



COUNCIL  
OF EUROPE      CONSEIL  
DE L'EUROPE

Strasbourg, 10 October 2003

Study no. 247 / 2003

Restricted  
CDL-DEM (2003) 2  
Or. Engl.

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**REPLIES TO THE QUESTIONNAIRE  
ON THE ESTABLISHMENT, ORGANISATION  
AND ACTIVITIES OF POLITICAL PARTIES**

**prepared by**

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1. *General*

- 1.1 Are there any constitutional, statutory or other legal provisions on political parties or on private associations with political goals?
- 1.2 To which extent is the law on private associations applicable to political parties?
- 1.3 Is there a definition of the term “political party” in a constitutional, statutory or other normative text or has it been defined in the case law of the courts?
- 1.4 Does the law distinguish between political parties on the local, the regional and the national level?
- 1.5 Is:
  - a) the participation in elections;
  - b) or are other political activities reserved to recognised political parties?

2. *Establishment*

- 2.1 Are there any constitutional, statutory or other legal provisions on the establishment of political parties?
- 2.2 What are the substantive and procedural requirements to establish a political party
  - in general?
  - concerning its political programme?
  - concerning founding members or concerning other individuals, who in some way have to support the establishment (and their number, citizenship, geographical distribution etc.)?
- 2.3 Are there legally defined limits for what may be legally acceptable as a political programme of a political party?
- 2.4 When is a political party recognised as such, is registration required for recognition, and, if the latter is the case, under which conditions is registration granted?
- 2.5 If registration is required:
  - a) Which authority conducts the registration procedure, and which rules are governing the registration procedure?
  - b) Is there a legal remedy, if recognition or registration is denied? Is there any recourse to a court of law?
  - c) Are there any restrictions on the activities of the party pending its registration?

3. *Organisation*

- 3.1 Are there any constitutional, legislative or regulatory texts on the organisation of political parties?
  - Who can be a member?

- Is membership open for national citizens only, or are foreign citizens and stateless persons accepted as members?
  - Are there other legal requirements for membership as for example residence in the country or knowledge of a certain language?
- 3.2 Can membership be denied or can membership be terminated against the will of the person concerned? Can denial or termination be challenged within the party organisation or by appeal to an external authority? Can other decisions of the party be challenged by members within the party organisation or through appeals to courts?
- 3.3 Are there regulations concerning the internal registration of party members and concerning access to and disclosure of information on membership, e.g. in matters concerning public financing, taxation or upon dissolution?
- 3.4 Which individual or body represents a political party in legal matters?
- 3.5 Are there legal requirements concerning internal democracy in a political party?
- 3.6 Is a political party required to maintain national, regional or local branches or offices?
4. *Political activities*
- 4.1 Are there any constitutional, statutory or other legal provisions on the political activities of political parties?
- 4.2 Is it mandatory for political parties, e.g. as a prerequisite for maintaining registration or for access to public financing,
- to present individual candidates or lists of candidates for general elections on the local, regional or national level?
  - to participate in local, regional or national election campaigns?
  - to get a minimum percentage of votes or a certain number of candidates elected in local, regional and national elections?
  - to conduct other political activities specified by law?

5. *Supervision and control*

Are there any mechanisms to control or supervise the activities of political parties outside the financial field not mentioned in the replies to the earlier questions?

**41 countries replied to the Questionnaire:**

**Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Estonia, Finland, Georgia, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, The Netherlands, Poland, Romania, Russia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, The United Kingdom.**

**Annex: Kyrgyzstan**

## 1. GENERAL

*1.1 Are there any constitutional, statutory or other legal provisions on political parties or on private associations with political goals?*

**Albania**

En ce qui concerne les partis politiques, l'article 9 de la Constitution comprend trois paragraphes qui statuent sur la création des partis politiques, sur les motifs qui comportent l'interdiction des partis politiques et sur les sources financières des partis politiques. Une loi sur les partis politiques, qui date du février 2002 réglemente en détail les problèmes qui concernent les partis politiques.

D'autre part les textes constitutionnels ou législatifs ne mentionnent pas les associations privées à but politique.

**Andorra**

Il existe un texte constitutionnel qui est le suivant (article 26 de la Constitution): « les andorrans ont le droit de créer librement des parties politiques. Leur fonctionnement et leur organisation doivent être démocratiques et leurs activités conformes à la loi. La suspension de leurs activités et leur dissolution ne peuvent être ordonnées que par l'autorité judiciaire».

Il n'existe pas de loi spécifiquement consacrée aux partis politiques, Toutefois la loi qualifiée en date du 29 décembre 2000 relative aux associations contient quelques dispositions concernant les partis politiques. Il en est de même pour le décret en date du 2 août 2001 relatif à l'enregistrement des associations.

**Armenia**

In the Republic of Armenia there are both constitutional and statutory provisions concerning political parties. Especially:

- a) Article 7 of the RA Constitution establishes the principle of multiparty system,
- b) Article 25 of the RA Constitution establishes the right of citizens to form political parties,
- c) Point 9 of Article 100 of the RA Constitution establishes the power of the Constitutional Court on the suspension or prohibition of a political party.

The principal legislative act, regulating the statute, organisation and activity of political parties in the Republic of Armenia is the Law of the Republic of Armenia "On political parties" adopted on 3 July 2002 and amended on 4 December 2002 by National Assembly of the Republic of

Armenia. Besides, some laws acting in the Republic of Armenia also contain provisions regarding political parties:

- a) Electoral Code of the Republic of Armenia adopted on 17 February 1999,
- b) Civil Code of the Republic of Armenia adopted on 5 May 1998,
- c) Law of the Republic of Armenia "On state registration of legal entities" adopted on 6 December 1995 etc.

As regards to "private associations", it should be noted that in the Armenian legislation there is not such term. Nevertheless, we would note that according to the law on political parties, the latter is an only public union, which pursues political goals. In Armenian reality the public organisations called public-political organisations are still functioning, which were created on the basis of the previously acting Law "On public-political organisations". But according to paragraph 3 of Article 33 of the Law "On political parties" Within one year following the date of effectiveness of this Law, parties (public-political organisations) established prior to the Law coming into force, are required to bring the list of the founders of the party, the territorial coverage and the Charter into consistency with the requirements of the Law.

Besides, we would mention more two public formations there are alliances (unions) and civil initiative, which pursue political goals, are not legal entities and are created only for participation in elections

### **Austria**

Depuis 1975, les tâches, le financement et la propagande électorale des partis politiques sont explicitement réglés par la Loi fédérale sur les partis politiques (LPP, « Parteiengesetz »), publiée dans le Journal Officiel Fédéral (JOF) n° 404/1975, dernièrement modifiée par la Loi fédérale, JOF n° I 136/2001. Bien que la LPP soit une « simple » loi fédérale, certaines dispositions de ladite loi (l'art. premier et l'art. IV) ont la qualité de dispositions constitutionnelles : selon l'art. premier, § 1 al. 1, de la LPP l'existence et le pluralisme des partis politiques sont des éléments essentiels de l'ordre démocratique de la République d'Autriche tel qu'il est mentionné dans l'art. premier de la Constitution Fédérale autrichienne (CF, « Bundes-Verfassungsgesetz »).

La liberté d'association est réglée de manière générale dans l'art. 12 de la Loi Fondamentale de l'État du 21 décembre 1867 sur les droits généraux des citoyens (« Staatsgrundgesetz vom 21. Dezember 1867 über die allgemeinen Rechte der Staatsbürger ») et l'art. 11 de la Convention européenne des Droits de l'Homme (CEDH), ayant toutes les deux la qualité des lois constitutionnelles fédérales.

La Constitution Fédérale elle-même ne contient aucune disposition explicite et concrète sur les partis politiques.

### **Azerbaijan**

The Law of Azerbaijan Republic "On Political Parties" was adopted on 3 June 1992.

According to Article 49 of the Constitution of Azerbaijan Republic everyone has the right to free associations. Everyone, having informed the relevant state bodies in advance, has the right to peaceful and unarmed association with others, organize meetings, demonstrations and processions.

According to Article 58 of the Constitution of Azerbaijan Republic everyone has the right to establish any union, including political party, trade union and other public organizations or become a member of the existing ones. Free activity of all unions shall be guaranteed.

### **Belgium**

La Constitution belge a été promulguée le 7 février 1831. Le premier parti politique créé en Belgique, le parti libéral, l'a été en 1846, suivi en 1884 et 1885 par les partis catholique et ouvrier. C'est peu dire que de constater que la Constitution du 7 février 1831 n'a pas pu consacrer leur existence.

Or, l'adoption de la représentation proportionnelle (1899), du suffrage universel masculin (1919) puis du suffrage universel pur et simple (1949) ont incontestablement renforcé le rôle de l'appareil des partis politiques dans le fonctionnement de la démocratie belge, souvent présentée par ailleurs comme un modèle de *particratie*.

Il n'y a, à l'heure actuelle, toujours pas de consécration explicite des partis politiques dans la Constitution belge. La loi ne reconnaît leur existence que de manière partielle, à travers la législation sur le financement public des partis politiques et la réglementation des campagnes électorales et, dans une moindre mesure, dans la législation électorale.

En l'absence de législation organique sur les partis politiques en Belgique, nombre de questions du présent questionnaire ne pourront malheureusement recevoir qu'une réponse partielle et sectorielle.

Il n'y a pas de texte général relatif aux partis politiques. Toutefois, la législation sur le financement des partis politiques permet une certaine approche du phénomène. Il en est de même de certaines dispositions du Code électoral.

La loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques ainsi que ses arrêtés d'application sont les principaux textes relatifs spécifiquement aux partis politiques.

Le code électoral ne connaît pas, en règle, la notion de parti politique. Le système belge de représentation proportionnelle est fondé sur la notion de « liste » de « candidats » se présentant dans chaque circonscription électorale.

La réalité affleure cependant au détour de deux notions.

D'une part, les listes peuvent se grouper (elles « déclarent former groupe ») en vue d'obtenir éventuellement ensemble un siège supplémentaire résultant de l'addition des restes de chaque circonscription à un niveau plus élevé. Ce système (« l'apparement ») tend à disparaître et n'est désormais plus que marginal. Si, bien entendu, les listes déclarant former groupe appartiennent généralement au même parti, cela n'est absolument pas exigé par la législation électorale.

D'autre part, les listes sont présentées à l'électeur surmontées d'un numéro d'ordre, tiré au sort, ainsi que d'un sigle. Des listes de différentes circonscriptions électorales peuvent sous certaines conditions faire un « acte d'affiliation » leur permettant d'obtenir un numéro d'ordre commun et de concourir sous le même sigle.

Par ailleurs, ces dernières années, le législateur a fait de nombreux « lapsus », de sorte que la notion de « parti politique » ou de « formation politique » est en train de pénétrer le droit

électoral sans que l'on puisse réellement parler de remise en cause des notions classiques de « liste » et de « candidat ».

Ainsi, par exemple, de l'article 17 du Code électoral :

« §1<sup>er</sup>. L'administration communale est tenue de délivrer des exemplaires ou copies de la liste des électeurs, dès que cette liste est établie, aux personnes qui agissent au nom d'un parti politique, qui en font la demande par lettre recommandée adressée au bourgmestre au plus tard le 33<sup>e</sup> jour précédant celui de l'élection et qui s'engagent par écrit à présenter une liste de candidats à la Chambre ou au Sénat.

Chaque parti politique peut obtenir deux exemplaires ou copies de cette liste à titre gratuit, pour autant qu'il dépose une liste de candidats, soit à la Chambre, soit au Sénat, dans la circonscription électorale où est située la commune auprès de laquelle la demande de délivrance de la liste a été introduite conformément à l'alinéa 1<sup>er</sup>. »

### **Bosnia-Herzegovina**

The Constitution of Bosnia and Herzegovina (Annex 4 of the Dayton Peace Agreement) does not explicitly provide provision regarding political parties or private association with political goals. However, the Constitution protects, among others, a freedom of peaceful assembly and freedom of association with others (Art. III/1 (i)). Furthermore, the European Convention on Human Rights (hereinafter: the Convention) forms part of the Constitution and, moreover, the rights and freedoms set forth in the Convention shall apply directly in Bosnia and Herzegovina and «shall have priority over all other law», including the Constitution of Bosnia and Herzegovina. Thus, the constitutional political rights have to be interpreted in accordance with the jurisprudence of the European Court of Human Rights. On the other hand, Bosnia and Herzegovina is, inter alia, a party to the 1966 Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocol thereto.

Regarding the laws of Bosnia and Herzegovina including the entities and lower administrative units, there is only the Law on Financing the Political Parties (Officials Gazette of BH, No. 22/00) at the state level. At the entity-level there are separate laws but with the same name: the Law on Political Organizations (Federation of Bosnia and Herzegovina, Official Gazette of the SR BH, No. 27/91; Republika Srpska, Official gazette of Republika Srpska, No. 15/96 and 17/02; District Brèko of Bosnia and Herzegovina, Official Gazette of District Brèko, No. 3/00).

### **Bulgaria**

Il existe des normes constitutionnelles relatives aux partis politiques et aux associations privées à des objectifs politiques. Ce domaine est régi aussi par la Loi sur les partis politiques (publié au J.O. No 30/2001).

### **Canada**

Il existe des textes législatifs et réglementaires sur les partis politiques :

*Loi électorale du Canada*, L.R.C. (1985), chap. E-1.

*Loi sur le Parlement du Canada*, L.R.C. (1985), chap. P-1.

*Loi sur le financement des élections*, projet de loi C-24 (pas encore en vigueur).

**Croatia**

Yes, there are. They are:

The Constitution of the Republic of Croatia (Art. 6 of the Constitution).

The Law on Political Parties ("Narodne novine", the Official Gazette of the Republic of Croatia, No.76/93, 111/96, 164/96, 36/01).

The statutes of political parties

**Cyprus**

Yes. The right to establish a political party is governed by Article 21 of the Constitution. The Registration of Political Parties is governed by the Political Parties (Acquisition, Tenure and Disposal of Immovable and Movable Property) Laws 1989 to 1998. Article 21(1) and (2) of the Constitution provides:

"1. Every person has the right to freedom of peaceful assembly.

Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this Article, no person shall be compelled to join any association or to continue to be a member thereof."

**Czech Republic**

Within the constitutional order, right of association in political parties is stipulated in Article 5 of the Constitution and Articles 20 and 22 of the Charter of Fundamental Rights and Freedoms (the "Charter").

Article 5 of the Constitution provides: "The political system is founded on the free and voluntary formation of and free competition among those political parties which respect the fundamental democratic principles and which renounce force as a means of promoting their interests."

Article 20 and 22 of the Charter lay down:

(1) The right to associate freely is guaranteed. Everybody has the right to associate with others in clubs, societies and other associations.

(2) Citizens also have the right to form political parties and political movements and to associate therein.

(3) The exercise of these rights may be limited only in cases specified by law, if measures are involved, which are essential in a democratic society for the security of the State, protection of public security and public order, prevention of crime, or for protection of the rights and freedoms of others.

(4) Political parties and political movements, as well as other associations, are separated from the State.

Article 22

The legal provisions governing all political rights and freedoms, their interpretation, and their application shall make possible and shall protect free competition between political forces in a democratic society.



A specific provision of law is contained in Act No. 424/1991 Coll., on Association in Political Parties and in Political Movements (the "Act on Political Parties"). The Act on Political Parties does not define the difference between political parties and political movements.

### **Estonia**

The right to establish political parties is guaranteed by Article 48 of the Constitution. Matters concerning political parties are regulated in detail by Political Parties Act. As far as the Political Parties Act does not provide for any specific regulation, Non-profit Associations Act applies also to political parties.

### **Finland**

The Constitution includes no specific provisions on political parties. However, the provision on the freedom of association (Art. 12) also covers political parties. At the level of ordinary laws, political parties are regulated by a law issued in 1969.

### **Georgia**

a) Provisions on political parties are at the Constitution of Georgia at the Chapter two on fundamental human rights and freedoms (Article 26).

b) Farther more, according to the constitutional requirements on 31<sup>st</sup> of October 1997 was adopted Organic Law on "Political Unions of Citizens".

c) Different provisions on political parties are at the Law on Elections, criminal and administration legislation and in Law on Constitutional Court.

### **Germany**

There are constitutional, as well as statutory provisions. Article 21 of the German Constitution (in the following: *Grundgesetz*) recognizes political parties as essential instruments of democracy. Article 21 *Grundgesetz* reads out:

(1) The political parties shall participate in the forming of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles. They must publicly account for the sources and the use of their funds as well as for their assets.

(2) Parties, which by reason of their aims or the behaviour of their adherents, seek to impair or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany, shall be unconstitutional. The Federal Constitutional Court shall decide on the question of unconstitutionality.

(3) Details shall be regulated by federal laws.

The general rules on political parties are laid down in the *Political Parties Act* of 1967, published on 24 July 1967 (Federal Law Gazette I, page 773), amended version published on 31 January 1994 (Federal Law Gazette I, page 149), last modified on 28 June 2002 (Federal Law Gazette I, page 2268). Section 1 *Political Parties Act* clarifies the constitutional status and functions of the political parties in the German constitutional order. It states:

(1) Political parties form a constitutionally integral part of a free and democratic system of government. Their free and continuous participation in the formation of the political will of the

people enables them to discharge the public tasks which are incumbent upon them pursuant to the Grundgesetz and which they undertake to fulfil to the best of their ability.

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

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

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

participating in Federal, State and Local Government elections by nominating candidates;

exercising an influence on political trends in parliament and the government;

initiating their defined political aims in the national decision-making processes;

and ensuring continuous, vital links between the people and the public authorities.

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

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

### **Greece**

According to Art.29, para. 1 of the Constitution, any Greek citizen who has the right to vote may freely *found* and *join* any political party. The party's organization and activities must serve the free functioning of democratic government. Furthermore, Art.29 para. 2 regulates the financing of political parties. The relevant legal framework consists of law 3023/2002, Presidential Decree (P.D.) 55/1999 and the Rules of the Hellenic Parliament. No specific legislation or other provision exists in connection with private associations with political. The general principles of the Civil Code are therefore applicable.

### **Hungary**

Yes. The **constitutional rules** concerning freedom of association apply to political parties as well (**Art 63**). Besides these the Constitution contains a special Article on political parties (**Art. 3**). Accordingly, the **law on the right of association (Act II of 1989)** [in the following Associations Act, **AA**] is the basic regulation also for parties. Its rules are applicable to the parties; it contains special provisions for parties (e.g. only natural persons may be members of a party); and – as regards the activity of political parties on a place of work, the financing and economic activity of parties and the dissolution of the party – it refers to the special **law on the operation and economic activity of parties (Act XXXIII of 1989)** [in the following: Party Act, **PA**].

Art. 3 of the Constitution provides:

(1) In the Republic of Hungary political parties may be established and may operate freely, provided they respect the Constitution and legal norms established in accordance with the Constitution.

(2) Political parties shall participate in the formation and expression of the will of the people.

(3) Political parties may not exercise public power directly. Accordingly, no political party may exercise exclusive control over a state organ. In order to ensure the separation of political parties

and public power, the law shall determine those functions and public offices, which may not be held by party members or officers.

#### Art. 63

- (1) On the basis of right to association, everyone in the Republic of Hungary has the right to establish organizations for any purpose not prohibited by law and to join such organizations.
- (2) The establishment of armed organizations with political objectives shall not be permitted on the basis of the right of association.
- (3) A majority of two-thirds of the votes of the Members of Parliament is required to pass the statute on the right of association as well as on the financial management and operation of political parties.

#### **Ireland**

Political parties are not mentioned in the Constitution. The right to form and join political parties is simply part of the ordinary rights of association and expression. Political parties figure only in a marginal way in ordinary legislation and in the Standing Orders of the Oireachtas (Parliament). The provisions in legislation concerning registration of political parties (see answers to 2 below) do not license or recognise parties or their activities. Not being registered does not limit their aims or activities or their lawfulness.

#### **Italy**

Article 49 of Italian Constitution of 1948 recognizes political parties by giving citizens the right to associate themselves within political parties, with the aim of concurring through democratic means to the formation of the national policy. Since 1948, a longstanding scholarly debate has taken place in the country concerning the legitimacy, on these grounds, of an ordinary law regulating the internal organisation of political parties, and particularly minimum standards of democracy such as the rule of majority, respect for internal minorities, secret ballot for designing candidates to national and local elections. Although some bills have been presented in Parliament at this regard, at the date, it is very unlikely that they will pass. Therefore it follows that parties are still treated, in terms of Article 36 of the 1942 Civil Code, as "non-recognized associations", which, contrary to "juridical persons", do not need to be registered for exerting legally their own activity. Article 36 of the Civil Code states that the internal order of such associations is regulated by agreements between their own members. The result is that internal regulations of political parties are exclusively provided for by their own statutes.

#### **Japan**

While there are no particular provision or reference to political parties in the Constitution, there are several laws concerning political parties or private associations with political goals, such as the Political Funds Control Law, the Law for the Government Subsidies for Political Parties, the Public Offices Election Law and

the Law on Granting Legal Personality to Political Parties, etc. which receive government subsidies.

#### **Korea**

Article 8 of the Constitution insures the freedom to establish political parties (guarantees the plural party system). It also stipulates that political parties must be democratic in their objectives, organization and activities, and they must provide necessary organizational arrangements for the people to participate in the formation of the political will. Political parties enjoy the protection of the State and may be provided with operational funds by the State under the conditions as prescribed by law. However, if their purposes or activities are contrary to the fundamental democratic order, the Government may bring action against it in the Constitutional Court, thereby forcing the political party to be dissolved in accordance with the decision of the Constitutional Court.

(Legislated on December 31, 1962)

### **Latvia**

The political parties or private associations with political goals are not mentioned in the Constitution directly; however in Article 102 of the Constitution the freedom of association is enshrined. Article 102 reads as follows: "Everyone has the right to unite into unions, political parties and other public organizations".

There are several laws containing statutory provisions on political parties.

The most important are:

- Law on Social Organisations and Their Associations;
- The Law of Financing of Political Organizations (Parties);
- The Saeima (Parliament) election law.

### **Liechtenstein**

Dans la constitution du Liechtenstein il n'y a aucune référence expresse aux partis politiques, quoique le système constitutionnel d'élections selon la représentation proportionnelle (art. 46 de la constitution) implique en fait l'existence de partis politiques. La constitution utilise, dans le contexte des élections au parlement, la notion de "groupes d'électeurs" (Wählergruppen). La loi concernant l'exercice des droits politiques à l'échelon national (Gesetz betreffend die Ausübung der politischen Volksrechte in Landesangelegenheiten, LGBl. 1973/50, et amendements) reprend la même terminologie et ne parle qu'exceptionnellement de "partis" (par ex. à l'art. 40 par. 2). En vertu de cette loi, en cas d'élections parlementaires, dans chaque circonscription un groupe d'électeurs d'au moins 30 personnes a droit de proposer des candidats. Ces groupes d'électeurs représentent régulièrement des partis politiques, mais peuvent être aussi des groupes constitués ad hoc.

A la différence de ceci, la loi concernant les contributions de l'Etat aux partis politiques (Gesetz über die Ausrichtung von Beiträgen an die politischen Parteien, LGBl. 1984/31, et amendements) est la seule loi qui comme telle parle de "partis politiques". Voir infra réponse au point 4.2.

## **Lithuania**

1. Article 35 of the Constitution of the Republic of Lithuania<sup>1</sup> provides that:

”Citizens shall be guaranteed the right to freely form societies, political parties, and associations, provided that the aims and activities thereof are not inconsistent with the Constitution and laws.

No one may be forced to belong to any society, political party, or association.

The establishment and activities of political parties and other political and public organisations shall be regulated by law.”

The institute of political party is also mentioned in article 44 (”The State, political parties, political and public organisations, other institutions, or persons may not monopolise mass media”), article 83 (”A person elected President of the Republic must suspend his activities in political parties and political organisations until the beginning of a new campaign of the election of the President of the Republic”), article 104 (”The restrictions on work and political activities which are established for court judges shall apply also to justices of the Constitutional Court”), article 113 (”A judge may not participate in the activities of political parties and other political organisations”), article 114 (”Interference by institutions of State power and administration, members of the Parliament and other officials, political parties, political and public organisations, or citizens with the activities of a judge or the court shall be prohibited and incur liability as provided for by law”) and in article 141 (”Persons performing actual military service or alternative service, as well as officers of the national defence system, of the police and the Interior, non-commissioned officers, re-enlistees and other paid officials of paramilitary and security services who have not retired to the reserve (...) may not take part in the activities of political parties and political organisations”).

2. The Law on Political Parties and Political Organisations<sup>2</sup> defines the grounds of the activities of political parties and political organisations, conditions for their foundation, suspension and termination as well as guaranties for their activities.

3. The Law on Financing of Political Parties and Political Organisations<sup>3</sup> provides the procedure of the financing of political parties and political organisations.

## **Luxembourg**

A part la loi du 7 janvier 1999 sur le remboursement partiel des frais de campagnes électorales aux partis et groupements politiques engagés dans les élections à la Chambre des Députés et au Parlement européen, le Luxembourg ne connaît pas de textes constitutionnels, législatifs ou réglementaires ayant trait aux partis politiques.

