

Federal Act on the Functions, Financing and Election Campaigning of Political Parties (Political Parties Act – PartG)

Section I

(Constitutional provision)

§ 1. (1) The existence and the diversity of political parties are essential elements of the democratic system of the Republic of Austria (Section 1 B-VG [Bundesverfassungsgesetz – Federal Constitution Act]).

(2) One of the functions of the political parties is to participate in the formation of the political decisions.

(3) The formation of political parties is free to the extent that the Federal Constitution Act does not provide otherwise. Their activities shall not be subject to any restrictions by particular provisions of the law.

(4) The political parties shall adopt by-laws to be published in a periodical product of printed matter and to be deposited with the Federal Ministry of the Interior. The bylaws shall in particular specify the organs of the parties and which of them are authorized to represent them vis a vis third parties, as well as the rights and duties of the members. The legal structure of the political parties shall be legally effective as soon as the by-laws are deposited.

(5) By a Federal Act, the President of the Board of Audit may be given the task to obtain and keep lists of donations to political parties and, upon request of a party, issue a public statement as to whether donations contained in the list delivered to him have been properly declared.

Section II

§ 2. (1) For purposes of public relations activities, each political party shall, upon request, be granted public funds to the extent provided as follows.

(2) The volume of such grants shall be ascertained as follows:

a) each party represented in the National Council with at least five Members (minimum requirement for constituting a club) shall receive an annual basic amount of

Euro 218 019;

b) after deduction of the amounts due pursuant to subpara a, the remaining funds pursuant to para 1 shall be

distributed among the political parties represented in the National Council pro rata to the votes cast for them in the last National Council elections held;

c) political parties not represented in the National Council but having received in an election to the National Council more than 1 per cent of the valid votes cast, shall for the election year be entitled to funds granted for the purpose of public relations activities (para 1) in the same way as political parties pursuant to subpara b; such funds shall be paid during the first quarter of the year following the election.

(3) The funds granted pursuant to para 2 shall amount to Euro 14 383 200. Starting in 2005, this amount shall be reduced or increased pro rata to the fluctuations of the previous year's consumer price index 1996 as published by the Federal Institution "Statistik Österreich" [Statistics Austria].

(4) (Note: repealed by Federal Law Gazette No. 201/1996)

§ 2a. (1) Having filed the respective application before election day, each political party represented in the National Council after the National Council elections is after each election entitled to receive public funds in contribution to the expenses of the election campaign (election campaign contributions), pursuant to the following provisions.

(2) The total of public funds due pursuant to para 1 shall be ascertained by multiplying the number of persons eligible to vote for the respective National Council election by a factor of 1,94 Euro. Starting in 2005, this factor shall be reduced or increased pro rata to the fluctuations of the previous year's consumer price index 1996 as published by the Federal Institution "Statistik Österreich" [Statistics Austria].

(3) The amount resulting pursuant to para 2 shall be distributed among the political parties represented in the National Council after the election pro rata to the votes cast for them in such election. The amount regarding parties not having filed an application to be awarded contributions to the election campaign expenses shall be taken into account for the calculation, however shall not be paid.

(4) Applications for being awarded contributions to the election campaign expenses shall be filed with the Federal Chancellery. § 4 shall be applied accordingly.

(5) Para 3, as amended by Federal Act Federal Law Gazette No 117/1996, shall be applied for the first time to the distribution of the election campaign expense contributions to which the political parties eligible are entitled for the 1995 National Council elections.

§ 2b. Each political party represented after an election by Members in the European Parliament is entitled to receive a contribution to the election campaign expenses pursuant to analogous application of § 2a, however the amount resulting pursuant to § 2a para 2 shall be reduced by 10 percent.

§ 3. (1) The Federal Government shall include the amounts provided for pursuant to § 2 in the annual draft for the Federal budget.

(2) Irrespective of the provisions of § 2 para 2 subpara c, payout of the funds granted shall take place at the beginning of each half year in advance.

(3) If the conditions for eligibility pursuant to § 2 should change because of the results of a National Council election, the results of such election shall be taken into account for the first time in the half year period following such National Council election.

(4) Requests to be awarded funds pursuant to § 2 para 2 subparas a and b shall be filed with the Federal Chancellery at the latest by 15th December of the preceding year. In the case of § 2 para 2 subpara c as well as after National Council elections, however, at the latest by the end of the third month after the respective National Council election.

(5) (Note: repealed by Federal Law Gazette No. 201/1996)

§ 4. (1) The political parties shall keep exact records regarding the use of the funds (§ 2 para 1) in accordance with the objectives as intended.

(2) Such records and all pertinent materials shall be audited each year by two certified public accountants; the result of the audit shall be published in the "Official Gazette to Wiener Zeitung".

(3) The auditors chosen to audit a political party shall be selected and appointed by the Federal Minister of Finance from a list of five auditors to be presented by the respective party to the Minister of Finance within four weeks after having been requested to do so; if the party fails to submit such list within the term specified, the Federal Minister of Finance shall appoint the respective auditors without consulting any proposals.

