly may be replaced by a delegates' assembly whose members shall be elected, for a maximum of two years, by the members' or delegates' assemblies of the subordinate branches. *Land* parties without any regional/local branches (cf. Section 7 para. 1, 4th sentence) may replace the members' assembly by a delegates' assembly provided that they have more than 250 members. Delegates' assemblies may also be established for local branches that have more than 250 members or cover a large geographical area.

(2) The statutes may provide for additional institutions (bodies) that will support the policy formation and decision-making processes of the respective regional/local branch. Such institutions shall be explicitly designated as such in the statutes.

Section 9 Members' and delegates' assemblies (party convention, general assembly)

(1) The assembly of members or delegates (party convention, general assembly) is the supreme body of the respective regional/local branch. It is called a "party convention" in the case of higher-level branches, and a "general assembly" at the lowest level; the provisions below on party conventions shall also apply to general assemblies. Party conventions shall be held at least once every two calendar years.

(2) Members of the Executive Committee, members of other bodies of the regional/local branch and any persons as defined in Section 11 para. 2 may, pursuant to the statutes, be members of a delegates' assembly, but in this case the number of those who are entitled to vote must not exceed one-fifth of the total number of assembly members as provided under the statutes.

(3) In accordance with the competences assigned within the party to a regional/local branch, the party convention shall decide on party programmes, the statutes, rules on membership dues, rules on arbitration procedures, the party's dissolution and its merger with other parties.

(4) The party convention shall elect the chairperson of the regional/local branch, his/her deputies and the other members of the Executive Committee, the members of any other bodies, and the delegates elected to the bodies of higher-level regional branches, unless the present Act permits another procedure.

(5) The party convention shall, at least every two years, receive a progress report from the Executive Committee and shall pass a resolution on it. Before the report is submitted, its financial part shall be reviewed by auditors elected by the party convention.

Section 10 Members' rights

(1) Pursuant to the pertinent detailed provisions of the statutes, the competent bodies of the party shall freely decide on the admission of members. No reasons need to be given for rejecting an application for membership. No general refusal to admit new members, even if of limited duration, shall be permissible. Persons who, by judicial decision, have been deprived of their right to stand for election or their right to vote, may not be members of a political party.

(2) Party members and delegates represented on the party's bodies shall have equal voting rights. Pursuant to the pertinent detailed provisions of the statutes, the exercise of voting rights can be made conditional on members having paid their membership dues. A member shall be entitled at any time to end his/her party membership with immediate effect.

(3) The statutes shall contain provisions on:

1. the permissible sanctions against members;
2. the reasons justifying such sanctions;
3. the party bodies which may authorize such sanctions.

If a member is removed from party offices or is disqualified from holding such offices, the reasons for such a decision shall be stated.

(4) A member may be expelled from the party only if he/she deliberately violates the party statutes or commits a major violation of the party's principles or agreed rules, thereby inflicting serious damage on the party.

(5) Decisions on expulsion from the party shall be made by the arbitration tribunal defined as competent in the rules on arbitration procedures. The right of appeal to a higher arbitration tribunal shall be guaranteed. The reasons for the tribunals' decisions shall be stated in writing. In urgent and serious cases calling for immediate action, the Executive Committee of the party or any of its regional/local branches may bar a member from exercising his/her rights until the arbitration tribunal has reached a decision.

Section 11 Executive Committee

- (1) The Executive Committee shall be elected every two calendar years at least. It shall comprise at least three members.
- (2) The Executive Committee may, pursuant to the statutes, include members of parliament and other high-ranking persons in the party if they hold an office or a mandate as a result of an election. The proportion of members not elected under the provisions of Section 9 para. 4 must not exceed one-fifth of the total number of Executive Committee members. The chairperson and the treasurer of a political party may not perform comparable functions in any political foundation close to that party.
- (3) The Executive Committee shall manage the respective party branch and conduct its affairs in accordance with the law and the statutes and with the resolutions passed by the party's higher-level bodies. It shall represent that party branch in accordance with Section 26 para. 2 of the Civil Code, unless the statutes provide otherwise.
- (4) A managing executive committee ("Presidium") may be formed from among the members of the Executive Committee to implement the resolutions of the latter and to carry out regular as well as particularly urgent Executive Committee business. Its members may also be elected by the Executive Committee or be appointed as stipulated in the statutes.

Section 12 General party committees

- (1) The members of general party committees and similar institutions entrusted, under the statutes, with extensive powers for deliberating or deciding on questions of party policy and organization may also be elected by lower-level regional/local branches.
- (2) The Executive Committee and members of the group of persons defined in Section 11 para. 2 may, by virtue of the statutes, also belong to such a body. The proportion of non-elected members must not exceed one third of the body's total number of members; it may be augmented by non-voting members participating in an advisory capacity, but even in this case the proportion of non-elected members must still be less than half of the total number of members.
- (3) Elected members of the bodies specified in paragraph 1 above shall hold office for a maximum of two years.

Section 13 Composition of delegates' assemblies

The composition of a delegates' assembly or of any other body entirely or partly comprising delegates from regional/local branches shall be laid down in the statutes. The number of delegates from a regional/local branch shall primarily be calculated on the basis of the number of members represented. The statutes may stipulate that the remaining number of delegates – no more than half of the total number – be distributed among regional/local branches in proportion to the number of votes obtained in the area covered by the given regional/local branch in previous parliamentary elections. Exercise of this right to vote may be made conditional on actual payment of the membership dues by that regional/local branch.