Il faut remarquer que la Commission des Institutions et de la Révision constitutionnelle de la Chambre des Députés discute sous l’actuelle législature la problématique d’une éventuelle inscription des partis politiques dans la Constitution.

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<sup>1</sup> The Constitution of the Republic of Lithuania//Official Gazette *Valstybės žinios*. – 1992. – No. 33-1014.

<sup>2</sup> The Law on Political Parties and Political Organisations (as last amended on 18 July 2000)//Official Gazette *Valstybės žinios*. – 1990. – No. 29-692.

<sup>3</sup> The Law on Financing of Political Parties and Political Organisations//Official Gazette *Valstybės žinios*. – 1999. – No. 11-240.

**Macedonia**

The initial provision on political parties and associations of citizens is art. 20 of the Constitution which guarantees the freedom of association of citizens to exercise and protect their political, economic, social, cultural and other rights and/or convictions. Art. 20.2 of the Constitution distinguishes between political parties and associations of citizens, without specifying what type of activities are carried out by one or another.

**Malta**

The Constitution of Malta does not define or regulate Political Parties as such. The right of association is enshrined as a human right and a fundamental freedom under Article 42, and it has always been assumed that the right to form a political party should not be shackled in any way. Political opinion in Malta, perhaps following the trend in Great Britain, considers political parties as organisations set up on private initiative, and maintaining their free private nature, even though pursuing public political ends.

The 1964 Independence Constitution did not even mention political parties: there is now, since 1987, a specific mention in Article 52 (1) (i)(ii) which provides for a correction of possible imbalance in the allotment of seats in the House of Representatives, so as to ensure better proportionality between political parties. Two amendments (by Act IV of 1987 and by Act XI of 1996) were agreed to so as to increase the number of seats in the case of distortions brought about by the division of the country into electoral districts and so remedy the imbalance.

**The Netherlands**

Article 8 of the Constitution of the Netherlands recognises the right of association. It provides that this right may be limited by law in the interest of public order. The Constitution does not contain any special provision concerning political parties or private associations with a political goal. The inclusion of such a provision was proposed several times, but was expressly rejected by the legislature out of fear that specific (“organic”) legislation might than restrict the establishment or organisation of political parties.

The Civil Code, in its second Book concerning legal persons, contains a Title 2 concerning associations (Arts 2:26-2:52). Since political parties usually take the form of an association, they are covered by this Title 2. However, no special provisions are included there either concerning political parties or private associations with a political goal.

The Law on Elections contains a Chapter G (Arts G.1-G.6) concerning the registration of political groups that wish to present lists of candidates for elections.

The Law concerning Subsidising Political Parties deals exclusively with political parties, but the conditions it sets concern public subsidies only, not the establishment or organisation of political parties.

The Law on the Media contains a provision (Article 39g) concerning the assignment of broadcast time for national broadcasting to political parties.

**Poland**

In Poland there are as well constitutional as statutory provisions on political parties. The Constitution of the Republic of Poland of 2<sup>nd</sup> April, 1997 regulates in chapter I (The Republic) the general provisions concerning political parties, which read as follow: ”The Republic of Poland shall ensure freedom for the creation and functioning of political parties. Political parties

shall be founded on the principle of voluntariness and upon the equality of Polish citizens, and their purpose shall be to influence the formulation of the policy of the State by democratic means. The financing of political parties shall be open to public inspection.” (art. 11). Following the Constitution, the new Law on Political Parties (LPP) has been adopted on 27<sup>th</sup> June 1997(Dz.U.01.79.857 with amendments).

### **Romania**

Art. 8 de la Constitution de la Roumanie réglemente le pluralisme et les partis politiques, et l’art. 37 stipulent que les citoyens peuvent s’associer librement dans les partis politiques, dans des syndicats et dans d’autres formes d’association.

La Loi no. 14/2003 sur les partis politiques, publiée dans le Moniteur Officiel no. 25/17.01.2003 réglemente l’organisation, l’enregistrement, l’association, la réorganisation et la cessation de l’activité des partis politiques.

### **Russia**

Yes, there are. According to Art. 13 (para. 3 – 5) of the Constitution of the Russian Federation political diversity and the multi-party system shall be recognized in Russia, public associations shall be equal before the law, but the establishment and activities of public associations whose goals and activities are aimed at the forcible changing of the basis of the constitutional order and at violating the integrity of the Russian Federation, at undermining its security, at creating armed units, and at instigating social, racial, national and religious strife shall be prohibited. As Art. 30 of the Constitution says, everyone shall have the right of association, including the right to establish trade unions for protection of their interests. The freedom of activity of public associations shall be guaranteed. Nobody may be compelled to join any association or to stay there.

Statutory provisions on the matter we can find in the Federal Law on Political Parties, in several others federal acts and in the Federal Constitutional Law on the Referendum of the Russian Federation, as well as in statutory acts of the federal units.

### **Slovak Republic**

In Slovak Republic there are both constitutional and statutory provisions concerning the political parties. Article 29 para. 1 of the Constitution (No.46O/1992 Coll.in the wording of later amendments) guarantees generally the freedom of association and with respect of political parties its para.2 confirms that "*Citizens may form political parties and political movements and associate therein*". As regards as statutory regulation the talk is about Act on the Association in Political Parties and Movements (No.424/1991 Coll.in the wording of later amendments-hereinafter as Political Parties Act, Act) representing special and complete regulation of all relevant questions concerning political parties and movements (setting up, organisation, activities and extinction).

### **Slovenia**

Freedom of association is assured by 42. article of the Constitution of Republic of Slovenia. The only constitutional provision that mentions political parties is the fourth paragraph of the mentioned article, which prohibits members of police and defence forces from the membership in political parties. Art. 42 of Slovenian Constitution reads:

»The right of peaceful assembly and public meeting shall be guaranteed.

Everyone has the right to freedom of association with others.

Legal restrictions of these rights shall be permissible where so required for national security or public safety and for protection against the spread of infectious diseases.

Professional members of the defence forces and the police may not be members of political parties.«

Statutory provisions on establishment, registration, organisation, activities and financing of political parties are collected in Act on Political Parties.<sup>4</sup>

### **Spain**

Political parties are expressly referred to in Article 6 of the Constitution, as "fundamental instruments for political participation". They are regulated in detail in *Organic Law 6/2000 on Political Parties*, as well as *Organic Law 3/1987 on the Financing of Political Parties*. Many references to political parties can also be found in the *Electoral Law*, and other laws. Of particular importance are the *Standing Orders* and other Rules of both houses of the national Parliament, as well as regional (autonomous) parliaments, which regulate parliamentary groups, as parliamentary expressions of political parties and other "political formations".

(The Organic Law on Political Parties was declared constitutional by Constitutional Court judgment 48/2003)

### **Sweden**

Political parties are mentioned in Chapter 3 Article 7 of the Swedish Constitution (Instrument of Government). Further, there are provisions on the participation of political parties in general elections in the Election Act, and, finally, there is legislation on public financing of political parties.

### **Switzerland**

L'art. 137 de la constitution fédérale prévoit que les parties politiques contribuent à former l'opinion et la volonté populaire. La Suisse n'a en revanche pas de législation spécifique sur les partis politiques.

### **Turkey**

Political parties are regulated in Articles 68 and 69 of the Constitution and the Law on Political Parties (LPP) dated 22.4.1983 and numbered 2820.

### **Ukraine**

According to the Law of Ukraine on Political Parties of Ukraine adopted in 2001 political parties shall conduct their activities in, accordance with the Constitution of Ukraine, the Law of Ukraine on Political Parties of Ukraine, and other laws of Ukraine, as well in accordance with their statutes adopted under the procedure established by the Law of Ukraine on Political Parties of Ukraine.

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<sup>4</sup> Act on Political Parties (Zakon o političnih strankah), Ur. I. RS 62/94, 13/98, 1/99, 24/99, 70/00, 51/02.



### **The United Kingdom**

1) In the absence of a written constitution, there are no ‘constitutional’ provisions (in a textual sense) dealing with political parties or with the formation of private associations with political goals. As a matter of history in the United Kingdom, the modern political parties came into existence in varying legal forms simply through the exercise of the freedom of association at common law. No official approval of any kind was required for a group of private individuals outside Parliament to undertake common activity; nor was there any requirement for a private association so formed to register its existence. The only exception to this arose if the individuals concerned wished to create a legal person in the form of a company registered under the Companies Acts: in this case, they would have to observe the ordinary requirements of the Companies Acts. Within Parliament, it was of course possible for informal agreements to come into existence between elected Members of Parliament or members of the House of Lords by which they would vote together on some or all issues. The consequence of this history was that until recently, the law on elections did not take account of the existence of the political parties. Thus the control of election expenditure was related to expenditure by or on behalf of *individual candidates*, and the ballot paper could not refer to a candidate’s political allegiance, only to his/her occupation and address.<sup>5</sup>

2) This traditional position has changed markedly in recent years. For several reasons (including the control of political broadcasting, the regulation of political expenditure, and the use of proportional methods of election that depend on the existence of parties), legislation now exists on the political parties, political broadcasting on radio and television, and political donations. Moreover, electoral systems have been adopted for the devolved assemblies in Scotland, Wales and Northern Ireland and for the European Parliament that depend in part on the registration of political parties. The law is principally to be found in the *Political Parties, Elections and Referendums Act 2000* (hereafter referred to as ‘PPERA’ or ‘the Act of 2000’).<sup>6</sup>

3) Special mention must be made of the trade unions, whose role in the collective organisation of workers was closely linked with the history of the Labour party.<sup>7</sup> The Trade Union Acts 1871-1876 conferred a legal status upon the unions and defined the collective purposes that they could serve. It was their financial contributions that made possible the first election of Labour MPs to the House of Commons at a time when MPs were unpaid. However, in 1910 the courts held that it was *ultra vires* of trade unions to use their funds for supporting parliamentary representatives.<sup>8</sup> In response to this regressive decision, the Trade Union Act 1913 permitted unions to make donations to political parties and to make contributions to the electoral expenses of parliamentary candidates, provided that a separate political fund was maintained; trade union members were not to be compelled to contribute to that fund and certain other requirements were imposed on the union. In outline, this has been the position ever since, although changes have been made to the law on political funds from time to time: thus in 1984 the scope of the political fund rules was

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<sup>5</sup> For the legal position of political parties as it was in 1987, see KD Ewing, *The Funding of Political Parties in Britain* (1987), chap 1.

<sup>6</sup> For commentary on the Act, see KD Ewing [2001] *Public Law* 542-570. See also O Gay, [2001] *Public Law* 245-255; at pages 247-249, Gay describes the short-lived scheme for registration of parties introduced by the Registration of Political Parties Act 1998.

<sup>7</sup> See Ewing (note 1 above), chap 3; also (same author) *Trade Unions, the Labour Party and the Law: a Study of the Trade Union Act 1913* (1982).

<sup>8</sup> *Amalgamated Society of Railway Servants v Osborne* [1910] AC 87.

widened and unions were required to hold a ballot of their members if they wished to maintain a political fund.<sup>9</sup>

*1.2 To which extent is the law on private associations applicable to political parties?*

**Albania**

La loi sur les associations privées ne s'applique pas au partis politiques.

**Andorra**

La loi précitée sur les associations se déclare applicable aux partis politiques ; mais elle contient des dispositions leur donnant plus de libertés qu'aux autres associations pour ce qui concerne leur gestion. Le décret précité dispose que les partis politiques peuvent se faire enregistrer sur le registre des associations mais ce n'est pas une obligation.

**Armenia**

Taking into account that in the Armenian legislation there is not the term private associations, and the meaning of this term is not specified in the questionnaire, we would note in the Republic of Armenia the laws, concerning legal entities in general, are applicable to political parties.

**Austria**

La nouvelle Loi fédérale sur les associations privées de 2002 (LAP, « Vereinsgesetz »), qui s'est substituée à la loi de 1951, garantit et protège le droit de fonder avec d'autres des associations privées dans les conditions et procédures fixées par la LAP.

Sur la base des garanties constitutionnelles mentionnées ci-dessus, les groupes politiques peuvent être organisés ou comme des partis politiques au sens de la LPP ou comme des associations privées au sens de la LAP. Néanmoins, les groupes politiques en tant que partis politiques bénéficient des privilèges procéduraux et financiers prévus par la LPP qui ne sont pas attribués aux associations privées. En effet, il existe parfois des organisations ou associations quasi-autonomes qui sont attachées aux partis politiques mais qui ont la qualité juridique d'associations privées au sens de la LAP. Lesdites organisations ou associations représentent régulièrement les intérêts d'un groupe particulier à l'intérieur du parti, comme par exemple les employés, le patronat, les paysans, les femmes ou les jeunes.

**Azerbaijan**

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<sup>9</sup> See Trade Union and Labour Relations (Consolidation) Act 1992, Part 1, chapter 6 (Application of funds for political objects). Also *Harvey on Industrial Relations and Employment Law* (looseleaf), division M.6 (Political funds) [paras 1501-2030]

### **Belgium**

Le principe de la liberté d'association est réglé par la Constitution et par la loi du 24 mai 1921 garantissant la liberté d'association. Selon l'article 1<sup>er</sup> de cette loi, « *la liberté d'association dans tous les domaines est garantie* ». Ce texte général n'implique pas la personnalité juridique.

Notons par ailleurs que selon l'article 22 de la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques

« Chaque parti politique (...) désigne l'institution constituée **sous la forme d'une association sans but lucratif** qui reçoit la dotation allouée en vertu du chapitre III. L'institution visée à l'alinéa 1 a pour mission : d'encaisser les dotations publiques;

- d'établir une liste centrale annuelle des dons de 125 EUR et plus faits aux composantes du parti par des personnes physiques pour lesquels un reçu a été délivré;
- d'établir la liste des composantes du parti qui font partie du périmètre de consolidation;
- d'encadrer sur le plan administratif les composantes visées au tiret précédent et de vérifier que celles-ci respectent les règles légales relatives à la comptabilité des partis politiques.

Par arrêté délibéré en Conseil des ministres, le Roi agrée une institution par parti politique et fixe les modalités d'enregistrement et de clôture des comptes et recettes de cette institution. »

En dehors de ce cas très particulier lié au financement, les partis sont libres d'user ou non des possibilités offertes par la loi du 27 juin 1921 sur les associations sans but lucratif, les associations internationales sans but lucratif et les fondations, modifiée par la loi du 5 février 2002. Le principal avantage de cette loi est de doter l'association d'une personnalité juridique.

### **Bosnia-Herzegovina**

After adoption of the laws on political organizations, the relevant provisions on political parties, stipulated by the Law on Association of Citizens (Official gazette of SR BH, No. 5/90, 21/90) were ceased to be valid. The political parties should have performed their future activities according to the new laws on political organizations. On the other hand, the state- and entity-laws on associations and foundations (official gazette of BH, No. 32/01, Official Gazette of BH, No. 45/02, 61/02, Official Gazette of RS, No. 52/01, and Official Gazette of District Brèko, no. 12/02) do not explicitly associations and foundations from political activities save the case of participating in election campaign of political parties and candidates, funds raising and financing them (Art. 3 and 5 of the laws on association and foundations).

### **Bulgaria**

Il n'y a qu'une seule loi et elle est appliquée de la même façon pour tous.

### **Canada**

Non applicable.

### **Croatia**

By the Law on Associations from 2001, strictly anticipates that the provisions of that Law are not applicable to the political parties.

### **Cyprus**

The Law on private associations is not applicable to political parties.

### **Czech Republic**

According to Act No. 83/1990 Coll., on Association of Citizens, the act does not apply to association of citizens:

- a) in political parties and political movements,
- b) for the purpose of gainful activity or due performance of certain professions,
- c) in churches and religious societies.

### **Estonia**

Non-profit Associations Act applies to political parties, as far as the Political Parties Act does not provide otherwise.

### **Finland**

The law on associations, issued in 1989, is applied in case the law on political parties does not regulate the issue.

### **Georgia**

The definition of the term "political party" is determined by the Organic Law on "Political Unions of Citizens". The first article of the following law states that:

"Political union of citizens (then party) is an established independent union of citizens with common outlook and organizational base, is registered according to the rule determined by the following law and fulfils its activities in the framework of the constitution and legislation of Georgian".

### **Germany**

Since political parties are not state-organs but free associations of the members society, civil law regulations dealing with the relations of private associations (Sections 21 seqq. *Civil Code*) are, as a general rule, also applicable to them. It has to be taken into account, however, that the rules in the *Political Parties Act* constitute *leges speciales* to the general principles of the Civil Law norms concerning private associations.

In German law registration of political parties is not compulsory. Political parties can choose whether they want to be registered or not. The reasons for this are historically rooted. Most political parties in Germany are non-registered private associations. But if a political party is registered in a register for private associations (Sections 55 seqq. *Civil Code*), civil law regulations on registered associations are applicable. In this case the association needs to have at least 7 members (Section 56 *Civil Code*), which have to sign the parties' statute (Section 60 *Civil Code*).

Section 11 (3) *Political Parties Act* refers for the representation of a party in legal matters to Section 26 (2) *Civil Code*. The tortious liability and the liquidation of party property following a party- (self-) dissolution of the civil law norms dealing with private associations are only relevant for registered associations. The civil liability of other, non-registered parties follows the rules of collective liability according to Section 54 (1) *Civil Code*. The reason for such a different liability

is Section 37 *Political Parties Act* which declares Section 54 (2) of the *Civil Code*, dealing with the personal liability of a person acting in the name of the association, not to be applicable to political parties. Civil Law norms leave the internal structure of associations to the associations' autonomous decision, whereas Article 21 (1) (3) *Grundgesetz* requires that the internal structure of a political party be based on democratic principles. Here the civil law norms are also modified (Sections 6-16 *Political Parties Act* are *leges speciales* to the general regulations of the *Civil Code*). So are the regulations regarding the public financing in Sections 18-22 *Political Parties Act*.

As far as public law statutes dealing with private associations are concerned, Section 2 (2) No. 1 of the *Law on Associations* of 5 August 1964 (Federal Law Gazette I, p. 593) last modified 22 August 2002 (Federal Law Gazette I, p. 3390) states as a general principle, that this law is not applicable to political parties. However, according to Section Article 32 (5) (1) *Political Parties Act*, Articles 10-13 of the *Law on Associations* do apply in case of seizure of assets *mutatis mutandis*. Furthermore, Section 33 (3) *Political Parties Act* states that Article 8 (3) *Law on Associations* is *mutatis mutandis* applicable to other parties and organizations, which within the meaning of Article 2 of the *Political Parties Act* constitute substitute organizations of a banned party.

### **Greece**

Following its constitution according to the law 3023/2002 (art.29 para.1) a political party acquires legal personality. As such it can be the subject of rights and obligations according to the general principles of the Constitution and the legislation.

### **Hungary**

See 1.1. As a rule the law on private associations applies to parties as well. Besides the law on the right of association (AA) also the rules of the Civil code on associations (§§ 61-64) are applicable to all associations, including parties. If a provision of the AA is not to be applied to parties, the exception is expressly provided for. (E.g. § 14 (1) of the AA: With the exception of parties, the public procurator supervises the legality of the activity of associations.)

### **Ireland**

See answer to 1.1 above.

### **Italy**

The law on private associations is applicable to political parties with regard to their internal order. For what concerns, instead, external activity, it is worth distinguishing parliamentary activities dealt with by the parliamentary regulations, which however do not concern directly parties activity, but that of parliamentary groups (expressing parties political will in Parliament), and other activities, which are nonetheless regulated only for limited aspects (e.g. presenting lists of candidates in elections, financing, access to media in electoral campaign).

**Japan**  
---**Korea**

Article 21 of the Constitution insures the freedom of association, the peoples basic rights that are a characteristic of the general law. However, concerning political association, article 8 stipulates that political parties shall enjoy the protection of the State, making article 8 an exception to article 21. In conclusion, though all laws relating to private associations apply to political parties, the laws pertaining specifically to political parties have precedence over those laws.

**Latvia**

The most important provisions on organization and functioning of political parties are in the special Chapter (Chapter IX) of the Law on Social Organizations and Their Associations (The Law on private associations and their associations). Numerous other provisions of this law are applicable to political parties as well.

**Liechtenstein**

En effet, à toute organisation politique s'applique le droit civil en général. Mais, dans le cas où un parti politique désire profiter de contributions de l'Etat (LGBI. 1984/31), il doit s'organiser comme une association de droit civil.

**Lithuania**

1. The Law on Associations<sup>10</sup> provides that "an association shall be a voluntary union of legal and natural persons which performs managerial, economic, social, cultural, educational, scientific research tasks and functions which are established by the association members" (article 2, paragraph 1). Besides, "this Law shall not apply to those associations the activities whereof are regulated by separate laws" (article 1, paragraph 2). Therefore the Law on Associations is not applicable to political parties.

2. The Law on Public Organisations<sup>11</sup> provides that "a public organisation shall be a voluntary association (union, society, foundation, association etc.), formed in order to satisfy and implement the common needs and goals of members that shall not contradict the Constitution and laws of the Republic of Lithuania" (article 2). But it also provides that "The law shall not be applicable to political parties, trade unions, religious associations and organisations, and those associations or organisations, charitable organisations, charitable and support foundations whose establishment and activity procedure is established by other laws of the Republic of Lithuania" (article 1, second paragraph). Therefore the Law on Public Organisations is also not applicable to political parties.

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<sup>10</sup> The Law on Associations (as last amended on 5 June 2001)//Official Gazette *Valstybės žinios*. – 1996. – No. 32-786.

<sup>11</sup> The Law on Public Organisations (as last amended on 11 June 1998)//Official Gazette *Valstybės žinios*. – 1995. – No. 18-400.

### **Luxembourg**

La loi sur les associations privés (loi du 21 avril 1928 sur associations et les fondations sans but lucratif, telle que modifiée par les lois des 22 février 1984 et 4 mars 1994) aurait vocation à s'appliquer dans la mesure où les partis politiques seraient constitués sous forme d'associations sans but lucratif. Or, à notre connaissance aucun parti politique à Luxembourg n'est constitué sous la forme juridique d'association sans but lucratif.

Par conséquent les partis politiques ne sont pas dotés de la personnalité juridique. D'après la jurisprudence en matière d'association les partis politiques seraient dès lors à considérer comme associations de fait. Il y a lieu de noter qu'à notre connaissance aucun tribunal n'a eu à statuer sur la question.

### **Macedonia**

There are separate Law on Political Parties and Law on Associations of Citizens and Foundations. They are not complementary in normative terms. The latter forbids associations of citizens to perform political activities.

### **Malta**

To date there is no special law of private associations. In fact all non-commercial associations are governed by the Civil Code[Title X Articles 1644-1688], and it is felt that this does not adequately cover political parties and all associations of persons for the achievement of goals which are not defined by the interests of the members thereto. Occasionally the Courts have had to fall on the *jus commune* of Europe and quote Roman Law.

### **The Netherlands**

Title 2 of the second Book of the Civil Code also applies to political parties, if they take the form of associations with legal personality (see under 2.1.-2.3.).

### **Poland**

The LPP regulates in a very detailed manner all the question concerning political parties , such as: the structure and principles of operation of political parties; the register of political parties; the finances and liquidation of a political party. However art. 49 of this Law states that the provisions of chapter 5 of the Act of 7 April 1989 – The Act on Associations shall apply, as appropriate, to matters concerning the liquidation of a political party not specified in this law.

### **Romania**

Art. 1 alinéa (3) de l'Ordonnance du Gouvernement no. 26/2000 concernant les associations et fondations, publiée dans le Moniteur Officiel no. 39/2000 stipule que les partis politiques, syndicats et les cultes religieux n'entrent pas sous l'incidence de la présente ordonnance.

### **Russia**

It is not applicable at all.

**Slovak Republic**

Political Parties Act can be qualified as *lex specialis* dealing exclusively and completely with this kind of the freedom of association and consequently there is no need and no room to apply on the political parties general statutory regulation concerning private associations of citizens (Act.No.83/1990 Coll.on the association of citizens).

**Slovenia**

Political parties are regulated by Act on Political Parties. Other kinds of associations, for example societies, foundations or business companies are regulated by different laws and therefore the law regulating status of these organizations is not applicable to political parties. However, Act on Political Parties applies only to the organizations, registered as such at the Ministry of Interior and entered in a special registry.

**Spain**

The Law on Associations (*Organic Law 1/2002*) states that political parties shall be regulated through specific legislation. It seems, however, that the general mandates of the Law on Associations, although not directly applicable to political parties, might be of use in interpreting and complementing the mandates of the Law on Political Parties. In addition, rules concerning general civil obligations derived from contracts, etc., are also applicable to political parties.

**Sweden**

In principle, the law on private associations is not applicable to political parties.

**Switzerland**

Ce sont effectivement les règles relatives aux associations privées qui s'appliquent aux partis politiques

**Turkey**

The Law on private associations are also applicable to political parties to the extent that its provisions are not contrary to those of the Law on Political Parties (LPP, Art. 121).