(4) In addition, each political party receiving funds in terms of the subject Federal Act shall render public account on its income and expenses. For this purpose the respective party shall each year prepare a statement of account on income and expenses. Such statement of account shall be audited and signed by two auditors not cooperating in a joint office. In any case a list of income and expenses (paras 5 and 6) shall be contained in the statement of account.

(5) At least the following income items shall be reported separately in the statements of account:

1. membership fees;
2. funds received pursuant to the subject Federal Act;
3. special contributions from the Members of the National Council being members of the respective party and from its officers;
4. income from investments in companies;
5. income from other asset items;
6. donations (para 7);
7. net proceeds resulting from events, from the sale of

printed matter and badges as well as similar income resulting directly from any activities of the party;

8. loans
9. benefits by way of staff made available free of charge or without compensation (living subsidies);
10. other categories of profit and income, to be specified as separate items if exceeding 5 percent of the respective annual income.

(6) At least the following expense items shall be reported separately in the statements of account:

1. personnel expenses;
2. office expenses and items purchased for office use;
3. expenses for PR activities including printed matter;
4. events;
5. motor vehicles;
6. other administrative operating expenses;
7. membership dues;
8. legal, auditing and consulting fees;
9. interest and repayment on loans;
10. international activities;
11. other expenses, to be itemized separately if exceeding Euro 72 672.

(7) Any donations exceeding an amount of Euro 7 260 received by the respective party or one of its branches (Land, district or local level) shall be reported in an annex to the statement of account as follows (list of donations):

1. total amount of donations received from natural persons not covered by subpara 2;
2. total amount of donations received from natural and legal persons registered in the companies' register;
3. total amount of donations received from associations not covered by subpara 4 and
4. total amount of donations received from bodies corporate under public law, from professional associations and associations of businesses based on voluntary membership, from institutions, foundations or funds.

(8) Donations according to para 7 subparas 1 through 3 shall be contained in a separate list including their amount and name and address of donor (donors' list), to be submitted to the President of the Board of Audit within the deadline specified in para 9. Upon request of a political party, the President of the Board of Audit shall issue a public statement to the effect whether a particular donation contained in the list submitted by the party has been properly declared. The President of the Board of Audit shall inform the Federal Chancellor if any donors' list has not been submitted in time or only after the deadline.

(9) At the latest on 30th September of the subsequent year each political party shall publish the account report including list of donations in the "Official Gazette to Wiener Zeitung".

(10) If a political party does not publish, pursuant to paras 8 and 9, the account report in time, the list of donations and donors, the Federal Chancellor shall withhold payment of funds due (§ 3 para 2) until proper publication or presentation has taken place.

Section IV

§ 6. In accordance with the provisions of the subject Federal Act, the election campaign expenses of such political parties having won seats in the 1971 National Council election will for the 1975 National Council elections be restricted, monitored and published for the period of five weeks preceding the day of the 1975 National Council elections.

§ 7. (1) The election campaign expenses of a political party pursuant to § 6 comprise their financial disbursements for national and centrally designed advertising items as follows:

1. bills posted;
2. ads;
3. free of charge radio and TV broadcasts;
4. commercials as well as all other advertising spots on basis of sound, still and moving pictures in movie theatres;

5. publications such as bulk mail items, special sections in daily newspapers, brochures and other printed information and advertising materials;
6. publicity displayed by aircraft.

(2) Election advertising materials (para 1) already accessible to the public before beginning of the period allowed pursuant to § 6, however still being displayed to the public after the period allowed pursuant to § 6, shall be included pro rata when ascertaining the total of election campaign expenses of the respective political party.

(3) Election advertising materials (para 1) not owned, ordered, purchased, published or distributed by a political party pursuant to § 6, however in noticeable manner promoting or recommending to cast votes for an election proposal of a political party pursuant to § 6 shall be allocated for calculation of the election advertising cost to such political party pursuant to § 6 which is the beneficiary of such activity. The Commission however shall not allocate as aforementioned if the parties involved are able to evidence that the respective campaign activity has taken place without its involvement and consent.

§ 8. (1) Upon request of the Commission (§ 9 para 1) or a committee (§ 9 para 8) political parties pursuant to § 6 shall give information on the expenses or allow inspection in the calculation elements of election campaign advertising items, as long as such items have been made accessible to the public within the term pursuant to § 6 or as long as they are covered by § 7 para 2.

(2) If for publications pursuant to § 10 information pursuant to para 1 is not available or not available in due time or is incomplete, the respective election campaign expenses shall be ascertained by way of an estimate.

§ 9. (1) For monitoring and publication of the election campaign expenses pursuant to the provisions of the subject Federal Act, a commission (hereinafter referred to as the Commission) shall be set up with the Federal Ministry of the Interior in order to monitor the election campaign expenses. It shall be set up at the latest by the eighth day after the publication of the regulation on ordering the 1975 National Council elections and shall be convened for its constituent meeting within another eight days.