Section 14 Party arbitration tribunals

- (1) Arbitration tribunals shall be set up at least at the level of the party itself and of the top-level regional branches to settle, and decide on, disputes between the party or a regional/local branch, on the one hand, and individual members, on the other, as well as disputes over the interpretation and implementation of the statutes. Joint arbitration tribunals may be set up for several *Kreis* level branches.

(2) The members of the arbitration tribunals shall be elected for a maximum of four years. They must not be members of the Executive Committee of either the party or any of its regional/local branches; nor be employed by the party or any of its branches; nor receive regular income from them. They shall be independent and not be bound by instructions.

(3) The statutes may allow the parties to the dispute, either in general or on a case-by-case basis, to nominate equal numbers of assessors to the arbitration tribunals.

(4) The functions of such arbitration tribunals shall be governed by rules on arbitration procedures designed to guarantee litigants a legal hearing, fair proceedings and the possibility to reject any member of the arbitration tribunal for partiality.

Section 15 Decision-making and policy formation within the party's bodies

(1) The party's bodies shall adopt their resolutions by a simple majority vote unless a higher majority is prescribed by law or by the party statutes.

(2) Elections of the members of the Executive Committee and of the delegates to delegates' assemblies and to bodies of higher-level regional branches shall be secret. For all other elections, voting may be open provided that voters raise no objections when asked.

(3) The right to propose motions shall be designed in such a way as to ensure democratic policy formation and decision-making processes, and, in particular, adequate discussion also of the proposals submitted by minorities. At the assemblies of higher-level regional branches, at least the delegates from the branches of the two next lower levels shall be granted the right to propose motions. For elections and polls, any commitment to resolutions passed by other bodies shall not be permitted.

Section 16 Sanctions against regional/local branches

(1) Dissolution and exclusion of lower-level regional/local branches or the dismissal from office of entire bodies of these branches shall be permissible only in cases of serious infringement of the party's principles or agreed rules. The party statutes shall specify

1. the reasons for which such sanctions shall be permissible;
2. the higher-level regional branch and the body of that branch which are entitled to impose such sanctions.

(2) The Executive Committee of the party or of a higher-level regional branch shall obtain endorsement of a sanction under paragraph 1 from a higher-ranking body. The sanction shall be repealed if such endorsement is not given at the next party convention.

(3) Appeal to an arbitration tribunal against sanctions imposed under paragraph 1 above shall be permitted.

Part III Nomination of Candidates

Section 17 Nomination of candidates for election

Nomination of candidates for elections to parliaments must be by secret ballot. The nomination procedure shall be regulated by the electoral laws and by the statutes of the political parties.

Part IV Public Funding

Section 18 Principles and extent of public funding

(1) Political parties shall receive funds as partial financing of the activities generally assigned to them under the Basic Law. The criteria for the allocation of public funds shall be the proportion of votes won by a political party in European, *Bundestag* and *Landtag* [State parliament] elections; the total amount of its membership dues and contributions from holders of elected public office, and the amount of donations received.

(2) The maximum total amount of public funds which annually may be allocated among the political parties shall be 133 million euros (absolute upper limit).

(3) Political parties shall, within the framework of partial public funding, receive an annual amount of

1. 0.70 euro for each valid vote cast for the respective party list; or
2. 0.70 euro for each vote cast for the respective party in a constituency or polling district if a list for that party was not admitted at the *Land* level; and
3. 0.38 euro for each euro received from other sources (membership dues, contributions from elected office-holders, or lawfully obtained donations); only donated amounts of up to 3,300 euros per natural person will be taken into account.

In derogation of numbers 1 and 2 above, a party shall receive 0.85 euro per vote for up to four million valid votes received.

(4) Political parties which, according to the final result of the most recent elections to the European Parliament or to the *Bundestag*, received at least 0.5 per cent or, in an election to a *Landtag*, received 1 per cent of the valid votes cast for party lists shall be entitled to public funds pursuant to para. 3, nos. 1 and 3; in order to qualify for payments under para. 3, 1st sentence, no. 1, and 2nd sentence, a party must meet these requirements in the election concerned. Parties which, according to the final election result, obtained 10 per cent of the valid votes cast in a constituency or polling district shall be entitled to public funds pursuant to para. 3, no. 2. The 1st and 2nd sentences shall not apply to political parties of national minorities.

(5) The amount of partial public funding must not exceed the sum of a party's annual income as specified in Section 24 para. 4, nos. 1 - 7 (relative upper limit). The total amount of funds granted to all parties must not exceed the absolute upper limit.

(6) After the statements of accounts submitted by the political parties represented in the German *Bundestag* have been published by the President of the German *Bundestag* as provided under Section 23 para. 2, 3rd sentence, the *Bundestag* shall decide whether to adjust the amount of the absolute upper limit (Section 18 para. 2). To this effect, the President of the Federal Statistical Office (*Statistisches Bundesamt*) shall, by 30 April of every year, submit a report to the German *Bundestag* on the development of the price index for a party's typical expenditures as compared to the preceding year. This price index shall be based, with a weighting factor of 70 per cent, on the general consumer price index and, with 30 per cent, on the standard monthly salaries of employees of central, regional and local governments.

(7) The Federal President may appoint a committee of independent experts on matters of political party funding.

(8) If a political party is dissolved or banned, it shall, from the date of its dissolution, no longer be eligible for partial public funding.

Section 19 Applying for partial public funding

(1) Political parties shall, by 30 September of the 'year of entitlement' within the meaning of the present Act, submit an application in writing to the President of the German *Bundestag* for the assessment of the amount and disbursement of public funds for the year of entitlement. This application must be filed by a member of the party's Executive Committee who, under the party statutes, is responsible for the party's financial matters, and must contain the serviceable address and bank account details. A single application submitted by the party's national-level ["federal"] branch shall be sufficient. Partial applications shall be permissible. If a political party received public funds already for the year preceding the year of entitlement, the President of the German *Bundestag* will determine the amount without any further application by the party. A party shall immediately notify the President of the German *Bundestag* of any changes affecting the assessment procedure. If a party fails to give such notification, it shall be held liable.