**Ukraine**

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**The United Kingdom**

In principle, and now subject to PPERA, the law on private associations is applicable to political parties. Despite the special purposes that they serve, "political parties remain voluntary associations in the eyes of the law: bodies exercising a public function but governed by private law"<sup>12</sup>. The main parties each have their own rules (their 'constitution'), which differ widely. No particular or uniform structure is required for a political party to exist. A member's relationship with a political party in law depends on the contract which is created when he or she pays the

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<sup>12</sup> AW Bradley and KD Ewing, *Constitutional and Administrative Law* (13<sup>th</sup> edn, 2002) p 155.



subscription and is accepted as a member. If a dispute arises between the member and the party, it may have to be resolved by the courts<sup>13</sup>. Accordingly, the judicial control of the political parties is similar to that which the courts exercise over disputes within private associations such as social and sporting clubs, and trade unions: the courts will enforce the association's rules, if necessary by issuing an injunction to restrain breaches of the rules or, in some cases, by making an award for damages where the rules have been broken. In practice, the courts are willing to imply into the written rules of the association certain unwritten obligations, such as the duty of the association to act fairly in exercising disciplinary powers. The contractual position between a member and a political party is however subject to modification by legislation, which may impose onerous duties on the parties.

*1.3 Is there a definition of the term "political party" in a constitutional, statutory or other normative text or has it been defined in the case law of the courts?*

#### **Albania**

L'article 1 de la loi sur les partis politique donne cette définition des partis politiques: "Les partis politiques sont des associations volontaires des citoyens sur la base des idées, des convictions et des opinions ou des intérêts politiques communs, qui visent à influencer la vie politique du pays moyennant la participation aux élections et la représentation du peuple dans les organes élus du pouvoir".

#### **Andorra**

Il n'existe pas de définition du parti politique.

#### **Armenia**

There is no definition of the term "political party" in a constitutional text as well as in the case law of the courts. The definition of the term "political party" is stated in Article 3 of the Law of the Republic of Armenia "On political parties": The party is a public union formed on the basis of individual membership, the aim of the activity of which is to participate in the political life of the society and the state.

#### **Austria**

Aucune définition légale d'« un parti politique » n'est prévue ni par la CF, ni par la LPP ni par d'autres textes normatifs.

#### **Azerbaijan**

According to Article 1 of the Law of Azerbaijan Republic "On Political Parties" a political party shall be the union of citizens of Azerbaijan Republic possessing common political ideas and objects and taking part in policy of the state. Political parties actively take a hand in formation of

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<sup>13</sup> See e.g. *John v Rees* [1970] Ch 345; *Lewis v Heffer* [1978] 1 WLR 1061; *Conservative Central Office v Burrell* [1982] 2 All ER 1.

political will of citizens of Azerbaijan Republic based upon their tasks and aims those correspond to the Constitution and laws of Azerbaijan Republic.

### Belgium

Selon l'article 1<sup>er</sup> de la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques

« Pour l'application de la présente loi, il a lieu d'entendre par :

1° parti politique : **l'association de personnes physiques, dotée ou non de la personnalité juridique, qui participe aux élections prévues par la Constitution et par la loi, qui, conformément à l'article 117 du Code électoral, présente des candidats aux mandats de représentant et de sénateur dans chaque circonscription électorale d'une Communauté ou d'une Région et qui, dans les limites de la Constitution, de la loi, du décret et de l'ordonnance, tente d'influencer l'expression de la volonté populaire de la manière définie dans ses statuts ou son programme.**

Sont considérés comme composantes d'un parti politique, les organismes, associations, groupements et entités régionales d'un parti politique, quelle que soit leur forme juridique, qui sont directement liés à ce parti, à savoir :

- les services d'études;
- les organismes scientifiques;
- les instituts de formation politique;
- les producteurs d'émissions politiques concédées;
- l'institution visée à l'article 22;
- les entités constituées au niveau des arrondissements et/ou des circonscriptions électorales pour les élections des Chambres fédérales et des Conseils de communauté et de région;
- les groupes politiques des Chambres fédérales et des Conseils de communauté et de région. »

Selon l'article 1<sup>er</sup> de la loi du 7 juillet 1994 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des conseils provinciaux, communaux et de districts et pour l'élection directe des conseils de l'aide sociale :

« Pour l'application de la présente loi, il y a lieu d'entendre par :

1° parti politique : **l'association de personnes physiques dotée ou non de la personnalité juridique, qui participe aux élections provinciales, aux élections communales, aux élections des conseils de district ou à l'élection directe des conseils de l'aide sociale prévues par la Constitution ou la loi, qui conformément à la loi du 19 octobre 1921 organique des élections provinciales, la loi électorale communale coordonnée le 4 août 1932 et l'arrêté royal du 26 août 1988 déterminant les modalités de l'élection du conseil de l'aide sociale dans les communes visées à l'article 7 des lois sur l'emploi des langues en matière administrative, coordonnées le 18 juillet 1966 et dans les communes de Comines-Warneton et de Fourons, présente des candidats aux mandats de conseiller provincial, de conseiller communal de conseiller de district ou de membre du conseil de l'aide sociale et qui, dans les limites de la Constitution, de la loi, du décret ou de l'ordonnance, tente d'influencer l'expression de la volonté populaire de la manière définie dans ses statuts ou son programme.**

Sont considérés comme composantes d'un parti politique, les organismes, associations, groupements et entités régionales d'un parti politique, quelle que soit leur forme juridique, qui sont directement liés à ce parti, à savoir :

- les services d'études;
- les organismes scientifiques;

- les instituts de formation politique;
- les producteurs d'émissions politique concédées;
- l'institution visée à l'article 22 de la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques;
- les entités constituées au niveau des arrondissements et/ou des circonscriptions électorales pour les élections des chambres fédérales et des conseils de Communauté et de Région;
- les groupes politiques des chambres fédérales et des conseils de Communauté et de Région. »

### **Bosnia-Herzegovina**

Art. 2 paragraph 1 of the Law on Financing the Political Parties defines the political parties as follows: «Political parties, in the sense of this Law, shall be considered as organizations within which the citizens are freely and voluntary organized and which are registered by a competent court in any of the entities according to the relevant law-provisions for the purpose of expressing political activities and achievement of political goals. Art. 3 of the Law on Political Organizations (the Federation of Bosnia and Herzegovina) provides for a following definition: «Political organizations, in the sense of this Law, shall be considered organizations which are freely and voluntary established by citizens for the purpose of expressing political activities and achieving political goals». The same definition as the last one is provided for by other entity laws.

### **Bulgaria**

Il n'y a pas de définition du terme «parti politique».

### **Canada**

La *Loi électorale du Canada* définit un parti politique de la façon suivante:

Un parti politique est un parti admissible qui a été dûment enregistré (articles 368 et 374 de la *Loi électorale du Canada*).

### **Croatia**

The definition of the term is given by the Law on Political Parties: "Political parties, in the sense of the Law, are legal entities which act politically in accordance with the goals established by their program and statute

### **Cyprus**

The term "political party" is defined in the Laws referred to in para. 1.1 above as follows:

"Political party" or summarily "party" means a party represented in the House of Representatives and any other organization, union or group of persons which in the opinion of a reasonable man, acquainted with the internal political reality of Cyprus, is regarded as a political party, given its organization, its structure, its norms, its objects and its reflection to the public and given that in the last elections for the election of members of the House of Representatives has secured a percentage of at least three per cent of the whole of the valid votes in the whole of the Republic and includes the youth organization of a political party.

It has, also, been defined by the Case Law of the Supreme Court (see *Pitsillos v. Cyprus Broadcasting Corporation* (1982) 3 C.L.R. 208) as follows:

”What constitutes a political party at any one time, entails answering a mixed question of law and fact. Without attempting a definition, we may, through a process of elimination, seek to answer the question by identifying some of the salient features without which no association or organization can qualify as a political party. Its aims must be consonant to the law and in accordance with the principle of democratic rule implanted in our political system. In the fact-finding process, one need not travel very far to conclude that the ”Justice Party” did not qualify as a political party. The first and foremost consideration in this process, is the regard of the public for a given association or organization, and a useful test, though by no means an exclusive one, is the following: Would a reasonable man living in Cyprus and acquainted with the realities of the country identify the ”Justice Party” as a political party? His decision in turn would depend on the practical and theoretical aims of the association, its institutions and organization, regional and countrywide, as well as the response of the public to it. Past popularity as such, at any one time, is by no means decisive for in a democracy currents of public opinion change and stock must always be taken of possible swings of the pendulum.”

### **Czech Republic**

The Czech legal order does not contain a positive legal definition of a political party or a political movement.

According to the law, the exercise of the right to associate in political parties and political movements serves to enable the citizens to participate in the political life of the society, in particular the formation of legislative assemblies, higher self-governing regions and bodies of local self-administration.

As regards the Constitutional Court’s case law, in the judgement Pl. US 26/94 of October 18, 1995, the court stipulated that:

- Political parties perform, in accordance with the Constitution, certain tasks in the public interest essential to the life of a state based on representative democracy,
- Political parties and political movements are corporations founded on a private law basis. Membership is a result of free decisions of individuals. Political parties do not have a public law status and therefore enjoy the protection stemming from fundamental rights and freedoms to the same extent as legal entities,
- Political parties are not public power institutions. They are separate from the state. They represent public interest and have a special status as compared to that of other private associations.

### **Estonia**

Section 1(1) of the Political Parties Act defines a political party as ”a voluntary political association of Estonian citizens which is registered pursuant to the procedure provided for in this Act and the objective of which is to express the political interests of its members and supporters and to exercise state and local government authority.”

### **Finland**

A registered political party is a party registered in the procedure laid down by the law on political parties. There is no legal definition of unregistered political parties. However, the law on associations includes provisions on associations which aim at influencing political issues (see 2.2.-2.3.)

### **Georgia**

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### **Germany**

The constitution itself does not contain a definition of the term, but Section 2 of the *Political Parties Act* does. It reads out:

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

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

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

1. most of their members or the members of their executive committees are foreigners;

or

2. the registered seat of business is located outside the purview of the present Law

It is noteworthy in this context that the constitutionality of the political party or conformity with the constitution is not an element of the definition. Unconstitutional associations are nevertheless considered to be political parties. They fall within this definition, but may be prohibited.

### **Greece**

There is no definition of the term. However, as already said, according to the Constitution, a political party must serve the free functioning of democratic government.

### **Hungary**

Art 3 (2) of the Constitution is generally regarded as a definition of the political party. However, the participation in the formation of the will of the people and its expression is not a monopoly of the political parties; also trade unions, political associations, the media etc. participate therein. The Constitutional Court held that a political party differ from other associations by the requirement that a party shall nominate a candidate in two subsequent parliamentary elections. (Decision 53/1996 of 22. November, ABH [Official Collection of Decisions] 1996, 168)

Neither the law on the right of association nor the law on party finances give a definition of the party. In the sense of §.1 of the PA an association qualifies as a party if it declares before the court, which register it, that it will accept and obey the provisions of that law.

**Ireland**

For the purposes of electoral legislation "political party" is defined as a party registered in the register of political parties in accordance with Section 25 of the Electoral Act, 1992, as amended, as a party to contest elections.

See answer to 1.1 above.

**Italy**

No. It could be derived at a conceptual level only from the ordinary legislation dealing with the election and the financing of political parties. But it could not be used to limit or circumscribe the scope of the protection granted by art. 49 Const.

**Japan**

The term "political party" is defined in the Political Funds Control Law (Article 3), the Law for Government Subsidies for Political Parties (Article 2) and the Law on Granting Legal Personality to Political Parties, etc. (Article 3) for the respective laws.

**The Political Funds Control Law**

Article 3.1 For the purpose of this law, "political association" means (1) an association whose primary purpose is to promote, support or oppose political principles or policies, (2) an association whose primary purpose is to nominate, support or oppose a certain candidate for a public office, or (3) an association other than provided in (1) or (2) that systematically and continuously practices the following activities as its primary activity: (i) to promote, support or oppose political principles or policies or (ii) to nominate, support or oppose a certain candidate for a public office.

Article 3.2 For the purpose of this law, "political party" means either (1) a political association of at least 5 persons whose members are members of the House of Representatives or members of the House of Councillors, or (2) a political association that has obtained votes that amount to at least 2 percent of valid votes at one of the following elections: (i) an election conducted in the small constituency system or in the proportional representation system in the latest general election of members of the House of Representatives or (ii) an election conducted in the proportional representation system or in the constituency system in the most recent two ordinary elections of members of the House of Councillors.

**The Law for the Government Subsidies for Political Parties**

Article 2.1 For the purpose of this law, "political party" means a political association (as defined in Article 3 of the Political Funds Control Law) that falls under either of the following categories: (1) a political association at least 5 persons of whose members are members of the House of Representatives or members of the House of Councillors, or (2) a political association with a member or members of the House of Representatives or the House of Councillors who do(es) not belong to an association that falls under (1) and that has obtained votes which amount to at least 2 percent of the valid votes at one of the following elections: (i) an election conducted in the small constituency system or in the proportional representation system in the latest general election of members of the House of Representatives or (ii) an election conducted in the proportional representation system or in

the constituency system in the most recent two ordinary elections of members of the House of Councillors.

The Law on Granting Legal Personality to Political Parties, etc.

Article 3.1 – The definition is exactly the same as in the Law for the Government Subsidies for Political Parties

### **Korea**

Article 2 of the National Assembly Act defines political parties as **받**he peoples discretionary organization conducive to creating a political voice for the people by providing political support and advocacies concerning their political interests or by allowing the people to nominate a representative for public office during an election (constituency). The judicature holds inquisitions based on the above definition of political parties.

### **Latvia**

In the Law on Social Organizations and Their Associations there is the definition of the term "political party". Article 43 of this Law reads as follows: "Political organizations (parties) are organizations which are founded by no less than 200 Latvian citizens, so that on the basis of uniformity of political goals to perform political activity, participate in election campaigns, nominate candidates for deputies, manage the activities of their deputies within Saeima and local governments and through the mediation of their deputies implement their programs and to engage in the forming of state administrative institutions.

### **Liechtenstein**

Non

### **Lithuania**

1. Neither the Constitution, neither the Law on Political Parties and Political Organisations, nor the Law on Financing of Political Parties and Political Organisations provide the exact term of "political party". Nevertheless in the preamble of the Law on Political Parties and Political Organisations it is stated, that "political parties unite citizens of the Republic of Lithuania for the implementation of common political goals, help to form and express the interests and political will of Lithuania's citizens".

2. In its ruling of 21 December 2000<sup>14</sup>, the Constitutional Court of the Republic of Lithuania stated, that "the notions "society", "political party", "association" consolidated in Paragraphs 1 and 2 of Article 35 of the Constitution, as well as the notion "other political and public organisations" consolidated in Paragraph 3 of the same article, express diversity of unions which are founded on a voluntary basis in order to meet the needs of their members in the political, economic, cultural, social areas and other spheres of life. Individuals, attempting to implement their rights and interests in the political, economic, cultural, social areas and other spheres of life, may form various unions provided that the aims and activities thereof do not conflict with the Constitution and laws".

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<sup>14</sup> Ruling of the Constitutional Court of the Republic of Lithuania of 21 December 2000 // Official Gazette *Valstybės Žinios*, 2000, No. 110-3536.

### **Luxembourg**

La loi du 7 janvier 1999 (précitée sub 1.1) définit les partis politiques, mais uniquement pour l'application de cette loi, en son article 1<sup>er</sup> comme suit :

« Pour l'application de la présente loi, il y a lieu de d'entendre par parti politique ou groupement politique, l'association de personnes physiques, dotée ou non de la personnalité juridique, qui concourt, dans le respect des principes fondamentaux de la démocratie, à l'expression du suffrage universel et de la volonté populaire de la manière définie dans ses statuts ou son programme ».

### **Macedonia**

Article 2 of the Law on Political Parties (Official Gazette of the Republic of Macedonia no.41/94) defines political parties as “organized groups of citizens which urge for participation in government”.

In addition, the Law defines the two main aims of the political parties: to realize and protect the political, social, cultural and other rights and convictions of their members and to participate in the process of political decision-making; and to participate in the procedure for election of representatives in the Parliament, as well as in municipal councils.

### **Malta**

The only definition of a political party that one finds is the purely functional definition given in article 2 of Act XXI of 1991, now Chapter 354 of the Laws of Malta (The General Elections Act):

“Political Party” shall *for the purposes only of Sections 10 and 14 of this Act*, mean any person or group of persons, who, having contested the general election under one name, is represented in the House by, at least, one member or was so represented when the House was last dissolved, and *in all other cases* “political party” shall mean any person or group of persons contesting the election as one group bearing the same name;

Section 10 refers to the right of appointing delegates to the Electoral Commission, and Section 14 to the appointment of members on the Medical Board dealing with the “medical” matters which the Electoral Commission would refer to it. The limitation by reference to these two sections was justified by the need to defend the Commission from a superabundance of delegates and an inflation of the Medical Board. Defining a Political Party as “any person or group of persons contesting the election as a group bearing the same name” is about as loose a definition as any and is well within the wide berth allowed freedom of association in the Constitution.

Textually the same, purely functional, definition is used in the Regulations under the Local Councils Act (Chapter 363 of the Laws of Malta) so as to limit the number of parties's delegates, in connection with the organisation and holding of Local Councils elections.

### **The Netherlands**

There is no legal definition of a political party in Dutch legislation. An association is a political party if its goal is political, in particular presentation of candidates for public functions.

For its registration in view of an election, Article G.1 of the law on Elections contains in its fourth paragraph a list of grounds on which registration may be refused (see under 2.4.).



### **Poland**

There is a statutory definition of the term "political party" in art.1 of the LPP, which reads as follow: "A political party shall be a voluntary organization acting under a specific name, aiming at participation in public life through influencing by democratic means the shape of state policy or the exercise of public power".

### **Romania**

Conformément à l'art. 1 de la Loi no. 14/2003 les "partis politiques" sont des associations à caractère politique des citoyens roumains avec droit de vote, qui participent librement à la formation et exercice de leur volonté politique, accomplissant une mission publique garantie par la Constitution

### **Russia**

Art. 3 (1) of the Federal Law on Political Parties includes the following definition: "Political party is a public association, created for participating of citizens of the Russian Federation in the political life of the society by forming and expressing their political will, taking part in social and political actions, in elections and referenda, as well as for representing citizens' interests in bodies of state power and of local selfgovernment".

### **Slovak Republic**

According to Article 2. para.1 of the Political Parties Act: "*Political Parties and Movements are voluntary associations subjected to registration according to this Act*" and Article 3.para 1.of the same Act states that: "*Political Parties and Movements are Legal Persons*". Any other definition of political party may be found in Slovak legal order.

### **Slovenia**

Term "political party" is defined in the first article of the Act on Political Parties. It reads:

"Political party is an association of male and female citizens, who realize their political goals, adopted in the party's program, by democratic formation of the political will of the citizens and by nominating male and female candidates on parliamentary, presidential and local elections."

### **Spain**

There is no definition of the concept of "political party" in the Constitution or the laws. Several decisions of the Courts, including the Constitutional Court (such as, for instance, *Decisions 56/95 and 48/2003*) have helped to construct a more or less general concept.

### **Sweden**

In Chapter 3 Article 7 of the Swedish Constitution (Instrument of Government) a political party is defined as "any association or group of voters which puts itself forward in an election under a particular designation."

### **Switzerland**

Il n’y a pas de définition du parti politique en droit fédéral.

### **Turkey**

There is a definition of the term “political party” in the Article 3 of the LPP.

### **Ukraine**

According to Article 2 of the Law of Ukraine on Political Parties of Ukraine a political party shall be understood as a legally registered voluntary association of citizens adhering to a certain national social development programme, aimed at assisting in the formation and expression of citizens’ political will, participating in elections and other political events.

### **The United Kingdom**

1) It has never been necessary for a legal definition of the term ‘political party’ to be laid down either by Parliament in legislation or by the courts in their decisions. There is however case-law dealing with such difficult areas as the distinction between trusts for charitable purposes (which enjoy certain privileges and benefits in property law, taxation etc as being for the public good) and trusts for political purposes, which are not entitled to these privileges<sup>15</sup>. In relation to the regulation of union political funds, there is a statutory definition of political objects<sup>16</sup> and an official known as the Certification Officer must if necessary decide the permitted limits of expenditure of union funds<sup>17</sup>. There is a general prohibition of political advertising on radio and television,<sup>18</sup> but there is a scheme for party political broadcasts both during general elections and between elections.

2) There is no statutory definition of ‘political party’, despite the enactment of PPERA. It continues to be the position in law that any group of individuals may establish a political party without registering under PPERA. However, a political party *must* register if it wishes (as invariably it does) to become eligible for the consequences of registration. Thus, an unregistered political party may not nominate candidates for elections bearing any political description except ‘Independent’, and it cannot nominate candidates for elections that are based on party lists. Nor is an unregistered party eligible to provide political broadcasts. The procedure of registration will be considered below, in answer to question 2.2.

*1.4 Does the law distinguish between political parties on the local, the regional and the national level?*

### **Albania**

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<sup>15</sup> See H Picarda, *Law and Practice relating to Charities*, (3<sup>rd</sup> edn, 1999), chap 14 and Appendix 12 (which reproduces the Charity Commission’s advice to charities, ‘Political Activities and Campaigning by charities’, CC9, 1997). The case-law includes *Re Hopkinson* [1949] 1 All ER 346, *Re Grant’s Will Trusts* [1979] 3 All ER 359 (failure of bequests to Labour party because attempting to create a non-charitable trust); and *Re Bushnell* [1975] 1 All ER 721 (failure of bequest seeking to endow education in Socialist medicine).

<sup>16</sup> Trade Union and Labour Relations (Consolidation) Act 1992, s 72.

<sup>17</sup> *Ibid*, s 72A. Appeals from the Certification Officer lie to the Employment Appeal Tribunal (s 95).

<sup>18</sup> Broadcasting Act 1990, s 8(2)(a).

La loi n'établit aucune distinction entre les partis politiques à l'échelon local, régional et national. L'article 5 de la loi sur les partis politiques statue seulement que "l'activité des partis politiques peut s'étendre sur tout le territoire de la République de l'Albanie ou dans quelques circonscriptions territoriales administratives du pays".

#### **Andorra**

Les textes ne font aucune distinction entre les partis politiques à l'échelon local, régional ou national.

#### **Armenia**

According Point 1 of Article 20 of the Law of the Republic of Armenia "On political parties", the party has the right to create, as well as to liquidate, territorial and structural subdivisions, in accordance with its statutory objectives and tasks. But there is not differentiation between political parties on the local, the regional and the national level.

#### **Austria**

Non. L'activité des partis politiques n'est pas formellement restreinte à un échelon concrète. Ils peuvent, à leur gré, agir tant au niveau fédéral qu'aux niveaux régional et local. En effet, tous les grands partis politiques ont une structure fédérale d'au moins trois niveaux : l'organisation du parti au niveau de la Fédération (« Bundespartei »), celle au niveau des neuf Länder (« Landespartei ») et celle au niveau local (« Ortspartei »). Dans le cas où les organisations inférieures des partis politiques ne sont pas réglées dans les statuts du parti, ils ont la qualité d'associations privées.

#### **Azerbaijan**

The Law of Azerbaijan Republic "On Political Parties" does not provide for any distinction between political parties of local, regional and national levels.

#### **Belgium**

Comme nous l'avons exposé, la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques n'est applicable qu'au parti politique qui «*présente des candidats aux mandats de représentant et de sénateur dans chaque circonscription électorale d'une Communauté ou d'une Région* ». Les partis politiques limités à la défense d'intérêt infra-régionaux sont donc exclus de tout financement public (ce qui n'interdit évidemment ni leur existence, ni leur participation aux élections).

#### **Bosnia-Herzegovina**

Art. 2 paragraph 1 of the Law on Financing the Political Parties stipulates that the parties are to be registered by the competent entity-court. The entity-laws apply a principle of territoriality (Art. 5, 15, 37 paragraph 1 of the RS Law on Political Organizations, Art. 5 and 15 of the F BH Law on Political Organizations) and, therefore, provide that the registered parties can only be active within their jurisdiction. On the other hand, there is no further territorial distinguishing.

**Bulgaria**

La loi ne fait pas une telle différence.

**Canada**

Oui. Les diverses lois fédérales et provinciales distinguent entre les partis politiques fédéraux et provinciaux.

**Croatia**

The Law has no rule on this matter.

**Cyprus**

No.

**Czech Republic**

No, the Act on Political Parties does not distinguish between political parties active on local, regional or national level.

**Estonia**

No.

**Finland**

No.

**Georgia**

According to the Article 6 of the Organic Law on “Political Union of Citizens”: is prohibited to establish political parties on the ground of regional or territorial sign.

**Germany**

Section 2 (1) (1) *Political Parties Act* distinguishes between political parties taking part in the forming of the will in the representation of the people on the federal or the state level. Parties which do not take part in politics either at federal or state level but on a local level do not fall within the scope of the concept of political party in the sense of Article 21 *Grundgesetz* and Section 2 *Political Parties Act*, since local politics is concerned only with a part of society, whereas state-politics is concerned with the whole of it.

**Greece**

There is no such distinction under the Greek legislation.

**Hungary**

The law is silent in this question.

§ 3 (3) of the PA requires that the party nominates a candidate in two subsequent parliamentary elections. It follows that the party has to raise political questions and propose answers, which are of national concern, fit to the programme of a MP candidate. This does not mean however, that a party must have a nationwide organization. The requirement of the nomination (collection of a certain number of recommendation by voters) can be fulfilled within a single constituency.