(2) The members of the commission shall be appointed by the Federal Government in accordance with the following provisions:

- a) seven members shall be appointed, pro rata to their number of seats held in the National Council, on the basis of proposals of the political parties represented in the main committee of the National Council, with the proviso that each party represented in the main committee of the National Council shall be represented in the commission with at least one member;
- b) if pursuant to subpara 1 a political party is authorized to nominate more than one member for the commission, at least one such member must be a member of the judiciary;
- c) all members pursuant to subparas a and b shall by common consent submit nominations for three further members from among experts of the advertising industry;
- d) if no nomination by common consent pursuant to subpara c materializes, a list of members shall be prepared from among experts of the advertising industry, based on the principle that each party represented in the main

committee of the National Council may nominate such number of experts as it is entitled to delegate to the commission pursuant to subpara a; from this list three experts will be chosen by drawing lots.

(3) The Federal Minister of the Interior or a substitute appointed by him for this purpose shall chair the commission; this representative also need not be a member of the commission; the chairman is not entitled to vote.

(4) Unless provided otherwise hereinafter, the commission adopts resolutions with a simple majority. There shall be a quorum in the commission if at least half of the members entitled to vote are present.

(5) During its first meeting the commission shall adopt internal rules on basis of a draft to be presented by the Federal Minister of the Interior. Resolutions to this effect require a majority of two thirds of the votes.

(6) All members of the commission are independent in exercising their office and not bound by any instructions and orders; the office of a member of the commission is an honorary position, the members are, however, entitled to reimbursement of reasonable travelling and cash expenses. Any decision of the commission is not subject to repeal or modification by way of administrative procedure.

(7) The term of office of the commission shall last until expiry of the periods of time pursuant to § 10, unless an objection pursuant to § 10 has been raised, in which case the term shall end on the day on which the commission has taken a final decision regarding the objection.

(8) With a two thirds majority the commission may adopt a resolution to the effect that pre-advisory committees be installed for certain matters. At least one member of each political party represented in the commission pursuant to para 2 subpara a shall be represented in any such committee.

§ 10. At the latest three weeks after election day the commission shall publish in the "Official Gazette to Wiener Zeitung" the totals of election campaign expenses of all political parties, subdivided pursuant to § 6 in groups of election advertising media as well as such amount exceeding, as the case may be, the total admissible advertising expenses (§ 14). The political parties according to § 6 may file an objection against this publication within a period of two weeks. On such an objection the commission shall pass a final decision within another two weeks. If the commission has, either fully or in part, upheld an objection, any changes of the figures of election campaign expenses of the respective political party shall in accordance with § 6 be published without delay in the "Official Gazette to Wiener Zeitung".

§ 11. If the commission ascertains that a political party has, pursuant to § 6, exceeded its total admissible campaign expenses (§ 14) by more than 10 percent, 50 percent of the amount exceeding the admissible total expenses shall be deducted from the next following payment of public funds due (§§ 2 and 3).

§ 12. With regard to any facts they gain knowledge of in exercising their office, all members of the commission are bound by official secrecy.

§ 13. Unless provided otherwise in the subject Federal Act, the General Administrative Procedure Act 1950, Federal Law Gazette No. 172/1950, shall apply to the proceeding of the commission.

§ 14. The total admissible campaign expenses of the political parties pursuant to § 6 are limited inasmuch as the parties as specified shall notify their total campaign expenses for the time of limitation of election campaign expenses (§ 6) to the commission at the latest eight weeks before election day and must not exceed such total campaign expenses as notified. These total admissible campaign expenses of the political parties pursuant to § 6 shall be published by the commission in the "Official Gazette to Wiener Zeitung" at the latest seven weeks before election day.

Section V

§ 15. (1) The subject Federal Act shall be effective as of 1st July 1975 with the proviso that only 50 % of the funds pursuant to § 2 para 2 subpara a shall be paid.

(2) § 2 para 3 and § 3 para 4 first clause as amended by Federal Act Federal Law Gazette No 201/1996 shall be effective as of 1st January 1996. § 2 para 4 and § 3 para 5 shall be ineffective upon expiry of 31st December 1995.

(3) The title, § 2 para 3, § 2a para 2 and § 16 as amended by Federal Act Federal Law Gazette I No 130/1997 shall be effective as of 1st January 1998.

(4) § 2 para 3 and § 2a para 2 last clause as amended by Federal Act Federal Law Gazette I No 26/2000 shall be effective as of 1st January 2000.

(5) § 2 para 3 as amended by Federal Act Federal Law Gazette I No. 130/2000 shall be effective as of 1st January 2001.

(6) § 2 paras 2 and 3, § 2a para 2, § 4 para 6 subpara 11 and § 4 para 7 as amended by Federal Act Federal Law Gazette I No 136/2001 shall be effective as of 1st January 2002.

(7) § 2 para 3 and § 2a para 2 as amended by Federal Act Federal Law Gazette I No 71/2003 shall be effective as of 1st January 2003.

§ 16. To the extent not reserved to the Federal Government, The Federal Chancellor, the Federal Minister for Finance and the Federal Minister of the Interior shall execute the subject Federal Act in accordance with the provisions of the Federal Ministries' Act 1986, Federal Law Gazette No. 76.