(2) An application for part payments shall be submitted in writing to the President of the German *Bundestag* by the 15th of the month preceding the next part payment. An application may be filed for several instalments for the given year at the same time. Paragraph 1, 5th to 7th sentences, shall apply *mutatis mutandis*.

Section 19a Procedure for determining the rate of funding

(1) The President of the German *Bundestag* shall, by 15 February of every year, determine the rate of public funds to be allocated to each eligible political party for the preceding year ('year of entitlement'). The President may allot and disburse public funds to a party pursuant to Sections 18 and 19a only on the basis of a statement of accounts that complies with the provisions of Part V below. If the President of the German *Bundestag*, with regard to a statement of accounts submitted within the set time limit, initiates the procedure under Section 23a para. 2 before determining the rate of funding, he/she shall only provisionally determine the amount of public funds for the party concerned on the basis of its statement of accounts and shall disburse these funds against a security deposit equivalent to the amount of possible financial liabilities of that party (Sections 31a to 31c). Once the aforementioned procedure has been concluded, the *Bundestag* President shall definitively determine the amount of funding.

(2) The basis for calculating the rate of public funding shall be the number of valid votes won by the eligible political parties in the most recent elections to European Parliament and/or to the *Bundestag* and in the most recent *Landtag* elections during the period ending on 31 December of the year of entitlement, and the contributions (Section 18 para. 3, 1st sentence, no. 3) received during the preceding year (accounting year) as published in the statements of accounts. The President of the German *Bundestag* shall compile the valid votes won by each party that meet the criteria under Section 18 para. 4 in a 'votes account' and shall regularly update this account.

(3) A political party shall submit its statement of accounts to the President of the German *Bundestag* by 30 September of the year following the accounting year. The President of the German *Bundestag* may extend this time limit by up to three months. If a party does not submit its statement of accounts within the set time limit, it shall definitively forfeit its claim to public funding based on contributions (forfeiture of the contribution-based share). If a party has not submitted its statement of accounts by 31 December of the year following the year of entitlement, it shall forfeit its claim to public funding for the year of entitlement (forfeiture of the electoral vote share). The time limits shall be deemed met irrespective of the accuracy of the statement of accounts, if the statement complies with the form and structure specified in Section 24 and bears an audit certificate pursuant to Section 30 para. 2. The amounts determined for, and disbursements to, the other political parties shall remain unaffected.

(4) Calculation of the relative upper limit (Section 18 para. 5) shall be based on the income as specified under Section 24 para. 4, nos. 1 to 7 and published in the statements of accounts for the respective accounting year.

(5) Determination of the respective amounts must first comply with the absolute upper limit (Section 18 para. 2) and then the relative upper limit for each party (Section 18 para. 5). If the sum of public funds thus computed exceeds the absolute upper limit, the parties shall only be entitled to public funds to an amount corresponding to their respective proportional share.

(6) Public funds allocated for valid votes won in *Landtag* 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 above shall be left out of consideration if they can be included in the disbursements to be made by the Federation (Section 21 para. 1, 1st sentence, 2nd alternative). The remaining public funds shall be paid to the party's national-level ["federal"] branch; if a party is only represented at the *Land* level, they shall be paid to the *Land* branch.

Section 20 Part payments

(1) Parties entitled to public funding shall be paid in instalments on the amount to be determined by the President of the German *Bundestag*. Such payments shall be calculated on the basis of the amounts allocated to each party in the previous year. Instalments shall be paid on 15 February, 15 May, 15 August and 15 November; no instalment may exceed 25 per cent of the total amount of funds allotted to the party concerned for the preceding year. If there are any indications that a party might subsequently be obliged to repay any funds, payment may be made conditional on a security deposit.

(2) Part payments must be refunded by a political party immediately if they exceed the determined amount or if an entitlement did not exist in the first place. If any excess payment has been made, the President of the German *Bundestag* shall, as part of the administrative act comprising the assessment of allocations, determine the amount to be reclaimed and directly pass this amount to account.

(3) Section 19a para. 6 shall apply *mutatis mutandis*.

Section 21 Provision of federal funds and disbursement procedure, and audit by the Bundesrechnungshof (BRH - Germany's Supreme Audit Institution)

(1) Funds as specified in Sections 18 and 20 shall, in the case of Section 19a para. 6, 1st sentence, be disbursed to the political parties by the *Länder*, and in other cases by the Federation through the President of the German *Bundestag*. The President of the German *Bundestag* shall provide the *Länder* with binding information on the amounts allotted to the parties' *Land* branches.

(2) The *Bundesrechnungshof* (BRH - Germany's Supreme Audit Institution) shall verify whether the President of the German *Bundestag* as the agency responsible for the administration of financial resources has determined and disbursed the respective amounts of public funds in accordance with the provisions of this Part, and whether the procedures specified in Section 23a have been carried out properly.

Section 22 Intra-party financial compensation

The parties' national-level ["federal"] branches shall ensure adequate financial compensation for their *Land* branches.