A political association that concerns only local politics and is not able to run in the national elections is surely not a party.

### **Ireland**

No, except in relation to the basis for registration as a political party regarding which see answers to 2.4 above.

### **Italy**

No.

### **Japan**

The above-mentioned laws do not distinguish between political parties on the local, the regional and the national level.

### **Korea**

Article 3 of the National Assembly Act explicates the organization of the political party as being comprised of ~~the~~ the central party situated in the countrys capital and the constituency chapter, which bases itself on the Assembly Election constituency. If needed, a party branch can be established in municipalities, megalopolis and districts, and contact information regarding political parties may be provided in territories, towns and townships. This allows for the classification of districts and regions.

### **Latvia**

No. It doesn't.

### **Liechtenstein**

Non

### **Lithuania**

The Law on Political Parties and Political Organisations provides that "The organisational structure of a political party or political organisation shall be based only on the principle of territorial divisions. Political party or political organisation subdivisions may not be established or operate in work collectives" (article 10).

### **Luxembourg**

Non.

**Macedonia**

No.

**Malta**

In the case of Malta there exist only two levels: local and national elections. There are no differences between the parties at local and those at the national level; indeed as stated above the same definition is used when dealing with parties taking part in general elections at national level and those at the local level.

**The Netherlands**

No.

**Poland**

The law does not distinguish between political parties on the local, the regional and national level. There is only very general provision that political party may not maintain organizational units in workplaces.

**Romania**

Il n'y a pas distinction légale entre les partis politiques au niveau local, régional et national. Conformément à l'art. 4 alinéa (1) de la Loi no. 14/2003 les partis politiques s'organisent et fonctionnent conformément au critère administratif – territorial.

**Russia**

The Federal Law on Political Parties recognizes only federal political parties.

**Slovak Republic**

Political Parties Act does not distinguish between political parties carrying out its activities on various level.

**Slovenia**

The law does not distinguish between political parties on the local, the regional and the national level. There is only one registry of the parties, which is on the national level.

**Spain**

The Law on Parties does not contain any provision concerning the territorial implantation of parties. That is a matter to be regulated in the internal Statutes of parties. There is only a national Register of Political Parties, open to all parties, and the Law's mandates are applicable to all political parties, whether local, regional or national.

**Sweden**

No. However, legislation on public financing of political parties distinguishes between the national level on the one hand and the regional and local level on the other.

### **Switzerland**

Les législations cantonales peuvent contenir des dispositions spécifiques relatives aux partis politiques.

### **Turkey**

This definition provides that parties are to be organized at the national level. Furthermore, in order that parties can participate in the national and local, general or by-elections, they have to be organized in at least half of the provinces at least six months prior to the elections and completed their national congress, or must have a parliamentary group in the national legislature.

### **Ukraine**

According to Article 3 of the Law of Ukraine on Political Parties of Ukraine political parties shall be formed and shall operate in Ukraine only when having the all-Ukraine status.

### **The United Kingdom**

1) Given the freedom of association at common law, it has always been within the autonomy of a political party to decide on the level of organisation (national, regional and local) that suits it best. In general, the Labour party has been organised as a hierarchical entity within Great Britain, whereas the structure of the Conservative party has been looser and more complex, with a large element of the party consisting of an association ('national union') of local constituency parties.<sup>19</sup> In recent years, as well as organising at the level of Great Britain, the main British political parties have also asserted their identity at the level of Scotland and Wales. The political parties in Northern Ireland, the Scottish National Party and Plaid Cymru do not organise at the British or UK levels. In practice, party organisation at a local level must change from time to time to take account of changes in the boundaries of parliamentary constituencies and local government areas.

2) For the purposes of PPERA 2000, separate registers of political parties must be maintained for (a) Great Britain (the component parts of which are England, Scotland and Wales) and (b) Northern Ireland. The register for Great Britain must show the part or parts of Great Britain for which a party is registered. A minor party which wishes only to contest elections at the very lowest level of local government (parish and community councils) may apply to be registered as a 'minor party' (PPERA, s 28(2)(d), s 34). The law requires the registration of donations to a political party that are in excess of £5,000 nationally and £1,000 locally (PPERA, ss 62, 63).

*1.5 Is:*

*a) the participation in elections;*

*b) or are other political activities*

*reserved to recognised political parties?*

### **Albania**

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<sup>19</sup> See *Conservative Central Office v Burrell* [1982] 2 All ER 1

Selon l'article 2 du Code Electoral en vigueur, la participation aux élections est réservée aux partis politiques enregistrés en conformité avec la loi sur les partis politiques. Aussi la participation à une activité politique est réservée aux partis enregistrés.

**Andorra**

Ni la participation aux élections ni toute autre activité politique ne sont réservés aux partis politiques.

**Armenia**

According to Point 4 of Article 20 of the Law of the Republic of Armenia "On political parties", the party has the right to participate in the elections of state and local self-governing bodies, as well as in preparation and conduct of referendums. Besides, the Article contains other kinds of political activities in which the political parties could participate.

**Austria**

Non. Ni le droit de participer aux élections ni une autre activité politique n'est réservé aux partis politiques au sens de la LPP. Chaque groupe ou liste de citoyens autrichiens qui remplit les conditions prévues par les lois électorales est considéré comme « parti électoral » au sens de l'art. 26, al. 6, de la CF (« Wahlpartei »), et peut présenter sa candidature aux élections générales tant au niveau fédéral que régional et local. C'est pour cette raison que les partis ou groupes électoraux ne doivent pas être nécessairement des partis politiques. Pourtant, en comparaison avec les partis politiques, la capacité juridique d'un parti ou groupe électoral est plus restreinte.

**Azerbaijan**

According to Article 12 of the Law of Azerbaijan Republic "On Political Parties" political parties by democratic way shall

- a) take part (independently, in coalition or union with other parties and organizations) in presidential elections, elections to the Parliament and other elective state bodies of Azerbaijan Republic, as well as shall participate in establishment of the Executive bodies of Azerbaijan Republic;
- b) affect on the process of producing of decision by the state bodies;
- c) freely spread the information of theirs object and activity;
- d) represent and protect the interests of theirs members within state and public bodies.

Political parties shall have the right, via procedures specified by legislation, to spread the information of their activity, propagandize the own ideas, objects of programme, establish the mass media, hold meetings, demonstrations, associations and other mass actions.

**Belgium**

Non.

Le Code électoral ne connaît d'ailleurs du concept de parti politique que de manière marginale, le processus électoral étant fondé sur la notion de « candidats » déclarant éventuellement former « liste ». Ce système permet tant la formation de cartels que la candidature de personnes non affiliées à un parti politique.



Toutefois, la notion de parti politique transparait implicitement dans la notion d' « affiliation » qui permet à des listes présentées dans différentes circonscriptions électorales de porter le même sigle et le même numéro d'ordre (chaque liste étant précédée d'un numéro attribué par tirage au sort).

### **Bosnia-Herzegovina**

According to the Chapter 4 Art. 4.1 of the election Law of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 23/01, 7/02, 9/02, 20/02 and 25/02), the participation in elections is reserved for the political parties, independent candidates, coalitions and groups of independent candidates. Other political activities are not reserved only for recognized political parties.

### **Bulgaria**

a) Oui

b) Non

### **Canada**

Oui, en principe. Au fédéral, pour être un parti politique reconnu, on doit présenter 50 candidats (sur 301), conformément aux articles 370 et 385 de la *Loi électorale du Canada*. Au niveau provincial, ce nombre minimal varie d'une province à l'autre. Il faut toutefois noter que des candidats indépendants (sans affiliation à un parti politique) peuvent se présenter aux élections. De plus, il y a lieu de mentionner que les tiers (ceux qui ne sont pas candidats) peuvent dépenser des sommes d'argent lors des élections, en faveur ou contre un candidat.

### **Croatia**

By the Law on Elections to the Croatian Parliament it is given the right to political parties to suggest the lists for the election of deputies in the Croatian Parliament.

That refers to all political parties that are registered in the Republic of Croatia on the day of promulgation of the decision on election in the official Gazette of the Republic of Croatia.

The list may be submitted autonomously or like coalition list consisting of two or more parties. The parties autonomously make their own lists. The order of the candidates on the list is set according to their statutes or statutory decisions.

By the Law on Elections of Members of the Local and Regional Self-government Bodies, it is said that the lists for elections for the representative bodies suggest political parties and electors.

### **Cyprus**

No.

### **Czech Republic**

Pursuant to Act No. 247/1995 Coll., on Parliamentary Elections, ballots for elections to the Assembly of Deputies may be produced by registered political parties and movements that are not subject to any suspension of activities, and their coalitions.

As regards elections to the Senate, candidates may be proposed by registered political parties and movements, or independent candidates may stand for elections.

Elections to representative bodies are regulated by Act No. 130/2000 Coll., on Elections to Regional Representative Bodies, and Act No. 491/2001 Coll., on Elections to Municipal Representative Bodies.

Registered political parties and movements and their coalitions may stand for election to regional representative bodies, and registered political parties and movements, their coalitions, independent candidates, associations of independent candidates or associations of political parties or movements and independent companies may stand for election to municipal representative bodies.

In the judgment I. US 127/96 of May 28, 1996, the Constitutional Court assessed the notion of coalition. The court stated that the political entity itself decides of its own free will if it wishes to participate in the elections as an independent electoral entity or as an electoral coalition. What is relevant is the manner in which the entity registered its ballots.

### **Estonia**

On the national level only independent candidates and lists of political parties can take part in the elections. In the local government elections, the same will apply as of the elections of 2005. For the last local elections in 2002, the same legislation was supposed to be applied, but as a result of a decision of the Supreme Court, the law was amended shortly before the elections to allow also citizens' election coalitions to take part in the local government elections.

Other political activities are not reserved to recognised political parties.

### **Finland**

According to the electoral law, issued in 1998, registered political parties have the right to present candidates in parliamentary, presidential and local elections, as well as in the elections for the European Parliament. However, this is not a monopoly, but even electoral associations, founded by a certain number of those having the right to vote, may present candidates.

### **Georgia**

a) According to the Article #2 of the above mentioned Organic Law "Political party as an essential legal and constitutional part of the free, independents society, by elections or by any means permitted by the legislation takes part in formation and expression of the political will of citizens".

Notable to mention that from 235 members of Parliament of Georgia 150 are elected according to the common list of parties, local self-governing bodies are established as well from the members of the above mentioned lists. The political unions of citizens have right to name candidature for the position of the President.

b) Establishment of the youth organizations are permitted by the legislation and works in practice.

### **Germany**

Article 21 *Grundgesetz* states only that political parties "participate" in the forming of the political will of the people. This formula is interpreted by the judiciary and the legislation to

mean that parties do not have a "monopoly" as to the formation of the political will of the people. Therefore other organizations than political parties and single candidates have to be treated equally in electoral matters. The equality clause applies in electoral matters in a very strict, formal sense.

Other organizations and persons are, like political parties, free to hand in electoral proposals and can receive financial aid for their electoral activities (Sections 18 and 20 (3) *Federal Electoral Law* and each states' laws). But other organizations than political parties must submit electoral proposals which are signed by at least 200 voters personally (Section 20 (3) *Federal Electoral Law*). A submission of *lists* with candidates for the elections to parliament, whether to Federal Parliament or to the representations of the States is reserved to political parties (Section 27 (1) *Federal Electoral Law*). Other organizations and groups can submit such lists only during local elections.

A less formalistic application of the equality clause is contained in Section 3 *Political Parties Act* which states:

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

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

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

(4) (...)

### **Greece**

a) Participation in elections is not reserved to political parties. Participation is allowed to parties, coalition of parties or coalition of persons which present their candidates according to the electoral law.

b) Any person may engage in any other political activity, on condition of respect of the democratic rule.

### **Hungary**

a) The law on the procedure of elections (Act C of 1997) speaks of "nominating organization" without specifying it. The Act XXXIV of 1989 on the election of MPs however rules that in individual constituencies the candidates may be nominated by voters and by associations, which meet the requirements of the regulations of the PA and calls in the following all nominating organizations as "parties".( § 5 (1)) Also § 3 (3) PA can be interpreted in a way that only parties may participate in parliamentary elections. In the praxis it occurs that civic organisations have themselves registered as parties before elections, nominate a candidate in an individual constituency, but between the elections show no activity at all.

b) There are no other political activities that would be reserved for parties.

**Ireland**

No

**Italy**

No. Not only parties are not recognised as such, but, contrary to others, the Italian Constitution does not reserve to parties an exclusive role in participating to elections or in other political activities. According to Italian legislation, anybody is entitled to present lists of candidates both at national and local elections, provided that certain requirements are met (number of signatures and so on).

**Japan**

There are no provisions that reserve a) and b) to recognized political parties except that the Public Office Election Law reserve the right to submit a list of candidates for elections of the House of Representatives/the House of Councillors through the proportional representation system to political parties that satisfy certain requirements on the number of its Diet members and on the rate of obtained votes in national elections.

**Korea**

A political party is established upon having the central party register it at the Central Election Management Committee (CEMC), and once properly registered a party may a) actively participate in an election by making a nomination for an election for public office, conducting an election campaign and meeting the requirements to make a nomination for election administration commissioner (Article 31 of the Political Party Law, Article 47 of the Public Office Elections Law etc.) b) making political statements and creating political policies that represent the interest of the people, thus participating in the process of forming the people's political opinions (Article 2 of the Political Party Law). Therefore, the political party laws must adopt a joint management policy that prevents either the political party or the people from assuming burden of campaign expenditures. In addition, political parties enjoy the protection of the State and may be provided with operational funds by the State under the conditions as prescribed by law.

**Latvia**

*a) the participation in elections;*

Yes. Article 9 part one of the Saeima (Parliament) Election Law provides that a list of candidates may be submitted only by a legally registered political organization (party), jointly by two or more legally registered political organizations (parties) or by a legally registered association of political organizations (parties).

*b) or are other political activities reserved to recognised political parties?*

Not directly, but because of a).

**Liechtenstein**

Non

### **Lithuania**

1. Article 14 "Right to Participate in the Management of State Affairs" of the Law on Political Parties and Political Organisations provides that "all political parties and political organisations shall be equally entitled to participate in the election of government institutions. During elections, all candidates to the post of deputy shall be provided with equal opportunities to use the mass media, free of charge, in accordance with procedures established by the laws on elections of the Republic of Lithuania".

By the way, the Law on Elections to Municipal Councils provides that only a party or political organisation which has been registered pursuant to the Law on Political Parties and Political Organisations may nominate candidates for councillor (article 34), that is, individual persons, who are not members of political parties or political organisations, do not have the right to nominate themselves as candidates for councillors.

2. The Law on Political Parties and Political Organisations provides that the political parties and political organisations are entitled to form coalitions, unions, and electoral blocks (article 15); to freely disseminate the information on their activities, to propagate their ideas, goals, and programs (article 16); political parties and political organisations have the right to establish media of mass information, with the exception of radio and television; in conformity with the established regulations, to make use of the state press and other mass media (article 16); in accordance with procedures established by laws of the Republic of Lithuania, political parties and political organisations have the right to hold rallies, demonstrations, meetings, and other mass events (article 17); they have the right to maintain relations with political parties and political organisations of other countries, as well as international and other organisations (article 19).

### **Luxembourg**

Non, car cette restriction n'est expressément prévue dans aucun texte. L'on peut cependant dire que la participation aux élections n'est pas à la portée de tout le monde et qu'il faut disposer d'une structure organisée pour participer aux élections, vu qu'il faut présenter des listes complètes de candidats selon la loi électorale luxembourgeoise.

### **Macedonia**

Yes. However, there has been a case where non-registered political party took part in elections. Due to political reasons, despite challenges, the situation was tolerated for a while, until the formal registration.

### **Malta**

In Malta there is no process of "official" "formal" or "legal" recognition of political parties. Parties can be formed to participate in an election or in any sort of political activity without the need of any licence, permission or "recognition". There is a limitation of the right to send delegates to the Electoral Commission and the Medical Board to parties with representation immediately past or present, in the House of Representatives. As explained in 1.3 and 1.4 above this is the only restriction. Both the restriction in the General Elections Act and in the Regulations of the Local Councils Act refer to the appointment of delegates to the Commission and to the Medical Board. Thus every political party, even those set up anew or those which have never had any parliamentary representation, have the right when putting up candidates for

election to nominate assistant commissioners for every polling booth (Section 57), district agents (Section 61 A) and counting agents (Section 89).

### **The Netherlands**

For participation in elections a political group has to be registered in the registers of the central polling station. Any official recognition is not required, but according to Articles G.1-3 of the Law on Elections the political group has to be an association with full legal personality.

However, participation in the elections is not the exclusive privilege of political parties. Any voter may present a list of candidates, provided that the list is supported by the required number of voters and is accompanied by the required deposit (see under 2.4.).

### **Poland**

The participation in elections is not reserved to recognize political parties as well as other political activities.

### **Romania**

La participation aux élections ou le développement d'autres activités politiques n'est pas réservée seulement aux partis politiques reconnus. Conformément à l'art. 35 et art. 16 alinéa (3) de la Constitution de la Roumanie ont le droit d'être élus les citoyens avec droit de vote qui ont seulement citoyenneté roumaine et le domicile dans le pays, si on ne leur interdit pas l'association dans des partis politiques. Conformément à l'art. 37 alinéa (3) ne peuvent pas faire partie des partis politiques les juges de la Cour Constitutionnelle les avocats du peuple, les magistrats, les membres actifs de l'armée, les policiers et autres catégories de fonctionnaires publiques établies par loi organique.

Art.6 alinéa (1) thèse II de la Loi no. 70/1991 concernant les élections locales, republiée dans le Moniteur Officiel no. 79/1996, stipule qu'on peut déposer aussi des candidatures indépendantes ou par des alliances électorales, dans les conditions établies par ce document normatif.

### **Russia**

According to Art. 4 (2) of the Federal Law on Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation and of Their Right to Take Part in Referenda Russian citizens shall have the right to elect, to be elected and to take part in referenda irrespective of their membership in any public association. In case a representative chamber or its part is to be elected on the ground of proportionality, the right to nominate candidates is reserved for recognized political parties or their blocs. Other public associations, except parties, may not participate in any electoral campaign or in referendum.

### **Slovak Republic**

Only duly registered political party and/or movements may participate in the parliamentary election and to carry out its political programme (Article 17 para.1 of the Act on the Election into National Council of Slovak Republic-No.80/1990 Coll.in the wording of later amendments).

### **Slovenia**

The participation in elections and other political activities is not reserved only to recognised political parties. Law allows independent candidates and lists of candidates to run on all levels of elections – parliamentary, presidential, local and in elections to the European parliament.<sup>20</sup>

### **Spain**

In general, according to the Electoral Law, participation in elections, by presenting lists of candidates or performing activities of electoral propaganda, is open not only to political parties, but also to coalitions of parties, as well as to those citizens groups which may be created during each election to present electoral lists. The political parties are, in any case, in a more advantageous position with respect to other groups concerning matters such as the requisites for presenting candidates, access to public media during elections, or obtaining subsidies from public authorities.

### **Sweden**

Participation in national elections is reserved to political parties by the provision in Chapter 3 Article 7 of the Constitution (Instrument of Government) that seats of parliament "shall be distributed among the parties".

### **Switzerland**

Non.

### **Turkey**

Participation in elections (but not other political activities) is reserved to recognized political parties. However, independent candidacy is possible.

### **Ukraine**

- See 1.3

- According to Article 12 of the Law of Ukraine on Political Parties of Ukraine political parties shall have a right to:

Participate in the elections of the President, Verkhovna Rada of Ukraine, and other bodies of state authority and local self-government and of their officials in keeping with procedures established by the laws of Ukraine;

use state-controlled media and set up their own media as provided by the laws of Ukraine;

maintain international contacts with political parties and volunteer organisations in other countries, international and intergovernmental organisations, establish (associate in) international associations in keeping with this Law;

provide ideological and material support to youth, women's and other citizens' associations, and assist with their formation.

Political parties shall be guaranteed the freedom of opposition, including:

- an opportunity to make public and defend the party stand with regard to state and public life;

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<sup>20</sup> See Parliamentary Elections Act (Zakon o volitvah v državni zbor), Ur. l. RS 44/92, 60/95, 67/97, 70/00, Presidential Elections Act (Zakon o volitvah predsednika republike), Ur. l. RS 39/92 and Local Elections Act (Zakon o lokalnih volitvah), Ur. l. RS 72/93, 7/94, 33/94, 61/95, 70/95, 51/02.

- participate in the discussion of acts of the authorities, make public and motivate its criticism, using government-run and nongovernmental media in keeping with legally established procedures;
- submit proposals to bodies of state authority and local self-government, which proposals these authorities must consider in keeping with established procedures.

### **The United Kingdom**

Participation in elections and in other political activities is not reserved to registered political parties. Thus, unregistered political parties and groups that might not describe themselves as political parties (for example, 'single issue' pressure groups) may undertake political activities, in the broad sense of that term. However, as already explained, unregistered parties and other groups do not enjoy the benefits of being registered: any candidates that they put forward must be described on the ballot paper as 'independent'; they may not put forward candidates for the 'party list' seats in elections where this system is used; and they may not provide any political broadcasts. Despite these restrictions, the House of Commons includes one or two MPs elected as 'independent'. There are elaborate rules contained in PPERA which limit the extent to which individuals and groups that are outside the registered political parties may incur expenditure during elections in support of candidates put forward by registered political parties.

## *2. ESTABLISHMENT*

*2.1 Are there any constitutional, statutory or other legal provisions on the establishment of political parties?*

### **Albania**

L'article 9 paragraphe 1 de la Constitution statue que "les partis politiques sont créés librement", tandis que l'article 3 de la loi sur les partis politiques affirme: "les partis politiques albanais font partie d'un système de gouvernement libre et démocratique dans le pays. Leur création et leur activité sont libres et garanties par la Constitution".

### **Andorra**

Non.



### **Armenia**

There are only statutory provisions on the establishment of political parties (Chapter 2, “Establishment of parties”, Articles 11-14 of the Law of the Republic of Armenia “On political parties”, as well as the Law of the Republic of Armenia “On state registration of legal entities”).

### **Austria**

Selon la disposition constitutionnelle de l’art. premier, § 1 al. 3 de la LPP, le droit de fonder un parti politique est libre et ne peut être restreint que par une loi constitutionnelle fédérale (art. premier, § 1 al. 3 LPP). La création des partis politiques est réglée par la LPP (voir 1.1).

### **Azerbaijan**

Article 3 of the Law of Azerbaijan Republic “On Political Parties” provide for the creation of political parties on the basis of principles of freedom of association, voluntarism, equality of members, self-governing, legality and publicity.

According to Article 13 of the Law of Azerbaijan Republic “On Political Parties” the State shall ensure observance of rights and legitimate interests of political parties, creation of equal legal frameworks for execution of the objects of the Statute of Party by them and for spreading its documents by means of state’s publishing bodies, protection and security of governing bodies of parties, creation of the state custodial service for these purposes as well as organization and equipping of such services.

Except for the cases specified by law the interference of the state bodies and officials into activity of political parties shall be prohibited.

According to Article 14, political party shall pass the state registration by relevant bodies of the Executive.

According to the legislation of Azerbaijan Republic, political party shall be considered as the legal person from the day of its state registration.

According to Article 58 of the Constitution of Azerbaijan Republic, everyone shall have the right to establish any union, including political party, trade union and other public organization or enter existing ones. Unrestricted activity of all unions is ensured.

### **Belgium**

Non. Comme nous l’avons déjà indiqué, la liberté d’association est cependant réglée par la Constitution et la loi du 24 mai 1921 garantissant la liberté d’association. Il résulte de ces textes qu’aucune mesure préventive ne peut être introduite.

### **Bosnia-Herzegovina**

The entity-law on political organizations regulates the establishment of political parties (Art. 11 ff of the RS Law on Political Organizations, Art. 11 ff of the F BH Law on Political Organizations).

### **Bulgaria**

Oui, il existe des exigences constitutionnelles, ainsi que juridiques.

**Canada**

La *Loi électorale du Canada* contient des dispositions concernant la création, le maintien et l'organisation des partis politiques.

**Croatia**

The Constitution of the Republic of Croatia: The establishment of political parties is free.

The Law on Political Parties – Political parties have freedom of establishment and by that they express democratic and pluralistic system as the part of the highest value of the constitutional order of the Republic of Croatia.

**Cyprus**

Yes. Article 21 of the Constitution and the Laws referred to in para. 1.1 above.

**Czech Republic**

The establishment of a political party and a political movement is regulated by the Act on Political Parties.

See. 1.1. and 2.2.

**Estonia**

According to Article 48(1) of the Constitution, everyone has the right to establish non-profit associations, but only Estonian citizens may be members of political parties. The Non-profit Associations Act regulates in general and the Political Parties Act specifically the establishment of political parties.

**Finland**

The establishment of a political party takes place according to the provisions of the law on associations.

**Georgia**

Provisions for establishment of the political parties are determined by the constitution of Georgia, organic law on "Political unions of the citizens", and by other legislative acts.

**Germany**

The free establishment of political parties is guaranteed in the second sentence of Article 21 (1) *Grundgesetz*. Any legal provision regulating the process of the establishment of a political party must respect this constitutional freedom of party – establishment.