Part V Accountability

Section 23 Obligation to submit a public statement of accounts

(1) At the end of the calendar year (accounting year), the party's Executive Committee shall, truthfully and to the best of its knowledge and belief, publicly account for the origin and use of funds and the party's assets in a statement of accounts. Before being submitted to the President of the German *Bundestag*, the statement of accounts shall be discussed by the party's Executive Committee. The Executive Committee of the party's national-level ["federal"] branch, the Executive Committees of the *Land* branches and the Executive Committees of regional branches comparable to *Land* branches shall be responsible for rendering their respective accounts. Their statements of accounts shall be signed by the chairperson and an Executive Committee member responsible for financial matters and elected by the party convention, or by an Executive Committee member elected by a body responsible, under the statutes, for the party's financial matters. These Executive Committee members shall, by their signature, affirm that the information in their statements of accounts has been given truthfully and to the best of their knowledge and belief. The statement of accounts for the entire political party shall be compiled and signed by a member of the national Executive Committee responsible for financial matters and elected by the party convention, or by a member of the national Executive Committee who has been elected by a body responsible, under the statutes, for the party's financial matters.

(2) The statement of accounts must be audited by a certified auditor or an auditing firm in accordance with the provisions of Sections 29 to 31. In the case of political parties which do not meet the requirements specified in Section 18 para. 4, first part of the 1st sentence, the statement of accounts may also be audited by a sworn accountant or an accountancy firm. The statement shall, within the time limit specified in Section 19a para. 3, first part of the 1st sentence, be submitted to the President of the German *Bundestag* who shall circulate it as a *Bundestag* printed paper. If a political party does not meet the requirements specified in Section 18 para. 4, first part of the 1st sentence, and its income or own assets in the accounting year does not exceed 5,000 euros, it may submit an unaudited statement of accounts to the President of the German *Bundestag*. The latter may publish statements of accounts submitted in unaudited form. The party's statement of accounts shall be submitted for discussion to the next national party convention following its publication.

(3) The President of the German *Bundestag* shall, pursuant to Section 23a below, check whether the statement of accounts complies with the provisions of Part V. The respective finding shall be included in the report to be submitted under paragraph 4 below.

(4) The President of the German *Bundestag* shall, every two years, report to the German *Bundestag* on the trend of the parties' financial situation and on the statements of accounts submitted by the parties. In addition, the President shall prepare a brief annual overview of the parties' income and expenditure and their assets. These reports shall be circulated as *Bundestag* printed papers.

Section 23a Verification of the statement of accounts

(1) The President of the German *Bundestag* shall check whether the submitted statement of accounts is accurate and meets the formal requirements. He/she shall determine whether the statement of accounts complies with the provisions of Part V. Repeated verification shall be permissible only within the time limit stipulated in Section 24 para. 2 below.

(2) If the President of the German *Bundestag* has concrete evidence that any information contained in a party's statement of accounts is inaccurate, he/she shall give the party concerned an opportunity to comment. The President may require the political party to have its certified auditor or auditing firm, its sworn accountant or accountancy firm confirm that its comments are correct.

(3) If the party's comments required under paragraph 2 above do not disprove the concrete evidence available to the President of the German *Bundestag* as regards inaccuracies in the statement of accounts, the President of the German *Bundestag* may, in agreement with the party concerned, commission a certified auditor or an auditing firm of his/her choice to check whether the party's statement of accounts complies with the provisions of Part V. The political party shall permit the certified auditor appointed by the President of the German *Bundestag* to access and inspect the records and supporting documents required for the audit. The costs of this procedure shall be borne by the President of the German *Bundestag*.

(4) After the conclusion of this procedure, the President of the German *Bundestag* shall issue a notice identifying any inaccuracies in the statement of accounts and, if applicable, stating the amount of the item/s concerning which inaccurate information has been provided. The notice shall specify whether the inaccuracy is due to an infringement of the provisions regarding income/expenditure accounting, the asset and liability statement or the explanatory part (Section 24 para. 7).

(5) If a statement of accounts contains inaccuracies, the political party concerned shall correct that statement and, as decided by the President of the German *Bundestag*, shall resubmit part or all of its statement of accounts. This resubmitted statement must be confirmed by an audit certificate issued by a certified auditor or an auditing firm, a sworn accountant or an accountancy firm. If the amount to be corrected does not exceed 10,000 euros in a single instance or 50,000 euros for all of the respective accounting year per party, the correction may, in derogation from the 1st and 2nd sentences of this paragraph, be included in the statement of accounts for the following year.

(6) Corrected statements of accounts shall, in their entirety or in part, be published as *Bundestag* printed papers.

(7) Any other information revealed in the course of this procedure that does not refer to the party's rendering of account itself shall not be published or passed on to other public authorities of the Federal Republic of Germany. Such information must be destroyed by the *Bundestag* President immediately upon conclusion of this verification process.

Section 23b Obligation to report inaccuracies in the statement of accounts

(1) If a political party becomes aware of any inaccuracies in a statement of accounts already submitted to the President of the German *Bundestag* on time and in the proper form, the party shall immediately notify the President of the German *Bundestag* of such inaccuracies in writing.

(2) With regard to an inaccuracy reported by a party, that party shall not be subject to the legal consequences specified in Section 31b or Section 31c, provided that, on the date of receipt of the notification, no concrete information suggesting such inaccuracies was publicly known, or had neither come to the knowledge of the President of the German *Bundestag* nor been revealed to exist in the course of an official procedure, and that the party concerned fully discloses and corrects the relevant facts and figures. Any unlawfully received financial benefits shall be remitted to the President of the German *Bundestag* within a time limit to be specified by the latter.

(3) Section 23a paras. 5 and 6 shall apply *mutatis mutandis*.

Section 24 Statement of accounts

(1) The statement of accounts shall consist of an accountancy summary prepared on the basis of an income/expenditure tabulation complying with the provisions of the present Act, a related asset and liability statement, and an explanatory part. The statement of accounts shall, in compliance with the principles of proper bookkeeping and on the basis of the actual facts and circumstances, provide information on the origin and use of funds and on the party's assets.

(2) The commercial law regulations applying to all merchants which govern the rendering of accounts, especially the assessment and valuation of assets, shall be applied *mutatis mutandis* unless provided otherwise by the present Act. Accounting records, books, balance sheets and statements of accounts shall be held for ten years. The retention period shall commence when the respective accounting year ends.

(3) The statement of accounts of the party as a whole shall incorporate separate statements of accounts for the party's national-level ["federal"] branch and the *Land* branch(es) as well as the statements of accounts of lower-level regional/local branches of each *Land* branch. *Land* branches and their subordinate regional/local branches shall attach to their statements of accounts a complete list of all contributions and donations received, together with the names and addresses of the donors. The party's national branch shall compile these lists to determine the annual total amount of donations per donor. The *Land* branches shall keep the various statements of their subordinate regional/local branches together with their accounting records.

(4) Income accounting shall cover:

1. membership dues;
2. contributions paid by elected office-holders and similar regular contributions;
3. donations from natural persons;
4. donations from legal persons;
5. income from business activities and participating interests in companies;
6. income from other assets;
7. receipts from organized events, distribution of printed material and publications and from other income-yielding activities;
8. public funds;
9. any other receipts;
10. grants received from party branches; and
11. total income, as an aggregate of nos. 1 to 10.

(5) Expenditure accounting shall cover:

1. personnel-related expenditure;
2. operating expenditure
 - a) on day-to-day business,
 - b) on general political work,
 - c) on election campaigns,
 - d) on asset management, including any interest accruing therefrom,
 - e) other interest,
 - f) other expenses;
3. grants payable to party branches; and
4. total expenditure, as an aggregate of nos. 1 to 3.

(6) The asset and liability statement shall cover:

1. assets owned:
 - A. capital assets:
 - I. tangible assets:
 1. real estate,

- 2. branch office furnishings and equipment,
- II. financial assets:
 - 1. participating interests in companies,
 - 2. other financial investments;
- B. working assets:
 - I. receivables from party branches,
 - II. amounts receivable under state-provided partial funding,
 - III. money holdings,
 - IV. other types of assets;
- C. total of assets owned (sum of A and B);
- 2. accounts payable:
 - A. reserve funds:
 - I. reserves for pensions,
 - II. other reserves/provisions;
 - B. liabilities:
 - I. amounts owed to party branches,
 - II. repayment obligations with regard to state-provided partial funding,
 - III. amounts owed to credit institutions,
 - IV. amounts owed to other lenders,
 - V. other liabilities;
 - C. total debits (sum 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 cover the following items, in particular:

1. a list of the participating interests in companies under paragraph 6 no. 1 A II 1 above, as well as the companies' direct and indirect participating interests as recorded in their annual financial statements, including the following information for each case: name and address, the share and the amount of the nominal capital and, in addition, the share in the capital, the equity capital, and the results recorded by these companies during the last business year for which an annual financial statement has been prepared. Information on participating interests listed in the companies' annual financial statements shall be included in the explanatory part as contained in the respective annual financial statement. Participating interests within the meaning of the present Act are shares as defined in Section 271 para. 1 of the Commercial Code;
2. designation of the main products of media enterprises if the respective political party has any participating interests in such enterprises;
3. at five-year intervals, a valuation of the real estate property and of the participating interests in enterprises as stipulated in the Property Valuation Act (buildings and unimproved property pursuant to Sections 145 *seqq.* of the Property Valuation Act [*Bewertungsgesetz - BewG*]).

(8) The sum of contributions made by natural persons up to the amount of 3,300 euros per person and the sum of those contributions by natural persons which exceed the amount of 3,300 euros shall be shown separately in the statement of accounts.

(9) The statement of accounts shall be preceded by a summary as follows:

1. receipts by the political party as a whole as listed in paragraph 4 nos. 1 to 9 above, and the total income;
2. expenditure by the political party as a whole as listed in paragraph 5 nos. 1 and 2 above, and total expenditures;
3. indication of surpluses or deficits;

4. assets owned by the political party as a whole as listed in paragraph 6 no. 1 A I and II and B II to IV above, and their total;
5. debits of the political party as a whole as listed in paragraph 6 no. 2 A I and II and B II to IV above, and their total;
6. net assets of the political party as a whole (positive or negative);
7. total income, total expenditure, surpluses or deficits, and the net assets of the three organizational tiers: national-level ["federal"] branch, *Land* branches and their subordinate regional/local branches.

In addition to the absolute figures for numbers 1 and 2 above, the percentage of total income under no. 1 and of total expenditure under no. 2 shall be indicated. For better comparison, the respective figures for the preceding year shall be given as well.

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

(11) The political party may attach additional explanatory comments to its statement of accounts.

(12) Public grants allotted to the parties' political youth organizations for a specific purpose shall be disregarded when defining the absolute upper limit. Such grants shall be listed, for information only, in a party's statement of accounts but shall not be included in its income/expenditure statement.

Section 25 Donations

(1) Political parties are entitled to accept donations. Donations of up to 1,000 euros may be made in cash. Party members who receive donations on behalf of their party shall immediately pass them on to an Executive Committee member who, under the party statutes, is responsible for the party's financial matters. Donations shall be considered acquired by a party when an Executive Committee member responsible for the party's financial matters or a full-time staff member of that party has obtained power of disposal over them; donations that are returned to the donor immediately after their receipt shall not be deemed as having been acquired by the party.