**Greece**

According to Art.29 para. 1 of the Constitution, the organization and activities of political parties must serve the free functioning of democratic government.

**Hungary**

See 1.1 and 1.3 above.

**Ireland**

No

**Italy**

No. As it was already answered, such establishment is free, being equated to that of non-recognized associations. The only limitation is provided for by the XII Transitory and Final Provision of the Constitution, which forbids the re-organisation of the dissolved Fascist party, whichever shape it might take.

**Japan**

While there are no particular provisions on the establishment of political parties, political parties are permitted to receive contributions and expend them for political activities once having notified the establishment either to Minister for Public Management, Home Affairs, Posts and Telecommunications General Affairs or to the Prefectural Election Administration Committee as appropriate.

**Korea**

Article 8, clause 1 of the Constitution defines stipulates that the establishment of political parties is free, and Article 30 of the Political Party Law specifies, under the constitution and the law, political parties are provided freedom of action. This guarantees the freedom of political party establishment, action and dissolution.

**Latvia**

Yes. See below.

**Liechtenstein**

Non. A prendre en considération réponses infra au point 4.1.

**Lithuania**

1. The Constitution provides that the establishment and activities of political parties and other political and public organisations shall be regulated by law (article 35, third paragraph).

2. The Law on Political Parties and Political Organisations defines the detailed procedure for the establishment of political parties and political organisations.

**Luxembourg**

Non.

**Macedonia**

The establishment of political parties is regulated by law.

**Malta**

None: the right of association in a political party is completely free and unregulated.

**The Netherlands**

Like any association, a political party has to meet the requirements of Title 2 of the second Book of the Civil Code. Its establishment requires a multilateral legal act (Article 2:26, paragraph 2). If it wishes to acquire full legal personality, its establishment has to take place before a public notary, and in that case its by-laws have to be registered into the registers of the chamber of commerce to avoid personal responsibility of the board members (Articles 2:27 and 2:29).

For a political party to be registered for participation in elections, it has to be an association with full responsibility. It, consequently, has to present evidence that its by-laws have been passed before a public notary and that it has been registered by the chamber of commerce (Articles G.1-G.3 of the Law on Elections).

**Poland**

The Constitution describes very generally principles the political parties shall be founded on, e.i. the principle of voluntariness;, equality of Polish citizens (art.11); More detailed the issues are regulated in the LPP. Art. 1 of the LPP states that a political party shall enjoy the rights resulting from statutory provisions after it has been entered in the register of political parties.

**Romania**

Loi no. 14/2003 concernant les partis politiques réglemente dans le Chapitre 3 l'organisation des partis politiques et dans le Chapitre 4 la procédure de l'enregistrement de ceux-ci.

**Russia**

Yes, there are such provisions in the cited Art. 30 of the Constitution and in the Federal Law on Political Parties.

**Slovak Republic**

Article 29.of the Constitution, Political Parties Act.

**Slovenia**

The establishment of political parties is regulated by art. 4 to art. 18 of the Act on Political Parties. As said, there are no constitutional provisions on this matter.

**Spain**

The Law on Political Parties regulates in detail the establishment of political parties, and the requisites for their creation.

**Sweden**

No. The view underlying the constitutional provisions on political parties is that political parties are free associations of individuals. The activities of these associations should not be regulated by law, as such regulation might constitute a violation of the freedoms of expression and association.

**Switzerland**

Non.

**Turkey**

There are statutory provisions on the establishment of political parties in the LPP.

**Ukraine**

Law on political parties in Ukraine regulates the establishment of political parties.

**The United Kingdom**

This question has already been answered in reply to earlier questions. The governing Act of Parliament is PPERA, 2000.

*2.2 What are the substantive and procedural requirements to establish a political party*

*– in general?*

*– concerning its political programme?*

*– concerning founding members or concerning other individuals, who in some way have to support the establishment (and their number, citizenship, geographical distribution etc.)?*

**Albania**

Jusqu'au jour de l'enregistrement d'un parti politique, les fondateurs peuvent accomplir des activités qui sont nécessaires pour son organisation, comme, surtout, la convocation et le déroulement de la réunion des membres fondateurs et l'élection des organes dirigeants, mais il ne peuvent pas accomplir des activités en tant que parti politique.

Après l'approbation, par la réunion des membres fondateurs, des documents du parti (programme et statut) et l'élection des organes dirigeants, doit être présentée au tribunal la requête pour son enregistrement. Cette requête doit être signée par, au moins, 500 citoyens albanais, qui ont une résidence permanente en Albanie.

**Andorra**

Selon la Constitution et la loi qualifiée précitée, seuls les andorrans peuvent créer un parti politique et en faire partis.

**Armenia**

*a) General requirements:*

The party is established freely, by the decision of the Founding Conference of its members. Within at least one month prior to holding of the Founding Conference, the organizers of the Founding Conference shall publish through mass media information about the venue and the hour of holding the Founding Conference of the party, as well as main provisions of the Charter and the program of

the party. The Founding Conference is competent if delegates from at least the two-third of the Regions of the Republic of Armenia are present (registered) at the conference.

For the state registration of the party the following are submitted to the authorized body:

- 1) excerpt from the minutes(protocol) of the founding conference, which shall include data on the establishment of the party, territorial coverage, approval of its Charter and program documents, person(s) authorized for state registration, formation of management and supervision performing bodies;
- 2) the bound and paginated Charter and Program of the party, signed by the authorized person(s);
- 3) the application to the registering body signed by members of permanently functioning management body of the party, which shall include passport data and notice on residence place of each of the signatory;
- 4) the address of the location of the permanently functioning management body of the party;
- 5) the copy of the periodical printed media, where the information about the venue and the hour of holding of the Founding Conference has been published;
- 6) the document attesting the payment of the registration fee.

Documents envisaged by Clause 3 of this Article shall be submitted for state registration not later than within three months after the date of holding of the Founding Conference.

In case of submitting the documents envisaged by Clause 3 of this Article, within one-month period, the state authorized body issues to the party the state registration certificate with no term limitation (permanent), in which the date of issuance of the certificate is specified as the date of the state registration of the party, or rejects the state registration of the party.

*b) Requirements to political programme:*

The party shall have a program, which specifies the basic principles, objectives, and tasks of its activity, as well as ways and forms of achieving such objectives and methods and means of fulfilling the tasks.

The state registration of the amendments to and restatements in the program of the party shall be performed in compliance with the procedure established for state registration of the party by this Law.

*c) Requirements to founding members or concerning other individuals, who in some way have to support the establishment:*

According to Paragraph 4 of Article 11 of the Law of the Republic of Armenia "On political parties" the founders of the party are the delegates of its Founding Conference, who are deemed party members upon adopting the decision on the establishment of the party. According to paragraph 1 of Article 5 the party shall have not less than 200 members.

Besides, the Law factually obligates that the members of political parties should be only the citizens of the Republic of Armenia. The evidence of that is the requirements of Point 1 of Paragraph 3 of Article 3: a union shall not be recognized as a party, if its Charter allows membership of foreign citizens, citizens lacking citizenship, with the exception of cases envisaged by this Law, as well as membership of foreign and international organizations;

**Austria**

La LPP ne contient aucune disposition sur le nombre minimum de personnes pour la création d'un parti politique. Les membres fondateurs d'un parti politique ne doivent pas avoir obligatoirement la nationalité autrichienne, mais ils doivent être juridiquement capables au sens du Code civil autrichien. Cependant, le droit de candidature aux élections générales, sauf les élections municipales, est réservé seulement aux personnes de nationalité autrichienne. Les droits de vote et de candidature

aux élections municipales sont attribués à tous les citoyens des pays membres de l'Union Européenne résidant régulièrement en Autriche.

Les membres fondateurs d'un parti politique doivent, d'abord, adopter les statuts du parti politique contenant impérativement :

- les organes du parti politique,
- les organes (personnes) qui représentent le parti en relation avec des tiers,
- les droits et les devoirs individuels des membres du parti politique,
- ainsi que les objectifs principaux du parti politique, à savoir la participation à la « formation de la volonté politique » du pays.

Ensuite, les statuts du parti politique doivent être publiés dans un journal périodique et puis « mis en dépôt » au Ministère Fédéral de l'Intérieur. Lors du dépôt des statuts, le parti politique obtient la pleine capacité juridique.

### **Azerbaijan**

According to Article 4, political parties shall be established on the territorial basis. The activity of the primary organizations, committees and other organizational structures of political parties in state structures shall be prohibited. For registration of the political party the required number of its members must be at least 1000 persons, citizens of Azerbaijan Republic.

Creation and activity of foreign political parties within the territory of Azerbaijan Republic and also their sub-units and organizations shall be prohibited.

According to Article 6 of the Law of Azerbaijan Republic "On Political Parties" the political party must have its Statute. The Statute must be opened for public.

In accordance with Article 12 the Governing bodies of parties must be located within the territory of Azerbaijan Republic. Initiators of creation of political party convoke the constitutive congress or general meeting. The Statute shall be adopted and the governing bodies shall be established during such meetings.

According to Article 8 the political parties shall have the fixed membership.

### **Belgium**

Sans objet.

### **Bosnia-Herzegovina**

All political parties have to be established according to legal provisions of the laws on political organizations. The only obligation of every party is to lay down the political goals and the means necessary for its achievement in its decision on establishment and in its statute. However, there are no particular provisions which regulate what the political program of a party has to be exactly. Therefore, this obligation is of a general nature. After establishment, every party has to file a request for registration with the competent entity –law within 30 days after establishment. However, the entity-laws provide for different conditions for establishment. The RS Law, in its Art. 11 and 12 request at least 500 RS-citizens of age for the establishment of a party. The F BH Law, in its Art. 11 and 12, request 50 citizens of age.

### **Bulgaria**

Les partis politiques doivent être enregistrés au tribunal en vertu de la Loi sur les partis politiques, laquelle régit notamment les exigences d'établissement des partis politiques en

générale, ainsi que les exigences concernant leurs programmes politiques et les interdictions. En Bulgarie un parti politique peut être constitué par au moins 500 citoyens bulgares qui ont des droits électoraux.

### **Canada**

– *En général?*

Faire une demande d'admission à titre de parti enregistré. Cette demande doit contenir les éléments suivants :

- a) le nom intégral du parti;
- b) le nom du parti en sa forme abrégée, ou l'abréviation de ce nom, qui doit figurer sur les documents électoraux;
- c) le logo du parti, le cas échéant;
- d) les nom et adresse du chef du parti;
- e) l'adresse du bureau du parti où sont conservées les archives et où les communications peuvent être adressées;
- f) les nom et adresse des dirigeants du parti;
- g) les nom et adresse du vérificateur du parti et sa déclaration signée d'acceptation de la charge;
- h) les nom et adresse de l'agent principal du parti et sa déclaration signée d'acceptation de la charge;
- i) les nom, adresse et signature de cent électeurs membres du parti.

– *Concernant son programme politique?*

Aucune condition.

– *Concernant les membres fondateurs ou d'autres personnes qui d'une façon ou d'une autre doivent soutenir la création du parti (ainsi que leur nombre, nationalité, distribution géographique, etc...)?*

Il n'y a pas de condition spécifique.

### **Croatia**

– *in general*

The political parties cannot establish their organizational formations in the state bodies, in the local and regional self-government bodies, companies, institutions, in the armed forces, police and other legal entities.

– *concerning its political program*

The Constitution of the RC: Political parties which by their programs or violent activities aim to demolish the free democratic order or endanger the existence of the Republic of Croatia are unconstitutional. The decision on unconstitutionality shall be made by the Constitutional Court of the Republic of Croatia.

– The Law on Political Parties: In the case that the competent ministry evaluated that the political party, submitting for registration, by its program aims to demolish the free democratic order or



endangers the existence of the RC, will institute the proceedings of the constitutionality before the Constitutional Court of the Republic of Croatia.

*– concerning founding members or concerning other individuals,.*

By the Law on Political Parties - political party may be founded by at least 100 citizens of the Republic of Croatia who are major (of age 18) and with civil capacity. Further more, when registering, a proof of Croatian citizenship of the founding members and members of governing bodies should be attached to the claim.

### **Cyprus**

The substantive and procedural requirements to establish a political party are included in s.8 of the above Laws which provides as follows:

”8 (1) The registration of a party in the Register of Political Parties is effected by the submission of an application by the Party which is signed by the Leader, the General Secretary or the President of the Governing Board of the Party or his duly authorized representative.

(2) The application shall be accompanied by the Charter of the Party.

(3) The application shall contain the following:

(a) The name of the Party.

(b) The emblem of the party if there is one, and

(c) The name and address of the Leader, the General Secretary or the members of the Governing Board of the Party.”

### **Czech Republic**

A political party can be established only by virtue of an affirmative manifestation of will of its future members. First, a preparatory committee numbering a minimum of three members needs to be formed. It carries out only activities aimed at the formation of the party and movement. Its members must be citizens of the Czech Republic aged 18 and over. One of the members must be authorized to act on behalf of the committee.

The committee lodges an application for the party’s registration. A petition numbering a minimum of 1,000 citizens demanding the formation of the party and movement and statutes of the party need to be enclosed with the application for registration.

The party’s statutes must contain the name and abbreviated name of the party and movement, its seat, programme and objectives, members’ rights and duties, principles of internal organization, bodies, rules for conducting business and acting, principles of management and provisions on membership fees.

Pursuant to the Act on Political Parties the following parties and movements may not be established and conduct activities:

a) parties violating the Constitution and the law, or parties aiming to remove the democratic foundations of the state,

b) parties lacking democratic statutes or democratically constituted bodies,

c) parties aiming to seize and hold power, and to prevent other parties and movements from seeking power through constitutional means, or parties aiming to suppress equality of citizens,

d) parties whose agenda or activity jeopardize morality, public order or the rights and freedoms of citizens.

The party must be seated in the territory of the Czech Republic. To qualify for membership, a person needs to be over 18 years of age and must not be a member of another party.

### **Estonia**

The Political Parties Act provides that a political party shall be founded by a memorandum of association in unattested written form. The activities of political parties shall be based on their articles of association, whereas the political activities of a party shall be based on a platform. The procedures for approval and amendment of the platform shall be provided for in the articles of association of the political party.

The application to enter a political party in the non-profit associations and foundations register must be appended by a memorandum of association, articles of association, platform, and the list of the members of the political party. Also a sample or sketch of the insignia of the political party shall be submitted, if these are prescribed by the articles of association.

The law does not provide for any substantive requirements for the platforms of political parties, except for the constitutional prohibition to establish organisations, unions, and political parties whose aims or activities are directed at changing the constitutional order of Estonia by force, or are otherwise in conflict with the law providing for criminal liability.

In order to be registered, a political party must have at least 1000 members. There is no requirement of certain geographic distribution of the members, but only Estonian citizens of at least 18 years of age may be members of political parties. Political parties shall be formed on the principle of territoriality. They shall not found sub-units in institutions, enterprises or organisations. Political parties shall not have corporate members. An individual shall not be a member of more than one political party at the same time.

### **Finland**

According to the law on associations, three persons may found an association to pursue purposes which do not contradict the law or good manners. If the purposes of the association include influencing political matters, non-citizens may be members only if their residence is in Finland. The same requirement concerns membership in the board of such an association.

### **Georgia**

a) Creation of the political party is considered as a right of a citizen and essential restriction for the establishment of the party is provided by the law: "The creation and activities of such public and political entities whose goal is to overthrow or change the Constitutional order of Georgia by force, violate the independence of the country or violate the Country's territorial integrity or advocate war and violence, or attempt to induce ethnic, racial, social and national unrest is impermissible"(Georgian Constitution Article 26).

b) The right to create political party have 300 citizens of Georgia who have electoral right, as it is provided by legislation they have to organize (without beforehand permission) meeting (conference, congress, assembly and etc.) of the founders of the party.

### **Germany**

The main requirement for an organization which wants to establish itself as a political party is that it falls within the definition of a political party. This means it has to fulfil the following structural characteristics according to Article 21 *Grundgesetz* and Section 2 *Political Parties Act*:

- 1.) The association must have an organizational structure.
- 2.) It must aim to influence the formation of political opinions either at Federal or State level.
- 3.) It must offer sufficient guarantee of the seriousness of its efforts.

Whether an organization fulfils these features is determined by objective criteria, „*the general character of its circumstances and attendant conditions*” (Section 2 (1) (1) *Political Parties Act*).

As far as the organizational structure is concerned the association must consist of an „*association of citizens*”, which means only an association of natural persons (Section 2 (1) (2) *Political Parties Act*), the majority of the association’s members and the majority of the party’s executive committee members must be persons of German nationality, although the law reads out in Section 2 (3) no. 1 *Political Parties Act* that the majority of the party’s members *or* it’s executive committees member’s must be of German nationality. Section 2 (3) no. 1 *Political Parties Act* is interpreted from the perspective of the electoral provisions: Since only citizen of German nationality have the right to vote in elections to the Federal or State representations an organization whose member majority or majority of it’s executive committee members’ consists of non-German nationals is not seen as an instrument forming the will of the (electoral) people. An exception from this rule exists only for organizations running for elections to the European Parliament or regional representations. The registered seat of business of the association must be located in Germany (Section 2 (3) no. 2 *Political Parties Act*).

The associated persons must have a common political aim. They must pursue this aim by *setting out to influence* –either permanently or for an extended period of time *the formation of political opinions* at Federal or State level and aim to participate in the representation of the people in the Federal Parliament or in the parliaments of the States. The association must *offer sufficient guarantee of the seriousness of these aims in the general character of its circumstances and attendant conditions*. Only associations which are capable of and willing to participate in government on the Federal or the State level are deemed as associations which give a sufficient warranty of the seriousness of their aims. Since this requirement can create the risk of excessive control of political parties’ aims it must be measured by objective criteria e.g. *the party’s’ size, the strength of its organization, the number of its registered members and its public activities*, (Section 2 (1) (1) *Political Parties Act*). Another legal presumption is contained in Section 2 (2) *Political Parties Act*, which states that in cases in which an organization has not participated for a period of six years in either a Federal election or in an election to a representation of the States with electoral proposals of its own, it is not deemed (any more) to be a political party.

However, it is noteworthy that participation at every election is not absolutely necessary. Success at the elections is also not necessary. Otherwise organizations, which are willing to take part but which have so far not taken part in elections, or have so far been without any success, would be discriminated against. Their freedom of party-establishment and their right to equal treatment would be restricted. Therefore the courts grant newly founded parties a period of preparation during which the will to participate in elections is presumed.

As far as the associations’ *organization* is concerned, it is necessary that its members meet on a regularly basis and not just from time to time by coincidence. To provide for such regularity the association has to have special institutions, which are appointed by party-members and must perform certain functions. An organizational structure requires that there exist special rules for meetings, for the appointment of vacant party-posts, for the delegation of work, the work that has to be done, and the financing questions.

The term "size of the organization" refers to dimension, extension and geographical distribution of the political party. There does not exist a requirement of a minimum number of members for a party. The number of its members must be seen in relation to other parties with respect to the differences between the parties and all the other characteristic features which are necessary for an organization to form a political party. The fulfilment of these criteria can compensate for the fact that the association consists of only a few members, or for its lack of success in elections. In this context, attention must be paid to newly founded organizations. The institutional and organizational requirements for the organizational structure of a party are expressed in the *Political Parties Act*. From the institutional perspective political parties shall have a political programme (Section 1 (3) *Political Parties Act*) where they define their aims. This programme must be written, like the party's statute (Section 6 (1) *Political Parties Act*). Section 6 (2) *Political Parties Act* requires that the party's statute must contain provisions regarding:

1. The name and acronym (if used), the registered seat and the activities of the party.
2. The admission and resignation of members.
3. The rights and duties of members.
4. Admissible disciplinary measures against members and their exclusion from the party (Section 10, Paras. 3 –5).
5. Admissible disciplinary measures against regional organizations.
6. The general organization of the party.
7. Composition and powers of the executive committee and other organs.
8. Matters that may only be decided upon by a meeting of members and representatives pursuant No. 9.
9. The preconditions, form and time limit for convening meetings of members and representatives and the official recording of resolutions.
10. Regional organizations and organs that are authorized to submit or sign election proposals for elections to parliaments in as much as there are no relevant legal provisions.
11. An overall vote by members and the procedure to be adopted when the party convention has passed a resolution to dissolve the party or a regional organization or to merge with another party or parties pursuant to Section 9 (3). The result of the overall vote determines whether the resolution is confirmed, amended or rescinded.
12. The form and content of a financial structure, which satisfies the rules of Section V of this law.

According to Section 6 (3) *Political Parties Act* the party's executive committee has to inform the Federal Returning Officer of:

1. The party's statute and programme
2. The names of the members of the executive committee of the party and its regional organizations together with their duties.
3. The dissolution of the party or a regional organization. Amendments to Sentence 1 (1) and (2) above must be notified by 31 December of the given calendar year. The relevant documents are held by the Federal Returning Officer and made available to the public for perusal and inspection. On request, copies of the document are provided free of charge.

## **Greece**

### *In General:*

A declaration of foundation has to be presented before the Supreme Court (Arios Pagos). The President, the Secretary-General or the Administrative Committee present this declaration, which states that the party's organization and activities aim at serving the free functioning of democratic government. Furthermore, the above mentioned persons communicate the declaration of foundation, which must be signed by 200 persons, the statute, the symbol and name of the party, as well as the official seat to the Attorney-General of the Supreme Court.

### *Concerning its Political Program:*

None, except the respect of democracy.

### *Concerning the Founding Members:*

200 persons are required to sign the declaration of foundation in order for the party to be legally registered as such. No other legal requirements are set forth.

## **Hungary**

### *- in general:*

The party must fulfil the requirements of establishing an association. To establish an association, at least ten founding members shall declare the establishment of the association, determine the statute (charter), and elect the representative organs and the management. Then a court shall register the association. The registration has constitutive effect.

Substantially, the statute must contain the purpose (aim, object) of the association. The association shall be voluntary, self-governing, shall have registered members and shall show a regular activity. (§§ 3-5 AA) Further the statute shall provide for the name, the seat and the organisation of the party.

In addition, to be registered as a party, the association has to declare before the registering court that it regards the PA obligatory for itself. (§ 1 PA)

If an already registered association wish to register as party, besides this declaration it has to submit its balance sheet (of its property) to the registering court. (§§ 15, 16 PA)

- The party is not required to have or to submit a political programme for registration, or to have one. Of course the aim of the association must show that it will function as a political party (participate in formation of political will of the people, participate in the elections). In the praxis, however, many parties sum up their political programme as the purpose/object of the party.

- The ten founding members, as well as all other members of a party shall be natural persons. (§ 3 (3) AA) (Associations are open to the membership of legal persons, too.) Founding members and officers of a party shall be Hungarian citizens. Party members without Hungarian citizenship have no right to vote and cannot propose candidates for party offices either. (§ 8 (2) AA)

According to the Constitution the president of the republic, members of the Constitutional Court, professional staff of the armed forces, the police, the civil national security service, judges, public prosecutors may not be members of political parties and may not engage in political activities. (Art 30 (1), 32/A (5), 40/B (4), 50 (3), 53 (2) Constitution)

This prohibition of party membership as regards professional staff of the armed forces, police and national security do not violate Art. 10 and 11 of the European Convention of Human Rights (Rekvényi v Hungary, 25390/94, Judgement of 20 May 1999).

**Ireland**

There are none.

**Italy**

See answer to 2.1.

**Japan**

There are no provisions regarding the substantive and procedural requirements for establishing a political party in the Public Offices Election Law, the Political Funds Control Law, the Law for the Government Subsidies for Political Parties, and the Law on Granting Legal Personality to Political Parties.

**Korea**

The following are requisites for establishing a political party

- Generally, the central party must register the party at the CEMC (Article 4 of the Political Party Law), but filling out or canceling the registration abides by formal conditions such as the number of party members etc. rather than actual conditions in order to prevent it from being permitted as a license, and guarantees freedom of accession to and withdrawal from a party by a citizen. (Articles 19, 20, 23 of the Political Party Law)

- Main principles of a political party are that must be democratic in their objectives, organization, and activities. If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring action against it in the Constitutional Court for its dissolution. (Article 8, clauses 2, 4 of the Constitution) In addition, the political party must make public its main principles (or general policies) and the party constitution. (Article 28 of the Political Party Law)

- Regarding its members or supporters, a political party must be accommodated with a minimum of 20 sponsors for the formation of a central party and a minimum of 10 sponsors for a constituency. (Article 5 of the Political Party Law) A political party must also have enough constituency chapters to correspond to 1/10 of the total number of voters in their Assembly election district, be distributed in more than 5 municipalities, megalopolis or provinces (the number of constituency chapters may not exceed 1/4 of the total number of constituency chapters in the political party.) and their constituency must have a minimum of 30 members, all of whom are citizens of the Republic of Korea. (Articles 25, 26, 27 of the Political Party Law)

**Latvia**

*– in general?*

The political organization must be established and registered in accordance with the Law (See answers to questions 2.4 and 3.5).

*– concerning its political programme?*

The programme should not include violation of the constitution and laws.