(2) The following shall be excluded from the right of political parties to accept donations:

1. donations from public corporations, parliamentary parties and groups and from parliamentary groups of municipal councils (local assemblies);
2. donations from political foundations, corporate entities, associations of persons and from estates which under the statutes, the foundation charter or other dispositions governing the constitution of such entities, and by the actual business conducted by such entities, are exclusively and directly intended for non-profit, charitable or church purposes (Sections 51 to 68 of the German Fiscal Code (*Abgabenordnung, AO*);
3. donations from sources outside the territorial scope of this Act unless:
 - a) these donations accrue directly to a political party from the assets of a German as defined by the Basic Law, of a citizen of the European Union, or of a business enterprise, of whose shares more than 50 per cent are owned by Germans as defined by the Basic Law or by a citizen of the European Union or whose registered office is located in a Member State of the European Union;
 - b) they are donations transferred to parties of national minorities in their traditional settlement areas from countries which are adjacent to the Federal Republic of Germany and where members of their ethnic group live; or
 - c) it is a donation not exceeding 1,000 euros made by a foreigner;
4. donations from professional organizations, which were made to the latter subject to the proviso that such funds be passed on to a political party;

5. donations from enterprises that are fully or partly in public ownership or are managed or operated by public agencies if the state's direct participation amounts to more than 25 per cent;
6. any donations exceeding 500 euros each, which are made by an unidentified donor or which evidently are passed on as a donation by unnamed third parties;
7. donations evidently made in the expectation of, or in return for, some specific financial or political advantage;
8. donations solicited by a third party against a fee to be paid by the political party and amounting to more than 25 per cent of the value of the solicited donation.

(3) If the total amount of donations made, and contributions paid by elected representatives/officials, to a political party or to one or more of its regional/local branches exceeds 10,000 euros in any one calendar year (accounting year), they shall be recorded, together with the names and addresses of the donors and the total amount, in the statement of accounts. Single donations in excess of 50,000 euros shall be reported immediately to the President of the German *Bundestag*. The latter shall in a timely manner publish the donation, together with the donor's name, as a *Bundestag* printed paper.

(4) Political parties shall hand over any donations that are not allowed under paragraph 2 above to the President of the German *Bundestag* at once or no later than the time of the submission of the statement of accounts for the respective year (Section 19a para. 3).

Section 26 Definition of "income"

(1) Income is any payment of money or any benefit of monetary value obtained by a political party unless special provisions apply to specific types of income (Section 24 para. 4). Likewise, income shall be understood to include exemption from payment of liabilities arising customarily; assumption of responsibility by others for organized events and activities explicitly aimed at canvassing for a political party; liquidation of reserves; and appreciation in value for capital assets.

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

(3) Non-monetary assets shall be assessed at the usual prices in ordinary business transactions for identical or comparable goods or services.

(4) Voluntary work for a political party shall, as a matter of principle, be performed without payment. Performance in kind, work performance and services provided by party members on a non-commercial basis and usually free of charge shall not be counted as income. Reimbursement of costs shall remain unaffected.

(5) Contributions and public funds earmarked from the outset for quota allocation among several regional/local branches shall be accounted for in the records of the branch that will ultimately receive them.

Section 26a Definition of "expenditure"

(1) Expenditure is any cash payment made, or benefit of monetary value provided, by a political party as well as the use of income, obtained by the party, as defined in Section 26 para. 1, 2nd sentence, unless special provisions apply to specific types of expenditure (Section 24 para. 5). Likewise, expenditure shall be understood to include scheduled and non-scheduled depreciation of assets and the formation of a liability reserve.

(2) Section 26 para. 2 shall apply *mutatis mutandis*.

(3) At the time of disposal, sale or transfer, assets shall be booked as expenditures at their book value.

(4) Expenditure arising from internal transfers among party branches shall be accounted for in the records of the branch that defrays the respective expenses.

Section 27 Individual types of income

(1) Membership dues shall only be those regular money payments that a member makes in accordance with the pertinent provisions of the party statutes. Contributions paid by elected representatives shall be regular money payments made by a holder of an elected public office (elected representative/official) in addition to his/her membership dues. Donations shall be payments exceeding the aforementioned dues and contributions. This shall also include special contributions levied for shared cost coverage, income from fund-raising and all kinds of contributions/services of monetary value unless they are customarily provided free of charge by party members on a non-commercial basis.

(2) Other income as defined in Section 24 para. 4 no. 9 shall be itemized and annotated if receipts for any of the items listed in Section 24 para. 3 amount to more than 2 per cent of the total income as defined in Section 24 para. 4 no. 1 to 6. In addition, income exceeding a value of 10,000 euros per contribution shall be disclosed. Inheritances and bequests, if their total value exceeds 10,000 euros, shall be recorded in the statement of accounts, together with the amount, the testator's name and last known address.

Section 28 Asset and liability statement

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

(2) Assets shall be assessed at their acquisition and manufacturing costs, less any scheduled depreciation. Scheduled depreciation cannot be claimed for real assets.

(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 receivables or payables already arose in the preceding year. Sections 249 to 251 of the Commercial Code may be disregarded in the drafting of the statements of accounts for such party branches.

Section 29 Audit of the statement of accounts

(1) The audit specified in Section 23 para. 2, 1st sentence, shall apply to the party's national-level ["federal"] branch, its *Land* branches and to at least ten lower-level regional/local branches as selected by the auditor. The audit shall also cover bookkeeping. The audit shall verify compliance with the relevant legal provisions. The audit method used shall be aimed at ensuring that inaccuracies and infringements of 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 duly authorized by them to furnish clarifying information and documentary proof needed for diligent performance of his/her auditing duty. To this end, the auditor shall also be allowed to examine the records used for compiling a statement of accounts, the accounting books and written documents as well as the cash holdings and existing assets.