*– concerning founding members or concerning other individuals, who in some way have to support the establishment (and their number, citizenship, geographical distribution etc.)?*

The Article 45 of the Law on Social Organizations and Their Associations provides:

”The members of a political organization (party) can be only citizens of Latvia who have reached the age of 18 years and persons to whom in accordance with the law ”On the Status of those Citizens of the Former USSR who do not have the Citizenship of Latvia or Another Country” are entitled to receive a non-resident’s passport issued by the Republic of Latvia and who have joined a political organization (party) individually observing the provisions of the statutes.

Persons who have reached the age of 16 years can be candidates for members of a political organization (party).

Only such political organizations parties where no less than half of all the members are Latvian citizens may be registered and may operate within Latvia.

Legal entities may not be members of a political organization (party).”

But there are no requirements about geographical distribution of the members. (see also answers to question 1.3.)

## **Liechtenstein**

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## **Lithuania**

1. Article 3 of the Law on Political Parties and Political Organisations provides that in order to found a political party or a political organisation, the party or the organisation must have no less than four hundred founding members in Lithuania, a charter (statutes) approved by their conference, a program, and an elected governing bodies. The program and charter (statutes) of the party or organisation that is being founded may not contradict the Constitution and laws of the Republic of Lithuania.

The same article 3 of the Law on Political Parties and Political Organisation defines the list of provisions to be necessarily included in the party’s or organisation’s charter (statutes):

- 1) name of the party or political organisation, its headquarters, aims, tasks and territory of the activities;
- 2) conditions and procedure to enter and leave the party or political organisation;
- 3) rights and obligations of the members of party or political organisation;
- 4) structure of party or political organisation, the methods to form its divisions, the procedure of election of the leaders;
- 5) the means and time to convene the highest governing institution of the party or political organisation, the competence of that institution;
- 6) procedure of the election of governing bodies and their competence;
- 7) sources of income;
- 8) execution of the control on the activities of the institutions of party or political organisation;
- 9) procedure to amend the charter (statutes);
- 10) termination of the activities of party or political organisation and the procedure to use its property.

Other questions of the organisation of the activities of party or political organisation could also be included in the charter (statutes).

**Luxembourg**

Non.

**Macedonia**

A political party may be established by at least 500 citizens of the Republic of Macedonia over 18.

A party is established at an assembly of the founding members, which adopts Act of establishment, Statute and Political programme.

**Malta**

Under The Foreign Interference Act of 1982, Chapter 300, an alien (meaning a non-Maltese citizen) may not take part in political activities in Malta in the period of nine months preceding a General Election. So that one can correctly say that non-Maltese can only participate in a Maltese Political Party in the period which is not covered by the nine months immediately preceding an election. Otherwise there is no other limitation. Even so this controversial piece of legislation is today no longer enforced and stands to be formally abrogated. No other form of requirement is established by law.

**The Netherlands**

Se 2.1.

**Poland**

There is a statutory provision that political parties may not perform duties reserved by legal provisions for organs of public authority and shall not replace such organs in the performance of their duties. Only citizens of the Republic of Poland, who have attained the age of 18 years, may be members of political parties. The LPP stresses also that political parties shall shape their structures and specify principles of operation in accordance with democratic principles, in particular, by securing the transparency of such structures as well as by appointing party bodies by way of election and adopting resolutions by a majority vote.(art.8)

**Romania**

*A – généralement ?*

La loi prévoit que chaque parti politique doit avoir statut et programme politique propres.

Le statut du parti politique contient obligatoirement :

- a) la dénomination intégrale et dénomination abrégée ;
- b) la description du signe permanent ;
- c) le signe permanent sous forme graphique blanc – noir et couleur, dans l'annexe ;
- d) le siège central ;
- e) la mention expresse qu'il s'agit seulement des objectifs politiques ;
- f) les droits et devoirs des membres ;



- g) les sanctions disciplinaires et les procédures par lesquelles celles-ci peuvent être appliquées aux membres ;
- h) la procédure d'élection des organes exécutifs et leurs compétences ;
- i) la compétence de l'assemblée générale des membres ou de leurs délégués ;
- j) les organes fondés de pouvoirs pour représenter des candidatures dans les élections locales, parlementaires et présidentielles ;
- k) l'organe compétent à proposer la réorganisation du parti ou à décider l'association dans une alliance politique ou dans d'autres formes d'association ;
- l) les conditions dans lesquelles il cesse l'activité ;
- m) le moyen d'administration du patrimoine et les sources de financement, établies dans les conditions de la loi ;
- n) l'organe qui représente le parti dans les relations avec les autorités publiques et tiers;
- o) autres mentions prévues comme obligatoires dans la présente loi.

Le statut et le programme politique du parti doivent être présentés en forme écrite et approuvés par les organes fondés de pouvoirs par le statut.

*B – en fonction de son programme politique ?*

Conformément à l'art. 3, alinéa (2) de la Loi no. 14/2003 sont interdits les partis politiques qui, par le statut, programmes, propagande d'idées ou par d'autres activités qu'il organise, usurpent les prévisions de l'art. 30 alinéa (7), art. 37 alinéa (2) ou (4) de la Constitution.

Art.30 alinéa (7) de la Constitution prévoit qu'on interdit par la loi la diffamation du pays et de la nation, l'impulsion à guerre d'agression, à la haine nationale, raciale, de classe ou religieuse, l'incitation à la discrimination, au séparatisme territorial ou à la violence publique, aussi bien que les manifestations obscènes, contraires aux bonnes mœurs.

Conformément à l'art. 37 alinéa (2) de la Constitution les partis ou organismes qui, par leurs buts ou activité, militent contre le pluralisme politique, des principes de l'état de droit ou de la souveraineté, de l'intégration ou de l'indépendance de la Roumanie ne sont pas constitutionnels, et à l'alinéa (4) ont stipulé que les associations à caractère secret sont interdites.

*C – en fonction des membres fondateurs ou autres personnes, qui ont soutenu la constitution du parti (et autres membres, la citoyenneté, distribution géographique)?*

Art. 6 de la Loi no. 14/2003 stipule que peuvent être membres des partis politiques les citoyens qui, conformément à la Constitution, ont droit de vote conformément à l'art. 34 de la Constitution, respectivement les citoyens qui ont accompli l'âge de 18 ans, jusqu'au jour des élections inclusivement et qui ne sont pas débiles ou aliénés mentaux, posés sous interdiction ou qui n'ont pas été condamnés, par décision judiciaire définitive, à la perte des droits électoraux.

Art.7 et 8 de la loi contiennent des dispositions concernant les personnes qui peuvent être membres d'un parti politique.

Des partis politiques ne peuvent pas faire partie les personnes auxquelles on interdit par la loi l'association politique. Un citoyen roumain ne peut pas faire partie en même temps de deux ou plusieurs partis politiques. L'inscription d'une personne dans un autre parti politique constitue de droit démission du parti dont le membre il fut en avance. Les membres des organisations des

citoyens appartenant aux minorités nationales qui inscrivent des candidats dans élections peuvent faire partie aussi d'un parti politique, ayant le droit de poser leur candidature dans les conditions de la loi.

### **Russia**

Generally a political party is established freely, without any authorization of state bodies or their officials. It may take place at a constituent congress or by transforming any all-Russian public association or movement at its congress to a political party. After establishing a party is to be registered as juridical person.

As far as political programs are concerned, a party must follow the mentioned Art. 13 (5) of the Constitution. The Federal Law on Political Parties prohibits establishment and activity of parties, if their aim is extremist activity. Moreover, no political party may be established on professional, racial, national or religious ground.

A party may not consist of people, belonging to the same profession. The establishing or activity of political parties of foreign countries, or of their branches shall not be admissible. The parties' structure units are established and act only on the territorial ground. They are not allowed to be established or act in bodies of state power and local self-government, in the Armed Forces, in the police and other state bodies and organizations and non-state organizations as well. The only exclusion are legislative (representative) bodies of state power and representative bodies of local self-government, except their staff.

A political party must have its regional branches in more than a half of the total number of federal units of Russia. In a federal unit, it may be established only one regional branch of the party. The total number of party members must be no less than 10 000 people, and in more than a half of the total number of federal units every regional branch must have at least 100 members. Other regional branches must have at least 50 members. All party structures must stay on the Russian territory.

### **Slovak Republic**

Each political party and/or movement has to comply with a number of substantive and procedural requirements to be registered as a new political subject. Following statutory requirements should be met: content and main goals of its political programme and practical orientation of its everyday political activity, the number and „quality” of its founding members and procedural requirements prescribed for the administrative process of registration.

*Political programme* forms one of the basic precondition for the registration of each new political party and/or movement in Slovak Republic. Generally speaking if the political programme of new political subject or its main goals fail to comply with specific „programmatic” requirements of Political Parties Act according to its Article 4 political party „shall be prohibited provided that its programme or activities endanger morality, public order or the rights and freedoms of citizens (letter d) as well as its programme is directed „against sovereignty and territorial integrity of the Slovak Republic” (letter e).” The Ministry of Interior therefore refuses the registration of political party or movement if its political programme or activity is not in accordance with the aforementioned provisions of the Political Parties Act.

With respect of *founding members* of new political party Article 6, para. 2 of Political Parties Acts specifies that three members of the preparatory committee (at least) are entitled to propose the registration of new political subject at the Ministry of Interior. The members of the preparatory committee must be citizens of the Slovak Republic aged minimally 18 years. One of the

supplement required for the registration of new political subject is a petition signed at least by 1000 citizens of Slovak Republic supporting the setting up of new political subject (Article 6.para.2 letter a) of the Act).

### **Slovenia**

Party can be established by 200 adult citizens, who sign an “establishment statement” at the notary office. The statement must include name, address, citizenship, birth date, name of the party and the statement saying that the member accepts the statute and the program of the party.

Party must have a name in Slovenian language, an abbreviation and a symbol. None of them can be similar to the name, abbreviation or a symbol of another party.<sup>21</sup>

Party must have a statute and a program at the time of its registration as well as its president or other responsible person, elected by the founding members.

### **Spain**

The Constitution establishes only that “the internal structure and the functioning of the parties shall be democratic” (Art. 6). Concerning party programs, the Constitution establishes only that those associations *which pursue goals* or employ means *legally classified as criminal* shall be illegal (Art. 22.2 of the Spanish Constitution).

The Law on Parties establishes a series of formal requisites for the creation of a political party. The party must be created by means of a formal instrument, which must be recorded on the official Register of Political Parties at the Ministry of the Interior, together with the Party’s Bylaws.

Concerning the condition and requisites of the founding members, the Law on Parties does not require a fixed or minimum number of founders. It requires them to be physical persons, of legal age, in full disposition of their legal rights. They should not have been convicted of crimes of illegal association or other serious crimes set forth in Titles XXI to XXIV of the Criminal Code.

There are also some special provisions in the Law in order to avoid the re-founding of illegal parties, by requiring the Courts to take into account the “substantial similarity in the persons which compose, direct represent or administer” them (Art. 12.3) to forbid the illegal continuation of a previously dissolved party.

### **Sweden**

There are no such requirements to establish a political party.

### **Switzerland**

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### **Turkey**

In general, political parties can be established by at least 30 Turkish citizens who are eligible for membership in parliament.

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<sup>21</sup> Art. 8 of the Act on Political Parties.

Parties' programs and the constitutions cannot be against the independence of the state, its indivisibility with its territory and nation, human rights, principles of equality and the rule of law, national sovereignty, principles of democratic and secular Republic; they shall not advocate the establishment of class or group dictatorship or any other kind of dictatorship; they shall not incite to commitment of crimes (Constitution, Art. 68, para. 4).

Founding members must be eligible for membership in parliament. Thus, under Article 76 of the Constitution, they must have completed 30 years of age, completed at least their primary education and their compulsory military service, must not be under legal tutelage, and must not be sentenced for one of the crimes enumerated in the Constitution.

### **Ukraine**

According to Article 1.0 of the Law of Ukraine on Political Parties of Ukraine a political party shall be established as resolved by its constituent convention (conference, meeting). The resolution shall be supported by at least ten thousand signatures on the part of Ukrainian citizens with a right to vote during elections, collected in at least two-thirds of the districts of at least two-thirds of the administrative regions [oblasts] of Ukraine and in the cities of Kyiv and Sevastopol, and in at least two-thirds of the districts of the Autonomous Republic of the Crimea.

The constituent convention (conference, meeting) of a political party shall adopt its statute and programme, and shall elect its executive and supervisory-auditing bodies.

A political party shall start operating only after being registered. Unregistered political parties shall not be allowed to operate.

### **The United Kingdom**

1) As already explained, there are no legal requirements that must be observed before a political party may be established. However, if a party wishes to register as such with the Electoral Commission and get the benefits of registration, it must observe what is required by PPERA. These include the requirement (PPERA s 24) to register the names of the office-holders in the party – the leader, the nominating officer and the treasurer – but the same person may hold two or all three posts. By s 25, there is provision for a person to be registered as the party's campaigns officer, and up to 12 deputy campaigns officers may be appointed. By s 26, the financial structure of a registered party must conform with the general requirements of the Act and must have been approved in writing by the Electoral Commission (s 26(1)). To satisfy the Act's accounting requirements, a party's financial structure may consist solely of a single organisation, or of a central organisation with one or more constituent or affiliated organisations that are identified as separate accounting units (s 26(3)). The Commission may require changes to be made in any scheme submitted by a party (s 26(5)).

2) The procedure of applying for registration of a party is set down in PPERA, ss 28, 30, 31, 33 and schedule 4. The application must include a declaration that the party intends to contest one or more relevant elections in Great Britain, together with a statement of whether the party intends to contest elections in Northern Ireland (s 28). The Commission must register the party under the name submitted unless one or more grounds for refusal exist; these include use of the same names as parties already registered, names that will cause confusion with parties already registered, obscene or offensive names, names which it would be a criminal offence to publish,

the use of non-roman script, and of words or expressions banned by the Commission (s 28(4)).<sup>22</sup> The Commission may permit a party to register up to three emblems to be used at election times (s 29). Changes in the party's registered particulars may be made on application by the party (ss 30, 31). Some small parties may be registered as minor parties (s 34), indicating that they will have candidates only at the lowest level of local government.

3) Detailed procedural requirements are contained in PPERA, Schedule 4. An application must state the name of the party, its headquarters or a postal address, the home addresses of the main party officers, and a copy of the party's constitution must be provided. This means "the document or documents (of whatever name) by which the structure and organisation of the party is determined" (PPERA, s 26(9)).

4) Subject to compliance with these procedural requirements, there are no substantive limits on the political programme that a party may adopt, nor are there rules concerning founding members, the number of members, citizenship or geographical distribution.

*2.3 Are there legally defined limits for what may be legally acceptable as a political programme of a political party?*

### **Albania**

Selon la Constitution (article 9 paragraphe 1) l'organisation des partis politiques doit être en conformité avec les principes démocratiques. Dans le paragraphe 2 du même article est statué: que "sont interdits par la loi les partis politiques et les autres organisations, dont le programme et l'activité sont basés sur des méthodes totalitaires, qui incitent et soutiennent la haine raciale, religieuse, régionale ou ethnique, qui utilisent la violence pour la prise du pouvoir ou pour influencer sur la politique étatique, de même que ceux qui ont un caractère secret".

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<sup>22</sup> See Registration of Political Parties (Prohibited Words and Expressions) Order 2001 (SI No 83/2001). The prohibited words include terms like Her Majesty and the Queen and certain phrases (such as England and the United Kingdom) can be used only if qualified by another word or expression.

**Andorra**

Le parti politique ne peut avoir une activité contraire à la loi.

**Armenia**

The limits and requirements concerning political programme have mentioned above (see 2.2.b)

**Austria**

Le droit de fonder un parti politique ne peut être restreinte que par une loi constitutionnelle fédérale (voir 2.1). Selon la Loi constitutionnelle fédérale portant interdiction des activités national-socialistes de 1947 (LINS, « Verbotsgesetz »), JOF n° 25/1947 (dernière modification : JOF n° 148/1992) et les articles 9 et 10 du Traité de Vienne de 1955, JOF n° 152/1955 (dern. modif. : JOF III n° 179/2002), toute organisation national-socialiste ou fasciste et toute activité glorifiant ou propageant l'idéologie national-socialiste ou fasciste sont interdites. L'acte de mettre en dépôt les statuts contenant un programme politique contraire aux interdictions prévues par la LINS au Ministère Fédéral de l'Intérieur est qualifié comme un acte punissable au sens des articles 3 et suivants de la LINS. Dans un tel cas, l'acte de création du parti politique est considéré illicite et, par conséquent, le parti politique n'a pas été formellement créé.

**Azerbaijan**

Such limits are not defined. However, according to Article 14 of the Law of Azerbaijan Republic "On Political Parties", the political party shall submit an application within a month from the moment of adoption of the Statute.

**Belgium**

En ce qui concerne le programme des partis, la loi ne crée de limitations que dans le domaine financier.

La loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques prévoit en effet que :

« Art.15bis. Pour pouvoir bénéficier de la dotation prévue à l'article 15, chaque parti doit, pour le 31 décembre 1995 au plus tard, inclure dans ses statuts ou dans son programme une disposition par laquelle il s'engage à respecter dans l'action politique qu'il entend mener, et à faire respecter par ses différentes composantes et par ses mandataires élus, au moins les droits et les libertés garantis par la Convention de sauvegarde des droits de l'homme et des libertés fondamentales du 4 novembre 1950 et approuvée par la loi du 13 mai 1955, et par les protocoles additionnels à cette convention en vigueur en Belgique. »

« Art.15ter, § 1. Lorsqu'un parti politique par son propre fait ou par celui de ses composantes, de ses listes, de ses candidats, ou de ses mandataires élus, montre de manière manifeste et à travers plusieurs indices concordants son hostilité envers les droits et libertés garantis par la Convention de sauvegarde des droits de l'homme et des libertés fondamentales du 4 novembre 1950, approuvée par la loi du 13 mai 1955, et par les protocoles additionnels à cette Convention en vigueur en Belgique, la dotation, qui en vertu du présent chapitre est allouée à l'institution visée à l'article 22 doit, si une chambre bilingue du Conseil d'Etat le décide, être supprimée dans les quinze jours par la Commission de contrôle à concurrence du montant décidé par le Conseil d'Etat. »

Il faut noter, cependant, que la procédure d'application de ces dispositions n'a pas encore été fixée. D'autre part, ces dispositions ne s'appliquent qu'au financement public des partis, et ne constituent pas une condition de leur existence ou de leur participation aux élections, qui restent libres.

Par ailleurs, il faut noter l'incidence des lois du 30 juillet 1981 tendant à réprimer certains actes inspirés par le racisme ou la xénophobie et du 23 mars 1995 tendant à réprimer la négation, la minimisation, la justification ou l'approbation du génocide commis par le régime national-socialiste allemand pendant la seconde guerre mondiale.

Selon l'article 1<sup>er</sup> de la loi du 30 juillet 1981,

« Est puni d'un emprisonnement d'un mois à un an et d'une amende de cinquante francs à mille francs, ou de l'une de ces peines seulement :

1° quiconque, dans l'une des circonstances indiquées à l'article 444 du Code pénal<sup>23</sup>, incite à la discrimination, à la haine ou à la violence à l'égard d'une personne, en raison d'une prétendue race, de sa couleur, de son ascendance ou de son origine nationale ou ethnique;

2° quiconque, dans l'une des circonstances indiquées à l'article 444 du Code pénal, incite à la discrimination, à la ségrégation, à la haine ou à la violence à l'égard d'un groupe, d'une communauté ou de leurs membres, en raison de la race, de la couleur, de l'ascendance ou de l'origine nationale ou ethnique de ceux-ci ou de certains d'entre eux;

3° quiconque, dans l'une des circonstances indiquées à l'article 444 du Code pénal, donne une publicité à son intention de recourir à la discrimination, à la haine ou à la violence à l'égard d'une personne en raison d'une prétendue race, de sa couleur, de son ascendance ou de son origine nationale ou ethnique;

4° quiconque, dans l'une des circonstances indiquées à l'article 444 du Code pénal, donne une publicité à son intention de recourir à la discrimination, à la haine, à la violence ou à la ségrégation à l'égard d'un groupe, d'une communauté ou de leurs membres, en raison d'une prétendue race, de la couleur, de l'ascendance ou de l'origine nationale ou ethnique de ceux-ci ou de certains d'entre eux. »

L'article 3 de la même loi dispose que :

« Est puni d'un emprisonnement d'un mois à un an et d'une amende de cinquante francs à mille francs, ou de l'une de ces peines seulement, quiconque fait partie d'un groupement ou d'une association qui, de façon manifeste et répétée, pratique la discrimination ou la ségrégation ou prône celles-ci dans les circonstances indiquées à l'article 444 du Code pénal, ou lui prête son concours. »

Selon l'article 1<sup>er</sup> de la loi du 23 mars 1995,

« Est puni d'un emprisonnement de huit jours à un an et d'une amende de vingt-six à cinq mille francs quiconque, dans l'une des circonstances indiquées à l'article 444 du Code pénal, nie, minimise grossièrement, cherche à justifier ou approuve le génocide commis par le régime national-socialiste allemand pendant la seconde guerre mondiale.

Pour l'application de l'alinéa précédent, le terme génocide s'entend au sens de l'article 2 de la Convention internationale du 9 décembre 1948 pour la prévention et la répression du crime de génocide. »

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<sup>23</sup> C'est-à-dire soit dans des réunions ou lieux publics, soit en présence de plusieurs individus, dans un lieu non public, mais ouvert à un certain nombre de personnes ayant le droit de s'y assembler ou de le fréquenter, soit dans un lieu quelconque, en présence de la personne offensée et devant témoins, soit par des écrits imprimés ou non, des images ou des emblèmes affichés, distribués ou vendus, mis en vente ou exposés aux regards du public, soit enfin par des écrits non rendus publics, mais adressés ou communiqués à plusieurs personnes.

Toute ces dispositions, qui ne sont pas spécifiques aux partis politiques ou à leurs membres, peuvent entraîner, en outre, l'interdiction de l'exercice du droit d'éligibilité pour une période de cinq à dix ans.

### **Bosnia-Herzegovina**

The entity-law incorporate provisions which generally define limits for what may be legally acceptable as a political program of a political party (Art. 4 of the RS and F BH Law). According to these provisions, the political parties in the entities can not have political programs which are directed against the territorial integrity, sovereignty, constitutions and the rights and freedoms guaranteed by the Constitutions of Bosnia and Herzegovina.

### **Bulgaria**

Oui, il existe en ce sens des limites définies par la loi.

### **Canada**

Non, il n'y a pas de limite comme telle. Néanmoins, il faut respecter les lois en vigueur, notamment le *Code criminel* (par exemple : interdiction de la propagande haineuse).

### **Croatia**

The answer has been given in the Q. 2.2.

### **Cyprus**

The only limits are those which are prescribed by Article 21(3) and (4), (5) and (6) of the Constitution which provides as follows:

”3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by the Constitution to any person, whether or not such person participates in such assembly or is a member of such association.

4. Any association the object or activities of which are contrary to the constitutional order is prohibited.

5. A law may provide for the imposition of restrictions on the exercise of these rights by members of the armed forces, the police or gendarmerie.

6. Subject to the provisions of any law regulating the establishment or incorporation, membership (including rights and obligations of members), management and administration, and winding up and dissolution, the provisions of this Article shall also apply to the formation of companies, societies and other associations functioning for profit.”

### **Czech Republic**

See 2.2.

As regards case law, the Supreme Court ruled in 11 Zp 36/2001 dated April 2, 2002 on a remedy for a preparatory committee for the registration of a political party. The Ministry of Interior



refused to carry out the registration on the grounds that the party's programme and objectives were contrary to the law. The programme and objectives included the disruption of legal continuity with totalitarian regimes (no statute of limitations, certain acts not considered criminal). According to the Supreme Court, such aim would remove the democratic foundations of the state. One of the principles of democracy is governance in a state governed by rule of law. In a state governed by the rule of law, only the law stipulates what constitutes criminal action and how it will be punished. Penal laws for not have a retroactive effect. This is a democratic principle that cannot be changed. Its violation would mean/justify an interference with a fundamental right – free competition between political parties. The Constitutional Court in its ruling IV US 349/02 dated November 6, 2002 dismissed the constitutional complaint because the complainants argued grounds not contended in the proceeding before the Supreme Court. The Constitutional Court is unable to comment on issues that were not put before general courts.

### **Estonia**

No.

### **Finland**

See answer to 2.2.

### **Georgia**

see. 2.2 a)

### **Germany**

The freedom to establish political parties within the concept of the *Grundgesetz* also guarantees the freedom to choose the content of the political programme of a political party. Substantive limits concerning the aims of political parties are generally set out in Article 21 (2) (1) *Grundgesetz*. It regulates that "*parties which, by reason of their aims [...] seek to impair or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany, shall be unconstitutional.*" Essential elements of the free – democratic basic order have been determined by the Federal Constitutional Court, for example, the continued guarantee of democratic institutions like free elections, political party pluralism, sovereignty of parliament and free parliamentary mandates. Political ideas, political ideals, philosophical streams of thought and other non-juridical conceptions are left free.

Article 21 (2) *Grundgesetz* also names the endangerment of „*the existence of the Federal Republic of Germany*” as prohibited aim of a political party. The territorial integrity of the Federal Republic of Germany is protected, as well as its state-sovereignty. Political parties must at least "*seek*" to endanger the free and democratic basic order; this means an objectively detectable planned activity to fulfil the parties' aims. This planned activity must also stand a good chance at being realized.