(3) The Executive Committee of the regional/local branch to be audited shall provide the auditor with a written affirmation that all income, expenditure and assets to be accounted for are included in the statement of accounts. Reference may be made to such affirmation as provided by the Executive Committees of lower-level branches. An affirmation provided by the Executive Committee member who is responsible for the party's financial matters shall suffice.

Section 30 Audit report and audit certificate

(1) The result of the audit shall be set out in writing in an audit report to be delivered to the party's Executive Committee and to the Executive Committee of the audited regional/local branch.

(2) If the final result of the audit does not give any reason to raise objections, the auditor shall confirm by means of a certificate that, as established by an audit properly performed to the extent required (Section 29 para. 1) and based on the party's account books and documents and on the clarifying information and documentary proof furnished by the Executive Committees, the statement of accounts complies with the provisions of the present Act. If the audit result gives reason to raise objections, the auditor shall either refuse to provide, or shall qualify, such confirmation in his/her audit certificate. The names of the regional/local branches audited shall be stated in the audit certificate.

(3) The audit certificate shall be attached to the statement of accounts to be submitted and be published in full, together with the statement as provided in Section 23 para. 2, 3rd sentence.

Section 31 Auditors

(1) A certified auditor or sworn accountant may not be an auditor if he/she

1. holds an office or discharges a function within or for the given political party or has performed such duties of an office or such a function during the past three years;
2. has, in addition to his/her auditing duties, also taken part in bookkeeping or in the drafting of the statement of accounts submitted for auditing;
3. is a legal representative, an employee, a member of the supervisory board or a partner of a legal or natural person or of a partnership, or the owner of an enterprise if such legal or natural person or partnership or one of its partners or the enterprise concerned is not allowed, under number 2, to be the auditor for that political party;
4. employs a person for the audit who, under numbers 1 to 3 above, is not allowed to be an auditor.

(2) An auditing firm or an accountancy firm may not be an auditor if

1. it may not be an auditor, pursuant to paragraph 1 no. 3 above, for being the partner of a legal person or of a partnership, or for the reasons given in paragraph 1 no. 2 or 4 above;
2. any of its legal representatives or partners may not be an auditor pursuant to paragraph 1 no. 2 or 3 above.

(3) The auditors, their assistants and the legal representatives of an auditing company who take part in the audit shall be obliged to discharge their duties conscientiously and impartially and to maintain confidentiality. Section 323 of the Commercial Code shall apply *mutatis mutandis*.

Part VI

Procedures in case of inaccurate statements of accounts, and penal provisions

Section 31a Reclaiming disbursed public funds

(1) If contributions and donations (Section 18 para. 3, 1st sentence, no. 3) were untruthfully stated in the statement of accounts and, as a result, the amount of public funds to be allotted to the political party was wrongly determined, the President of the German *Bundestag* shall revoke the decision made pursuant to Section 19a para. 1 on the amount of public funds to be disbursed. This shall not apply if the pertinent rectification is included in the statement of accounts

for the following year (Section 23a para. 5, 3rd sentence). Section 48 para. 2 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*) shall not apply.

(2) After the time limit fixed in Section 24 para. 2 has expired, revocation shall be barred.

(3) In the revocation notice, the President of the German *Bundestag* shall, by an administrative act, set the amount to be reimbursed by the political party. If, in the further course of the public funding procedure, it is found that offsetting of payments and receipts is required, the difference (surplus or deficit) shall be taken into account in the next instalment paid to the party.

(4) The amounts determined for, and disbursed to, the other political parties shall remain unaffected.

(5) Political parties shall include provisions in their statutes to provide against the eventuality that any action pursuant to paragraph 1 above might be caused by *Land* branches or their subordinate regional/local branches.

Section 31b Inaccuracy of the statement of accounts

If the President of the German *Bundestag*, in the course of the verification pursuant to Section 23a, detects inaccuracies in the statement of accounts, the political party shall be liable to pay twice the amount of the wrongly stated sum, except in the case of donations as provided under Section 31c. If inaccuracies in the asset and liability statement or in the explanatory part refer to real assets or to participating interests in companies, the party's liability shall amount to 10 per cent of the value of the assets not included or listed inaccurately. The President shall determine the party's liability to pay the respective amount by an administrative act.

Section 31a, paras. 2 to 5, shall apply *mutatis mutandis*.

Section 31c Illegally obtained or undisclosed donations

(1) A political party which, in contravention of Section 25 para. 2, has accepted donations and not remitted them to the President of the German *Bundestag* in accordance with Section 25 para. 4 shall be liable to pay three times the amount of the illegally obtained sum of money; donations already remitted shall be deducted from the payable amount. A party which fails to publish donations in its statement of accounts in accordance with the provisions of the present Act (Section 25 para. 3) shall be liable to pay twice the amount of the sum not disclosed as prescribed by the present Act. The President shall, by an administrative act, determine the party's liability to pay the respective amount. Section 31a paras. 2 to 5 shall apply *mutatis mutandis*.

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

Section 31d Penal provisions

(1) Whosoever, with the intent of concealing the origin or the use of the party's funds or assets or evading the obligation to render public account,

1. causes inaccurate data on the party's income or assets to be included in a statement of accounts submitted to the President of the German *Bundestag*, or submits an inaccurate statement of accounts to the President of the German *Bundestag*; or
 2. as a recipient, divides a donation into smaller amounts and enters them into the books or has them posted by others; or
 3. in violation of Section 25 para. 1, 3rd sentence, does not remit a donation;
- shall be liable to imprisonment of up to three years or to a fine. No one shall be subject to a penalty as stipulated under the 1st sentence of this paragraph if, under the conditions set forth in

Section 23b para. 2, they report the fact on behalf of the party pursuant to Section 23b para. 1 or help to report the fact.