For the determination whether a party's political aims are as stated above, the party's beliefs set out in its political programme can be taken into account. Nevertheless, it is noteworthy that the protection of the free and democratic basic order and the existence of the Federal Republic of Germany does not prohibit ideas but primarily *activities*.

**Greece**

No. Still, the general rule expressed in the Constitution (Art.29) applies here as well (see 1.1)

**Hungary**

Since the party programme plays no role in Hungarian party law, the legal limits of founding a party are not connected with the programme of the party. There are general legal limits applicable for the establishment of any kind of association, see Art 63. of the Constitution (1.1. above), further § 2 (3) AA, that says: An association may be established for any purpose, which is in accordance with the Constitution and is not prohibited by law. “The purpose [of the association] not prohibited by law” means first of all, that no association can be established for performing primarily economic activity. Exercising the right of association may not violate Art. 2 (3) of the Constitution, shall not realize any crime or call upon to commit a crime, further may not infringe upon the rights and freedoms of other persons. (§ 2 (2) AA).

As to be seen the limits are not of a political nature, except Art 2 (3) of the Constitution , which reads: No activity of any organization of society, state organ, or citizen may be directed at the acquisition or exercise by force of public authority, nor at its exclusive possession. Everyone has the right and obligation to resist such activities in a lawful manner.

As a special limit for establishment of parties, Art 3 of the Constitution sets the condition of respect to the Constitution and constitutional laws and the prohibition of direct exercise of public power (1.1. above)

The Treaty on ceasefire of 1945 (incorporated in the Hungarian law by Act V. of 1945) oblige Hungary to dissolve and prohibit all pro-Hitler, fascist and other political and military organisations, and organisations which pursue propaganda against the United Nations. According the Constitutional Court this prohibition is within the abovementioned limits of the Constitution. (Decision 810/B of 1992, ABH 1993, 601.)

The Supreme Court interprets the requirement of respect for the Constitution and the harmony of the aim of the party with the Constitution in a way, which I think is not constitutional. In a case the Supreme Court denied registration of a party because it held that the aim of the party (as described in the charter) was “against the community”, “demoralizing and destructive”, or in another case, because according to the charter the multiparty system was unnecessary.

**Ireland**

No. This is governed by the Constitution and general law including limits on the freedom of expression and association and the constitutional guarantee of equality.

**Italy**

See answer to 2.1.

**Japan**

There are no legally defined limits in the laws.

**Korea**

Similar to 2.2, the main principles of political parties must be democratic in their objectives, organization, and activities, and if the purposes or activities of a political party are contrary to the

fundamental democratic order, the Government may bring action against it in the Constitutional Court for its dissolution. When the Constitutional Court makes a decision on the unconstitutionality of a law, impeachment, dissolution of a political party, or a petition relating to the Constitution, the concurrence of at least six of the nine adjudicators is required. (Article 113, Clause 1 of the Constitution) Upon the dissolution of a political party, it loses all legal privileges (Article 59 of the Constitutional Court Law), and an analogous party or one with similar programs cannot be established. Recycling party names is also forbidden, and the party's remaining assets are to be returned to the State. (Article 41, clause 3, Article 42 of the Political Party Law)

**Latvia**

No.

**Liechtenstein**

Non

**Lithuania**

1. The article 35, first paragraph of the Constitution provides that "citizens shall be guaranteed the right to freely form societies, political parties, and associations, provided that the aims and activities thereof are not inconsistent with the Constitution and laws".

2. The Law on Political Parties and Political Organisations states that "The establishment or activity of political parties or political organisations whose program documents propagate and whose activities practice racial, religious, social class inequality and hatred, methods of authoritarian or totalitarian rule, methods of forcible (violent) seizure of power, propaganda of war and violence, violation of human rights and freedoms, or other ideas or actions which contradict the constitutional order of the Republic of Lithuania and are incompatible with universally recognised norms of international law, shall be prohibited" (article 2, third paragraph). In the article 3 it is also stated that the program and charter (statutes) of the party or organisation may not contradict the Constitution and laws of the Republic of Lithuania.

**Luxembourg**

Non, mais inutile de préciser que tout programme politique devra respecter la Constitution et les lois en vigueur.

**Macedonia**

According to the art.20.3 of the Constitution, the programmes and activities of political parties may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance.

These restrictions are repeated in the Law.

**Malta**

None, except for the inclusion of incitements to commit a crime under the Criminal Code (including that of subverting the Government by violent means) or any other law.

**The Netherlands**

Article 2:20 of the Civil Code provides that the activities and goal of a legal person may not be contrary to public order. This also applies to political parties. If the public prosecutor is of the opinion that such a situation occurs, he will request the civil court to declare the party concerned to be a forbidden party and to dissolve it. Thus, in 1998, the Amsterdam District Court declared the *Centrum Partij* as forbidden and dissolved. Such a court decision makes it impossible for the party concerned to register for participation in elections and constitutes a ground for the central polling station to cancel the registration of the party concerned (Articles G.1-G.3, paragraph 7, of the Law on Elections). Against the decision to refuse or cancel registration appeal lies with the Administrative Jurisdiction Division of the Council of State, which is the highest administrative tribunal with general jurisdiction (Article G.5 of the Law on Elections).

**Poland**

The limits for what may be legally acceptable as a political programme of a party are defined in the Constitution in a negative way. Art. 13 regulates that Political parties (and other organizations) whose programmes are based upon totalitarian methods and the modes of activity of nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership, shall be forbidden.

**Romania**

Conformément à l'art. 3 alinéa 2 de la Loi des partis politiques no. 14/2003 sont interdits les partis politiques qui, par le Statut, programmes, propagande d'hier ou par d'autres activités qu'ils organisent, usurpent les prévisions de l'art. 30 alinéa (7), art. 37 alinéa (2) ou (4) de la Constitution.

Sont interdits conformément à l'art. 37 alinéa (2) de la Constitution les partis politiques qui par les buts ou par leur activité, militent contre le pluralisme politique, les principes de l'état de droit ou de la souveraineté, de l'intégration ou de l'indépendance de la Roumanie.

**Russia**

There are. See about them above.

**Slovak Republic**

See above 2.2.

**Slovenia**

According to the present law there are no limits on what may be legally acceptable as a party program. However, article 3 of the Act on Political parties does not allow the party to act as a military or armed organisation.<sup>24</sup>

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<sup>24</sup> See art. 3 of the Act on Political Parties.

The original text of the Act on Political Parties contained a provision prohibiting the registration and activity of the party, which would promote violence, destruction of the constitutional order, separation of a part of the country or other unconstitutional activity. However, the provision had been annulled by the Constitutional Court of Slovenia.<sup>25</sup>

### **Spain**

The only constitutionally-defined limit is the one resulting from Article 22.2 of the Constitution, declaring as illegal those associations which pursue goals classified as criminal offences. Any other purposes or goals may be legitimately included in the party's program.

However, as explained above (*paragraph 4.1*), it must be taken into account that the Law on Political Parties introduces a list of activities, which, while not being classified as crimes, would nevertheless cause a party to be declared illegal. The provisions of the Law could, therefore, exclude from the admissible goals of a party those related to the activities prohibited by the Law.

### **Sweden**

No. But the Criminal Code has to be observed by party members as well as by every other citizen.

### **Switzerland**

Non.

### **Turkey**

See above 2.2.

### **Ukraine**

According to Article 7 of the Law of Ukraine on Political Parties of Ukraine political parties shall have a programme. The programme of a political party shall be an account of that party's tasks and objectives, as well as ways to implement them,

According to Article 5 of the Law of Ukraine on Political Parties of Ukraine the formation and operation of political parties shall be prohibited if their programme objectives or activities are aimed at:

- (1) liquidating Ukrainian independence;
- (2) forcefully changing the constitutional order;
- (3) violating Ukraine's sovereignty and territorial integrity;
- (4) undermining national security;
- (5) unlawfully seizing power;
- (6) propagandising war and violence, inciting interethnic, racial or religious animosity;
- (7) encroaching on human rights and freedoms;

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<sup>25</sup> See Constitutional Court decision Up-301/96, Ur. l. RS 13/98.

(8) encroaching on public health.

Political parties shall not have paramilitary formations.

### **The United Kingdom**

1) There is no legislation defining what is legally acceptable as a political programme. However, some restraints on political activity derive from criminal law: for instance, it would not be lawful for a political party to have objects that included such matters as murder, treason, sedition, incitement of the armed forces to mutiny, incitement of disaffection among police officers<sup>26</sup> and so on. Incitement to racial hatred is also unlawful.<sup>27</sup> In practice, restraints derived from the criminal law are unlikely to affect the creation of a political party or the adoption of a political programme, since such a programme can be framed in general terms that would be interpreted as excluding criminal objectives. In practice, these restraints may exclude the use by a political party of words or actions that would breach the criminal law. The Electoral Commission, the body responsible for registering political parties, does not have the role of supervising or overseeing the objectives of the parties that apply for registration.

2) The Terrorism Act 2000, Part 2, restricts the freedom of association in the United Kingdom by proscribing specified organisations that are considered by the Home Secretary to be ‘concerned in terrorism’. Criminal sanctions under the Act apply if the organisers of a political party advocate the use of terrorist methods.

3) The Human Rights Act 1998 requires courts and the Electoral Commission (acting as public authorities) to take account of the freedom to associate under Article 11 ECHR, but this is unlikely to have made any difference to the process of registering political parties.

*2.4 When is a political party recognised as such, is registration required for recognition, and, if the latter is the case, under which conditions is registration granted?*

### **Albania**

L'enregistrement est obligatoire, avec les conditions mentionnées dans la réponse au point 2.2.

### **Andorra**

Non ; le parti politique peut se faire enregistrer sur le registre des associations mais il n'y est pas obligé. Jusqu'à aujourd'hui aucun parti politique ne s'est fait enregistrer.

### **Armenia**

According to Paragraph 3 of Article 8 of the Law of the Republic of Armenia "On political parties", the political parties are subject to obligatory registration. The conditions and mechanism of the registration are established in Article 13 of the Law of the Republic of Armenia "On political parties" (see above 2.2.a). Besides, the registration of amendments to and restatements in

<sup>26</sup> See e.g. the Police Act 1996, s 91 (replacing legislation enacted in 1919) and the Incitement to Disaffection Act 1934

<sup>27</sup> Public Order Act 1986, s 18 (offence to use any threatening, abusive or insulting words or behaviour with intent to stir up racial hatred and where the words or behaviour are likely to stir up such hatred); s 23 (offence to possess material which if displayed or published would constitute an offence under the Act).

the Charter and/or the Program of the party is not deemed re-registration of the party and shall not serve basis for recognizing the registration certificate invalid.

### **Austria**

Le parti politique est juridiquement créé au moment du dépôt des statuts au Ministère Fédéral de l'Intérieur (MFI) qui n'a pas – selon la jurisprudence de la Cour Constitutionnelle autrichienne (Recueil des Arrêts et Décisions 9648/1983) – en aucun cas le droit de refuser le dépôt ou l'enregistrement des statuts d'un parti politique. Il doit l'accepter, même si les statuts ne remplissent pas toutes les conditions prévues par la LPP (voir aussi 2.2). En fait, la LPP ne prévoit aucune compétence du MFI ni aucune procédure pour interdire un parti politique.

### **Azerbaijan**

According to Article 14 of the Law of Azerbaijan Republic "On Political Parties", the political parties shall pass the state registration in appropriate body of the Executive.

The political party shall submit an application for the state registration signed by members of governing body of the party, indicating the place of residence of each of them within a month from the moment of adoption of the Statute.

Modifications and amendments to the Statute of the political party shall be registered via procedure and in terms required for the state registration.

In accordance with the legislation of Azerbaijan Republic the political party shall be recognized as the legal person from the day of its state registration.

If the Statute of the political party contradicts to Articles 3, 4 and 5 of the Law of Azerbaijan Republic "On Political Parties" as well as if the party with the same name already exists then the state registration for this party shall be refused.

In such cases the applicants shall be informed of the refusal in written with indication of provisions of the legislation to which the submitted Statute contradicts.

### **Belgium**

Non.

Toutefois, comme nous l'avons déjà indiqué, l'article 22 de la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales ainsi qu'au financement et à la comptabilité ouverte des partis politiques dispose que

« Chaque parti politique (...) désigne l'institution constituée sous la forme d'une association sans but lucratif qui reçoit la dotation allouée en vertu du chapitre III. L'institution visée à l'alinéa 1 a pour mission : d'encaisser les dotations publiques;

- d'établir une liste centrale annuelle des dons de 125 EUR et plus faits aux composantes du parti par des personnes physiques pour lesquels un reçu a été délivré;
- d'établir la liste des composantes du parti qui font partie du périmètre de consolidation;
- d'encadrer sur le plan administratif les composantes visées au tiret précédent et de vérifier que celles-ci respectent les règles légales relatives à la comptabilité des partis politiques.

Par arrêté délibéré en Conseil des ministres, le Roi agréé une institution par parti politique et fixe les modalités d'enregistrement et de clôture des comptes et recettes de cette institution. »

Cette disposition ne s'applique qu'au financement public des partis, et ne constitue pas une condition de leur existence ou de leur participation aux élections, qui restent libres.

### **Bulgaria**

L'enregistrement au tribunal est obligatoire.

### **Bosnia-Herzegovina**

All political parties are required to file a request for registration. For this purpose, all laws on political parties require a time-limit of 30 days after establishment (Art. 16 of the RS and F BH Law). A party is not authorized to act politically except insofar as the establishment-activities provide for in Art. 11-14 of the laws are concerned. (Art. 16 paragraph 4 of the RS and F BH Law). Therefore, the registration is a formal requirement for getting a status of a legal person (Art. 7 of the RS and F BH Law). For its registration, a party is obliged to file a request and to submit its decision, statute on establishment and its political program (Art. 16 of the RS and F BH law).

### **Canada**

Oui, un parti politique reconnu doit être enregistré. L'enregistrement est validé par le Directeur général des élections.

### **Croatia**

The political parties have to register. By the day of registration, political party is recognised as the legal entity. The political parties which are not registered according to the Law on the Political Parties are not allowed to have any activities on the territory of the Republic of Croatia.

The competent minister brings the rules on forms and way of conducting the register of the political parties.

### **Cyprus**

Registration is required for recognition and the conditions under which registration is granted appear in para. 2.2 above.

### **Czech Republic**

Yes, parties and movements are subject to registration.

Parties and movements are established by virtue of registration or facts substituting for the same. In the event that the ministry does not effect a registration within 15 days, the party is established upon elapse of 30 days from the initiation of the registration proceeding. The party may further be established by virtue of a final court decision dismissing a ruling that rejected the application for registration. Parties and movements existing pursuant to Act No. 15/1990 Coll. became parties under the said act, provided they amended their statutes within 6 months.

The application for registration is filed with the Ministry of Interior. If the application is incorrect or does not contain information stipulated by law, the Ministry of Interior alerts the preparatory committee to such fact. If the preparatory committee does not agree with such warning, it may



approach a court in order to obtain a ruling to the effect that the application for registration is not flawed.

The Ministry of Interior will refuse to grant a registration in the event that the party's statutes are contrary to the law. The preparatory committee may seek a remedy.

Registration is effected by entry into the register of parties and movements.

### **Estonia**

The notion of a political party is defined by the Political Parties Act (see 1.3., *supra*), and only those associations meeting the requirements set forth by the law and registered in the non-profit associations and foundations register as political parties, shall be recognised as political parties. A registrar shall not enter a political party in the register if its articles of association or other documents do not comply with the requirements of law. Upon rejection of a petition, the registrar shall indicate the reason for rejection. The registrar shall not have the right to deny registration if all documents required by law are submitted, and they comply with the requirements of law. This is a procedure common for all non-profit associations.

In order to be registered, a political party must have at least 1000 members.

### **Finland**

In order to have the right to present candidates at general or local elections and to obtain state subsidy, the party must be registered. The registration requires that the association, registered in accordance with the law on associations, a) aims at influencing political issues, 2) has at least 5000 supporters with the right to vote at parliamentary elections, 3) secures through its statutes the observance of democratic principles in its decision-making and activities, and 4) has a programme expressing the principles and aims to be followed in the political activity of the association.

### **Georgia**

For the recognition of the political party is necessary its registration. For that reason within the week from the meeting of the founders of the party to the organ that made registration must be presented the following documentations: application about registration, minute of the meeting proved by notary; list of the members of the party (at list 1000 ) numbers of their personal ID; indications of their working and permanent addresses and telephone numbers proved by their signature; charter of the party; legal address of the party; seal of the party, emblems or other symbolic if the followings exists.

### **Germany**

There does not exist either a special registration or a special recognition procedure. The notification requirement according to Section 6 (3) *Political Parties Act* (see above, question 2.3.) cannot be considered to be application for recognition or anything similar. When political organizations are affected by decisions of official instances the relevant authority has to determine itself whether the relevant organization is a political party. The parties can afterwards appeal against this decision to the courts.

### **Greece**

Registration is required. The procedure is described under point 2.2

### **Hungary**

Parties – as all other associations – shall ask for registration after being established by the founding members. The party gains legal personality and will be recognized by the registration.

The registration cannot be denied if the requirements prescribed by the law are fulfilled. (§ 4 (1) AA)

### **Ireland**

A political party may, if it chooses, be registered as such. The Electoral Act 1992 Part III details the provisions for the maintenance of a register of political parties. The Act specifies that the Clerk of the Dáil (Lower House of Parliament) shall be the Registrar of political parties for this purpose. A party may apply to be registered as a party organised in the State or in part of the State for the purpose of contesting a Dáil, European or local election.

The registration form must include the name of the party, the address of party headquarters and the names of the officers of the party authorised to sign certificates authenticating the candidature of candidates at elections. The registration form must also state the type or types of election for which the party is registered as being organised to contest and, where applicable, the fact that a party is registered to contest an election in a particular part of the State. (Electoral Act, 1992 Section 25(4).)

Registration of political parties is for strictly limited purposes and not for the purpose of controlling the programme, activities or membership of the party.

In particular registration of a political party when introduced was for the purpose of entitling a member of that party to have the party name entered beside his name on an election paper. Otherwise the word ‘Non-Party’ is entered beside a candidate’s name. Prior to 1963 all candidates, whether of a party allegiance or not, were entered on the ballot paper without any indication of party.

### **Italy**

See answer to 2.1.

### **Japan**

There is no general procedure or mechanism for recognition of a political party as such. However, it is possible for a political association that satisfies certain criteria provided in Article 3.2 of the Political Funds Control Law, to notify its establishment as a political party (for the criteria, see 1.3 above). It is also possible for a political party to be confirmed as such by the Central Election Committee and register as a juridical person thereafter under the relevant provisions of the Law on Granting Legal Personality to Political Parties (for the definition of a political party for the purpose of this law, see 1.3 above.).

### **Korea**

Similar to 2.2, a political party will be established upon registration at the CEMC by its central party. (Article 4 of the Political Party Law) In order to qualify for registration, the party must have a designated number of sponsors (a minimum of 20 for central parties and a minimum of 10 for constituency chapters) (Article 5 of the Political Party Law), In addition, the political party must comprise of 1/10 the total of National Assembly voters in the district, the party must be distributed in more than 5 municipalities, megalopolis or provinces (the number of these constituency chapters cannot exceed 1/4 of the total number of a political party's constituency chapters), and the constituency chapters must be comprised of more than 30 members. (Articles 25, 26, 27 of the Political Party Law) The CEMC distributes a certificate of inscription to those who conform to the criteria mentioned above, and announces it publicly. (Article 15 of the Political Party Law)

### **Latvia**

The registration is required for recognition of the political party.

A registration application must be submitted for the registration of a political party. It must be submitted not later than within one month from the day when the decision on founding the political party was adopted, the statutes were approved and the management institutions as well as the auditing institutions of the business and financial activity were elected.

To the registration application must be attached the statutes, certified by the authorized person; an excerpt from the minutes of the general meeting, congress or conference on the foundation of the organization, on the adoption of statutes etc.; as well as a receipt for the payment of the state duty.

To the registration application shall also be attached the program documents of the political organization (party) and a list of no less than 200 founders of the respective political organization (party). Opposite to the name, surname and personal identification code of each founder of the political organization (party) must be the signature of the respective founder certified under the bearers procedure by a sworn notary.

The political party shall not be registered only if: 1) the statutes and program documents submitted testify that goals or activities of the public organization or association of public organizations are in conflict with the Constitution of the Republic of Latvia or laws or international agreements binding upon Latvia; 2) the procedure set by law for the foundation is violated; 3) after postponement of the registration, the flaws (imperfections) within the statutes, the name, the abbreviation of the name or symbols of the organization are not eliminated.

### **Liechtenstein**

Non

### **Lithuania**

2.4.1. Following the provisions of article 4 of the Law on Political Parties and Political Organisations, the registration is required for recognition of the political parties and political organisations. Detailed rules and procedure are stated in articles 4 and 8 of the above-mentioned law.

**Luxembourg**

Non.

**Macedonia**

The registration is constitutive for acquiring a status of legal person and for the activities of a political party.

Registration is granted after the minutes of the constitutive assembly, the statute and the programme have been presented before the court of registration. It is also required that the programme does not contain forbidden aims (see 2.3 above)

**Malta**

A political party which has or has had in the parliament immediately preceding an election, representation in the House of Representatives, has *ipso facto* a right to be recognised as a political party by the Electoral Commission. There is no need of registration as such. New or unrepresented parties would likewise be entitled to name assistant commissioners and agents, but not delegates to the Commission and to its Medical Board.

**The Netherlands**

Recognition of a political party as such is not required. However, for a political party to take part in elections, it has to register with the central polling station the name under which it wishes to participate (Articles G.1-G.3, first paragraph, of the Law on Elections). That name may, but does not have to be the official name of the party.

Provided that the political party is not forbidden and dissolved by a court decision, registration may be refused only if (1) the name presented for registration is contrary to public order; (2) the name is wholly or in essence identical to the name of a party already registered or presented for registration; (3) the name is misleading for the voters in some other way; (4) the name consists of more than 35 letters or other characters; or (5) the request for registration is made on the same day as another request for registration under wholly or essentially the same name, unless the latter request has to be refused on another ground (Articles G.1-G.3, paragraph 4, of the Law on Elections).

The list of candidates presented by a political party has to be supported by 30 persons (20 or 10 persons for local elections if the number of seats open for election is under a certain minimum) (Article H.4, first paragraph, of the Law on Elections). These persons must have the right to vote. Moreover, the presentation of the list has to be accompanied by a deposit of a certain amount (Articles H.12-H.14 of the Law on Elections). These requirements do not apply, however, to political parties that obtained at least one seat at the most recent elections (Articles H.2, H.4 and H. 12-14, paragraph 2, of the Law on Elections).

**Poland**

Registration is required for recognition of political party. A political party shall apply for entry in the register of political parties. The application shall include the name, short name and specify the address of the seat of the political party, as well as the forenames, surnames and addresses of members of the bodies authorized by its statute to represent the party in external transactions and to enter into financial commitments. The application shall have attached the statute of the political party and a list containing the names and authentic signatures of at least 1000 Polish

citizens supporting the application who have attained 18 years of age and have full legal capacity. Final decision of the Court concerning entry in the register shall be published, without fee, in the Court and Economic Monitor and delivered to the National Electoral Commission. From the moment of its entry in the register, political party acquires legal existence. The register of political parties, together with the texts of statutes of political parties are open to public inspection.

### **Romania**

Conformément aux prévisions de l'art. 18-22 de la Loi no. 14/2003 les conditions dans lesquelles on accorde l'enregistrement des partis politiques sont les suivantes :

La déposition au tribunal Bucarest des suivants documents :

- a) la demande d'enregistrement, signée par le dirigeant de l'organe exécutif du parti politique et par au moins 3 membres fondateurs, qui seront cités dans l'instance ;
- b) le statut du parti, réalisé conformément aux prévisions de l'art. 10;
- c) le programme du parti;
- d) le document de constitution, ensemble avec la liste des signatures de soutenance des membres fondateurs ;
- e) une déclaration sur le siège et le patrimoine du parti ;
- f) la preuve de l'ouverture du compte bancaire.

La demande d'enregistrement est affichée au siège du Tribunal Bucarest pendant 15 jours.

Dans 3 jours de la date de la déposition de la demande d'enregistrement, l'annonce concernant cela est publiée par le sollicitant dans un journal central de grand tirage.

Pour l'enregistrement des partis politiques, la liste des signatures de soutenance des membres fondateurs doit accomplir plusieurs conditions, respectivement contenir au moins 25.000 membres fondateurs, domiciliés dans au moins 18 des départements du pays et le municipale Bucarest, mais pas moins de 700 personnes pour chacun de ces départements et le municipale Bucarest.

### **Russia**

A party is registered as a juridical person by the Ministry of Justice. Regional branches of the party are registered by territorial branches of that Ministry. A party is to be registered after presenting necessary documents (the statute, the program and some others) within six months after its constituent congress. In more than a half of federal units regional branches of the party are to be registered within the next six months. The Ministry and its branches shall make their decision within one month.