(2) Whosoever, as an auditor or an auditor's assistant, gives a false report on the result of the audit of a statement of accounts, fails to disclose relevant facts in the audit report or issues an audit certificate containing false information shall be liable to imprisonment of up to three years or to a fine. If offenders act against payment or with the intent of enriching themselves or a third person or of harming another person, the penalty shall be imprisonment of up to five years or a fine.

Part VII

Enforcement of the ban on unconstitutional parties

Section 32 Enforcement of judgement

(1) Where a political party or a subdivision of a political party has been declared unconstitutional pursuant to Article 21 para. 2 of the Basic Law, the authorities designated by the *Land* Governments shall, within the law, adopt all measures required for enforcing the judgement and any additional enforcement procedures stipulated by the Federal Constitutional Court. To this end, the supreme *Land* authorities shall have unrestricted authority to give instructions to those *Land* agencies and services that are responsible for maintaining public safety or order.

(2) Where the organization or activities of a political party or of the party branch declared unconstitutional extends beyond the territory of any one *Land*, the Federal Minister of the Interior shall issue the directives necessary to ensure uniform enforcement.

(3) In derogation of paragraphs 1 and 2 above, the Federal Constitutional Court may regulate the details of enforcement in accordance with Section 35 of the Act on the Federal Constitutional Court (*Bundesverfassungsgerichtsgesetz*).

(4) An objection to, and action to rescind, enforcement measures shall have no suspensive effect. Where administrative court proceedings pertain to a matter of fundamental importance for the enforcement of a judgement, the proceedings shall be discontinued, and a Federal Constitutional Court decision shall be sought. The Federal Constitutional Court shall also decide on objections raised against the manner in which special enforcement measures ordered by the Court are to be carried out.

(5) In case of asset confiscation, Sections 10 to 13 of the Act on Associations (*Vereinsgesetz*) of 5 August 1964 (Federal Law Gazette I, p. 593) shall be applied *mutatis mutandis*. The authority imposing the ban shall be the supreme *Land* authority or, if paragraph 2 above applies, the Federal Minister of the Interior.

Section 33 Ban on follow-up/substitute organizations

(1) Establishing organizations which continue to pursue the unconstitutional aims and activities of a political party banned pursuant to Article 21 para. 2 of the Basic Law in conjunction with Section 46 of the Act on the Federal Constitutional Court (*Bundesverfassungsgerichtsgesetz*) (follow-up/substitute organizations) or continuing existing organizations as substitute organizations shall be prohibited.

(2) Where the follow-up/substitute organization is a political party that already existed before the original party was banned or is a party represented in the *Bundestag* or in a *Landtag*, the Federal Constitutional Court shall declare by judgement that it is a banned substitute or follow-up organization; Sections 38, 41, 43, 44, and 46 para. 3 of the Act on the Federal Constitutional Court and Section 32 of the present Act shall apply *mutatis mutandis*.

(3) Section 8 para. 2 of the Act on Associations (*Vereinsgesetz*) shall be applied *mutatis mutandis* to other political parties and to associations as defined in Section 2 of the Act on Associations which are follow-up/substitute organizations of a banned party.

Part VIII Final Provisions

Section 34 (*Amendment of the Income Tax Act [Einkommensteuergesetz]*)

Section 35 (*Amendment of the Corporation Tax Act [Körperschaftsteuergesetz]*)

Section 36 (*Application of tax law provisions*)

Section 37 **Non-applicability of a provision of the Civil Code**

Section 54, 2nd sentence, of the Civil Code shall not be applied to political parties.

Section 38 **Coercive measures by the Federal Returning Officer**

The Federal Returning Officer may, by imposing a penalty payment, force the Executive Committee of a political party to take the action specified in Section 6 para. 3. The provisions of the Administrative Enforcement Act (*Verwaltungs-Vollstreckungsgesetz - VwVG*) shall apply *mutatis mutandis*; the Federal Returning Officer shall in such cases act as the enforcement and implementing authority. The penalty shall be no less than 250 euros and no more than 1,500 euros.

Section 39 **Provisions on final and transitional arrangements**

(1) *Land* legislation based on Section 22, 1st sentence, of the present Act as applicable until 1 January 1994, shall no longer apply.

(2) Calculation of public funds pursuant to Section 18 para. 3 no. 3 and of the relative upper limit shall, for the amounts to be fixed for the years 2003 and 2004, be based on the contributions and donations as shown in the statements of accounts pursuant to (former) Section 24 para. 2 nos. 1 and 2 of the present Act as contained in the version applicable until 31 December 2002. This shall apply likewise to the preparation of the statements of accounts for 2002.

(3) Section 23a para. 3 shall apply to the audit of statements of accounts submitted from the accounting year 2002 onwards. Statements of accounts for 2003 may be prepared on the basis of Sections 24, 26, 26a and 28 in the version applicable from 1 January 2004.

(4) If, for the first-time application of Section 28 para. 2 in the version applicable from 1 January 2003, the acquisition or manufacturing cost of an asset cannot be established without excessive cost or delay, the book values of these assets as given in the statement of accounts for the accounting year 2002 may be stated as the original acquisition and manufacturing costs and be carried forward. If the book values have been determined on the basis of commercial law provisions, the same shall apply to assets for which no scheduled depreciation can be claimed as provided in Section 28 para. 2. A reference to this effect shall be included in the explanatory part.

Section 40 (*deleted*)

Section 41 (*Entry into force*)