The Ministry may deny the registration to a party, if:

- provisions of its statute contradict the Constitution or federal laws;
- its name and/or symbols are not in conformity with requirements of law;
- necessary documents are missing;
- the information presented doesn't meet requirements of law;
- the presentation of the documents failed to follow the schedule established by law.

In such a case the party shall have the right of recourse to a court of law. The only restriction of the party's activity, until it has been registered, shall be due to the fact, that it is not a juridical person.

### **Slovak Republic**

The main procedural requirement for the foundation of new political subject and carrying out its political activity is its registration at the Ministry of Interior of the Slovak Republic. According to Article 1.para.2 of the Act the freedom of association does not require permission of any public authority but with respect of the political party or movement its registration is decisive for its setting up. Not registered political party and/or movement has no right to participate in political life (see above 1.5). The whole process of the registration is regulated in details in Articles 6. to 11. of the Political Parties Act so other procedural rules are not applicable. As has been noted above this process starts when the Ministry of Interior has received the proposal of the preparatory committee for the registration of new political subject. A number of supplements is however required (Article 6 para.2 letters a) c) of the Act) to be attached to it including petition at least 1000 citizens supporting the setting up the new political party, statute (charter) of new political subject (including its name and seat), political programme and/or its programmatic goals, rights and obligations of members, organisational structure, the type and competences of the party's bodies and the way how they will represent and oblige political party, basic principles governing its economic activities etc. Ministry of Interior has to examine all documents concerning new political subject within the term of 30 days and providing that they are in conformity with the Political Parties Act new political subject shall be registered and can start its activity. According to Article 8.para.7 of the Political Parties Act such registration is carried out through its entry into the list of political parties and movements which is freely accessible. The decision of the Ministry of Interior on refusal of the registration of new political subject for non conformity of proposal for registration, required supplements, political programme or the organisation with the substantive and procedural requirements of the Political Parties Act can be reviewed by the court of general jurisdiction. The case can be brought before court by the preparatory committee of the new political subject (Article 8 para.5 of the Political Parties Act). To examine the legality of the registration procedure and negative decision of the Ministry of Interior the court is competent to cancel the latter and its judgment *replaces* the decision of the Ministry of Interior (Article 8.para.6 of the Act). The legal basis of the new political subject in Slovak Republic is therefore found either by the „positive” decision of the Ministry of Interior on the registration of new political party or by the judgment of the court replacing negative registration decision of the Ministry of Interior. The political party and/or movement may start its full range activity only after its valid registration. Preparatory committee is entitled to act on behalf of the party or movement until official bodies of the party shall be formed. According to Article 6.para.5 of the Act the bodies of the political party or movement must be formed within six month term (since the setting up of the political party) at the latest. Failing to do so during this term the Ministry of the Interior can propose to the general prosecutor to decide to stop of the next activity of the party.

### **Slovenia**

Party needs registration to be recognised as such. After it is registered it is entered into a party registry, conducted by the Ministry of Interior. The registration is granted by the Ministry of Interior. The request, which has to be sent to the Ministry, must include:

– 200 signed establishment statements,

- the party statute and the program,
- the minutes of the foundation meeting with the name of the president or other responsible person of the party,
- the picture of the party symbol in color and back-white version.<sup>28</sup>

The registration has to be granted if the above conditions are fulfilled.

### **Spain**

In order to be formally recognized as such by the public authorities and have legal effects, a political party must be established by means of a notarial instrument and be recorded on the Register of Political Parties, which is a part of the Ministry of the Interior. Once application for registrations has been made with all of the necessary documents, the party is recorded by the Administration, unless there are some reasons to suspect that the party is an illegal association, in the terms of the Constitution and the law, and pursuant to Article 22.2 CE. But the Administration cannot refuse to register a political party at its discretion.

Non-registered political parties are not prohibited, but as de facto associations they cannot enjoy any of the advantages conferred by law to registered political parties. The founders of a non-registered party are personally and jointly liable for the obligations contracted on behalf of the party.

### **Sweden**

Registration is not a requirement for recognition of a political party in general. Participation in a general election, however, requires registration of the name of the party.

### **Switzerland**

Depuis peu, les partis politiques peuvent - mais ne doivent pas - s'inscrire auprès de la Chancellerie fédérale. Voici le libellé exact de l'article 76a (en vigueur depuis le 1.1.2003) de la loi fédérale du 17 décembre 1976 sur les droits politiques

#### Art. 76a

1 Un parti politique peut se faire officiellement enregistrer par la Chancellerie fédérale à condition:

- a. qu'il revête la forme juridique d'une association au sens des art. 60 à 79 du code civil;
- b. qu'il compte au moins un député au Conseil national sous le même nom ou qu'il soit représenté dans au moins trois parlements cantonaux par au moins trois députés par parlement.

2 Tout parti politique qui désire se faire inscrire dans le registre des partis communique à la Chancellerie fédérale les documents et les données suivants:

- a. un exemplaire de ses statuts et tout changement ultérieur;
- b. son nom officiel et l'adresse de son siège;
- c. le nom et l'adresse du président et du secrétaire du parti national.

3 La Chancellerie fédérale tient le registre des données fournies par les partis politiques. Ce registre est public. L'Assemblée fédérale fixe les modalités dans une ordonnance.

Vous pouvez consulter cette législation sous

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<sup>28</sup> See art. 10 of the Act on Political Parties.

[http://www.bk.admin.ch/ch/f/rs/161\\_1/index.html#fn1](http://www.bk.admin.ch/ch/f/rs/161_1/index.html#fn1)

Cette inscription permet au parti inscrit certaines facilités administratives.

### **Turkey**

Political parties can be established without prior permission (Constitution, Art. 68. para. 3). However, registration is required for recognition.

### **Ukraine**

According to Article 11 of the Law of Ukraine on political parties of Ukraine the registration of political parties shall be the prerogative of the Ministry of Justice of Ukraine.

In order to register a political party, the following documents shall be submitted along with an application:

- (1) statute and programme of the political party;
- (2) protocol of the constituent convention (conference, meeting) of the political party, specifying the date, place, and number of votes for the formation of the political party;
- (3) signatures of Ukrainian citizens supporting the formation of the political party, collected in keeping with this Law and certified by the persons collecting the signatures;
- (4) information about the structure of the executive bodies of the political party;
- (5) document attesting the payment of the registration fee;
- (6) name and address of the bank with which the party has opened accounts.

The Ministry of Justice of Ukraine shall register a given political party after verifying the documents thus submitted.

After registration, a political party shall obtain the status of a legal entity.

A political party, within six months from the date of registration, shall secure the formation and registration, in keeping with this Law, of its regional, city, and district organisations in most regions of Ukraine, in the cities of Kyiv and Sevastopol, and in the Autonomous Republic of the Crimea.

The regional, city, and district party organisations or other structural subdivisions envisaged by the statute shall be registered by relevant bodies of the Ministry of Justice of Ukraine, unless otherwise provided by law, only after the political party has been registered with the Ministry of Justice of Ukraine. After registration, regional, city, and district party organisations may obtain the status of a legal entity, if so envisaged by the statute.

Bodies registering political parties and their regional, city, and district organisations envisaged by the statute shall, keep registers. The latter's format shall be adopted by the Ministry of Justice of Ukraine.

After registration, the Ministry of Justice of Ukraine and its pertinent bodies shall issue political parties and their regional, city, district organisations or other structural subdivisions envisaged by their statutes with registration certificates in the format designated by the Cabinet of Ministers of Ukraine.

Every political party shall annually inform the Ministry of Justice of Ukraine about its regional, city, district organisations or other structural subdivisions envisaged by the statute. Every political party shall also advise the Ministry of Justice of Ukraine of any



changes in the name, programme, statute, and executive bodies of the party, their address and whereabouts within a week after making decisions on such changes.

The Ministry of Justice of Ukraine shall annually publish a list of registered political parties and their legal addresses.

Within 30 days from the date of receipt of the documents required the Ministry of Justice of Ukraine shall determine to grant or refuse registration of a given political party. The said time-limit may be extended by the Ministry of Justice of Ukraine in case of necessity, provided the additional time does not exceed 15 days.

Registration may be refused if the documents submitted do not correspond to the Constitution, the law on political parties and other laws of Ukraine.

The registration authorities shall determine to register the statute-designated regional, city, district organisations or other structural subdivisions of a given political party within 10 days from the date of receipt of the registration application certified by the political party's supervisory body.

Enclosed the application shall be:

- a copy of the statute of the political party;
- minutes of the constituent meeting or conference forming a given regional, city, district organization or any other structural subdivision of the political party.

When refusing registration, the Ministry of Justice of Ukraine shall provide the applicant with a written, motivated. resolution.

Decisions granting or refusing registration, or failure to make such a decision, on the part of the Ministry of Justice of Ukraine or other registration authorities may be appealed against to a court of law.

Refusal of registration shall not prevent a given political party from applying for registration again.

### **The United Kingdom**

As already stated (in answer to questions 1.3 and 1.5), the registration of a political party is required if the party is to enjoy the benefits that follow on registration.

*2.5 If registration is required:*

- a) Which authority conducts the registration procedure, and which rules are governing the registration procedure?*
- b) Is there a legal remedy, if recognition or registration is denied? Is there any recourse to a court of law?*
- c) Are there any restrictions on the activities of the party pending its registration?*

**Albania**

a) L'autorité chargée de la procédure d'enregistrement est le tribunal de première instance du district de Tirana, qui garde le registre des partis politiques. Dans les documents pour l'enregistrement du parti sont précisés: a) la dénomination et le siège du parti; b) ses buts et ses tâches; c) les organes dirigeants et la structure du parti; d) les sources du financement. L'enregistrement doit être accompli dans un délai de 30 jours de la présentation de la requête au tribunal.

b) En cas de refus de la part du tribunal, la loi prévoit la possibilité d'un recours près de la cour d'appel de Tirana dans un délai de 15 jours.

c) Voir la réponse à la question du point 2.2.

**Andorra**

L'enregistrement n'est pas obligatoire.

**Armenia**

a) According to Paragraph 1 of Article 13 of the Law of the Republic of Armenia "On political parties", the state registration of the party is performed by the state authorized body.

Besides, taking into account that the political party is a legal entity; the law "On the state registration of legal entities" also regulates the procedure of the registration of political parties. According Article 7 of the law "On the state registration of legal entities", the legal registration of legal entities is realised by the State register, which functions in the system of Ministry of Justice. The state register is consisted if the central organ and territorial subdivisions. Article 11 establishes the procedure of registration. According to Paragraph 5 of Article 11 of the law "On the state registration of legal entities", the necessary documents for the registration of public associations and unions of non-commercial organisations should be submitted to the central organ.

b) According to Paragraph 3 of Article 14 of the Law of the Republic of Armenia "On political parties", rejection of state registration of the party may be appealed by court order. Rejection of state registration is not an obstacle for repeated submission of documents, if basis for rejection have been eliminated. The registering body discusses the repeated application and makes a decision in regard to it in the procedure and within time period envisages for registration of parties by this Law.

c) The state registration of the party may be rejected if the Charter of the Party or provisions of the Program contradict to the Constitution and laws of the Republic of Armenia, or do not comply with the state registration requirements set forth in this Law. It should be also noted that the formation and activity of such parties, whose aims or activity are directed at violent overthrow of Constitutional order of the Republic of Armenia and territorial integrity of the Republic of Armenia, impairment of grounds of independence, formation of armed units, instigation of national, racial and religious hatred, incitement to violence and war, is prohibited (Article 9).

**Austria**

Comme le MFI ne doit pas refuser le dépôt des statuts d'un parti politique, il n'existe pas ni de recours ni d'autres procédures (voir ci-dessus).

### **Azerbaijan**

Upon registration:

a) In accordance with Article 14 of the Law of Azerbaijan Republic "On Political Parties", the political party shall pass the registration by relevant bodies of the Executive.

The political party shall submit an application for the state registration signed by members of governing body of party indicating place of residence of each of them, within a month from the moment of adoption of the Statute. The Statute, protocol of constitutive congress (conference) that adopted the Statute, the document certifying the number of members of the party shall be enclosed to the application.

Modifications and amendments to the Statute of the political party shall be registered via procedure and in terms required for the state registration.

If the Statute of the political party contradicts to Articles 3, 4 and 5 of the Law of Azerbaijan Republic "On Political Parties" as well as if the party with the same name already exists then the state registration for this party shall be refused.

According to Article 14 of the Law of Azerbaijan Republic "On Political Parties" in case of refusal in registration of the Statute, the applicants shall be informed of refusal in written with indication of provisions of legislation to which the submitted Statute contradicts. Refusal of the registration can be challenged to court of Azerbaijan Republic within ten days.

### **Belgium**

L'agrégation mentionnée sub.2.4. étant spécifique au droit du financement public des partis politiques, cette question nous semble sans objet.

Notons pour la bonne forme qu'un recours pour excès de pouvoir au Conseil d'Etat serait ouvert en cas de refus d'agrégation.

### **Bosnia-Herzegovina**

The competent court decides upon a request on registration of a party following the registration proceedings provisions. The court is composed of three judges. The court brings a ruling on registration or a ruling on refusal of registration within 15 days after filing the request (Art. 16 of the RS and FBH Law). In the case the court does not bring a ruling within the time-limit, a party is considered as registered. Against the ruling, adopted within the time-limit, a party has right to appeal to the Supreme court of the F BH (Art. 22) or to a higher court in RS (Art. 22). The appeal-court is composed of 5 judges. Until its registration, a party is not authorized to act politically.

### **Bulgaria**

a) L'enregistrement a lieu sur la base de la Loi sur les partis politiques au Tribunal de la ville de Sofia conformément au Code de procédure civile.

b) Le refus peut faire l'objet d'un recours devant une juridiction supérieure.

c) Oui

**Canada**

a) *Quelle est l'autorité chargée de la procédure d'enregistrement, et quelles sont les règles régissant cette procédure?*

Le Directeur général des élections est l'autorité chargée de la procédure d'enregistrement des partis politiques fédéraux.

Les articles 366 à 374 de la *Loi électorale du Canada* énoncent les règles à suivre pour enregistrer un parti politique. La demande d'enregistrement doit provenir du chef du parti qui veut être reconnu. Cette demande contient les renseignements suivants :

- a) le nom intégral du parti;
- b) le nom du parti en sa forme abrégée, ou l'abréviation de ce nom, qui doit figurer sur les documents électoraux;
- c) le logo du parti, le cas échéant;
- d) les nom et adresse du chef du parti;
- e) l'adresse du bureau du parti où sont conservées les archives et où les communications peuvent être adressées;
- f) les nom et adresse des dirigeants du parti;
- g) les nom et adresse du vérificateur du parti et sa déclaration signée d'acceptation de la charge;
- h) les nom et adresse de l'agent principal du parti et sa déclaration signée d'acceptation de la charge;
- i) les nom, adresse et signature de cent électeurs membres du parti.

Le Directeur général des élections se prononce sur l'admissibilité de la demande d'enregistrement d'un parti politique en évaluant les éléments suivants :

- a) de l'avis du directeur général des élections, son nom, la forme abrégée ou l'abréviation de celui-ci ou son logo :
  - (i) soit ne ressemble pas de si près au nom, à la forme abrégée ou à l'abréviation de celui-ci ou au logo d'un parti enregistré ou d'un parti admissible qu'il risque d'être confondu avec eux.
  - (ii) Soit ne comporte pas le nom « indépendant » ou un mot qui ressemble de si près à ce mot qu'il risque d'y être confondu;
- b) il a nommé un agent principal et un vérificateur;
- c) le directeur général des élections est convaincu qu'il a fourni les renseignements exigés au titre du paragraphe 366(2).

Le Directeur général des élections peut aussi suspendre l'enregistrement d'un parti politique si ce parti n'est pas soutenu par un candidat dans au moins 50 circonscriptions (article 385 de la *Loi électorale du Canada*). Le Directeur général des élections peut suspendre ou radier un parti politique enregistré s'il ne produit pas certains documents ou rapports essentiels (articles 386 à 399 de la *Loi électorale du Canada*).

b) *La loi prévoit-elle un recours en cas de refus de reconnaître ou d'enregistrer un parti politique? Un recours est-il possible devant un tribunal?*

La *Loi électorale du Canada* ne prévoit pas de recours particulier. Une demande de contrôle judiciaire des décisions du Directeur général des élections est toutefois possible en vertu de la *Loi sur la Cour fédérale*.

*c) Y-a-t-il des restrictions des activités du parti avant son enregistrement définitif?*  
Non.

### **Croatia**

*a) Which authority conducts the registration procedure, and which rules are governing the registration procedure?*

Ministry that is competent for administrative issues.

The Law on Political Parties rules that the status, conditions, mode and registration procedure, including the discontinuance of the existence is set by that Law.

*b) Is there a legal remedy, if recognition or registration is denied? Is there any recourse to a court of law?*

If the ministry for the administration issues takes an opinion that a political party which applied for registration, by its program aims to demolish the free democratic order or endanger the survival of RC, will institute proceedings of the constitutionality before the Constitutional Court of the Republic of Croatia.

In certain cases, foreseen by the Law, the political party has right to appeal to the Court (Administrative Court of the Republic of Croatia).

*c) Are there any restrictions on the activities of the party pending its registration?*

It is strictly ruled that the parties that are not registered by the Law on Political Parties may not have any activities on the territory of the Republic of Croatia.

### **Cyprus**

(a) The registration procedure is governed by sections 5 and 6 of the above Laws which provide:

”5. The Registrar of Registration of Political Parties and competent for the keeping of the Register of Political Parties is the Director-General of the Ministry of Interior.

6. The Registrar keeps the Register of Registration of Political Parties, in which he registers the parties following an application by them.”

(b) Yes there is a legal remedy. If registration is denied there is a right of recourse to a Court of Law.

(c) No.

**Czech Republic**

Application for registration is filed with the Ministry of Interior. If there is incorrect information in the application, or the application lacks information required by law, the Ministry notifies the preparatory committee within five days in writing of the fact that unless such flaws are remedied, the registration proceeding would not be commenced. If the preparatory committee does not agree with the notice, it may seek a declaration from a court to the extent that the application for registration is flawless. Such a claim for declaratory judgment must be filed within 15 days of the delivery of the notification.

The Ministry effects the registration within 15 days of initiation of the registration proceeding, or declines to effect the same if the statutes are in conflict with the law. The Ministry's decision is subject to judicial review and is appealable to the Supreme Administrative Court.

The preparatory committee engages only in activities related to the foundation of the party and movement.

**Estonia**

Registration of a political party in the non-profit associations and foundations register shall be decided by an assistant judge or a judge at the registration department of a county or city court (first instance courts). The registration procedure is covered by the Non-profit Associations Act and the Commercial Code. In case of denial of registration, registrar shall indicate the reasons. The denial can be challenged with a circuit court (court of second instance). The circuit court shall hear the appeal pursuant to the appellate procedure provided for in the Code of Civil Procedure.

There is no specific regulation on possible restrictions on the activities of a party pending its registration. The Non-profit Associations Act provides only that persons who enter into transactions in the name of a non-profit association being founded before entry of the non-profit association in the register are solidarily liable for performance of the obligations arising from the transactions. The electoral laws allow only registered political parties to propose their lists of candidates in the elections. Consequently, a political party pending its registration does not have that right.

**Finland**

- a) The registration procedure is conducted by the Ministry of Justice, according to the provisions of the law on political parties and the general law on administrative procedure.
- b) The decision taken by the Ministry of Justice may be appealed to the Supreme Court of Justice.
- c) No.

**Georgia**

- a) The registration must be conducted by the Ministry of Justice within the month from the presentation of all necessary documentations. The rules for governing the registration procedure is determined by Organic Law on "Political unions of citizens" and by the regulations of the Ministry of Justice that is approved by the President.
- b) The registration of the party may be denied if the charter or any other presented documentations are in contradiction with requirements of the constitution or organic law.

In case of denial on registration within the month party can apply to the court.

c) As it is clear from the first article of the organic law, party can be considered as an legal entity (legal person) or as an subject of the electoral process only after registration.

### **Germany**

No registration is required, see above, 2.4.

### **Greece**

a) The Supreme Court (Arios Pagos), according to the procedure described under art. 29 of the law 3023/2002 (see 2.1).

b) No remedy is possible, other than the fulfillment of the requirements provided by law 3023/2002. In such a case, a new registration must be requested. No recourse to a court of appeal is provided for.

Pending its registration, a "political party" cannot engage in political activities.

### **Hungary**

a) Competent authority for the registration is the county court, which has jurisdiction for the territory where the seat of the party is. For parties with the seat in Budapest, it is the Metropolitan Court. The representative of the party has to submit the minutes of the founding assembly and the charter to the court. The court shall render decision within 30 days, without hearing. The decision will be sent to the party and to the public prosecutor as well.

b) In case of refusal the party has all the ordinary and extraordinary remedies. That is it may to lodge an appeal to the Supreme Court. Against the decision of the Supreme Court in certain cases further extraordinary revision is possible. The public prosecutor may appeal also the positive decision, that is the registration.

c) There is no relevant provision, nor any judgement on this subject. According to the courts the provisions of civil law on contracts and on commercial companies are not applicable to associations, so no analogy is possible in this field.

### **Ireland**

*a) Which authority conducts the registration procedure, and which rules are governing the registration procedure?*

The Clerk of the Dáil is the Registrar of Political Parties. The Registrar must prepare and maintain a Register of Political Parties in which he must register any political party which (a) applies to him for registration and (b) which in his opinion (i) is a genuine political party and (ii) is organised in the State or in part of the State for the purpose of contesting a Dáil, European or a local election. (Electoral Act 1992 Section 25).

The term "genuine political party" has been interpreted by the courts as follows;

"The word "genuine" is here used to distinguish the real from the feigned, the authentic from the spurious, and to ensure that merely by calling itself a political party an organisation which is in no true sense political will not qualify for registration. Again, since registration is concerned with elections a political party which is not organised to contest such is excluded from registration. Here the words "organised to contest a Dáil

election or a local election” refer not to the degree of perfection of the organisation but to the fact of its organisation for that object and purpose”.

*b) Is there a legal remedy, if recognition or registration is denied? Is there any recourse to a court of law?*

If registration is denied by the Registrar ”any person aggrieved” may appeal in writing to a statutory appeal board comprising a High Court Judge, the Chairman of the Dáil and the Chairman of the Seanad (Upper House of Parliament).

Recourse may also be had to the High Court by way of judicial review to test the legality of the decision of the Registrar or the appeal board.

*c) Are there any restrictions on the activities of the party pending its registration?*

No, other than the limitations of general law.

### **Italy**

See answer to 2.1.

### **Japan**

As far as the notification under the Political Funds Control Law is concerned, a) such notification should be addressed either to the Minister for Public Management, Home Affairs, Posts and Telecommunications General Affairs or to the Prefectural Election Administration Committee as appropriate, b) there are no provisions on a legal remedy (N.B. the Minister or the Prefectural Election Administration Committee cannot refuse to receive such notification provided only that the notification meets formalistic requirements provided in the Political Funds Control Law), and c) there are no restrictions on the activities pending its registration while the party become entitled to receive contributions and expend them after the notification.

### **Korea**

Registering and Managing a Political Party

a) Constitutionally, the CEMC (refer to Chapter 7, Articles 114 and 116 in the Constitution for details regarding this government organization) is in charge of the registration of political parties, and the Political Party Law maintains more detailed registration process such as registration applications, requisites and decisions etc.

b) Should the CEMC refuse registration without a justifiable answer, certain measures can be taken, such as seeking legal council from an administrative judge etc. or filing an administrative litigation to the judiciary. (Specific laws pertaining to such incidents are the administrative law and the administrative litigation law.)

c) Because the law states that a political party is established once it has been registered (Article 4 of the Political Party Law), a party is given legal status as a political party once the registration is complete. Parties that have not yet completed the registration process but have the substance of a working political party is given limited legal status. Thus, the party will be given legal status within six months after the necessary information including names of the party and sponsors etc. are reported to the CEMC by the formation preparation committee, in charge of the establishment of political parties. (Articles 7, 8, 9 of the Political Party Law)



### **Latvia**

*a) Which authority conducts the registration procedure, and which rules are governing the registration procedure?*

Political organizations (parties) and their associations shall be registered in the Political Parties' Register. This Register is kept by the Republic of Latvia Enterprise Registry. (The Registry of the Republic of Latvia Enterprises acts under the supervision of the Ministry of Justice). The Chief State Notary, who heads the Registry, is appointed to the position (or dismissed from it) on the proposal of the Cabinet of Ministers.

*b) Is there a legal remedy, if recognition or registration is denied? Is there any recourse to a court of law?*

A decision on the postponement of registration or denial of registration can be appealed to the courts.

*c) Are there any restrictions on the activities of the party pending its registration?*

Only as of the date of its registration the political party obtains the rights of a legal entity and becomes a subject of private rights. It may commence the activities which are set in the laws and in their statutes as of their registration date.

### **Liechtenstein**

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### **Lithuania**

1. Article 4 of the Law on Political Parties and Political Organisations provides that political parties and political organisations shall be registered by the Ministry of Justice of the Republic of Lithuania.

The founders shall present to the Ministry of Justice of the Republic of Lithuania an application to register the political party or political organisation no later than within a month after the adoption of the charter, program and the election of the governing bodies. The application shall be signed by the leader stating the address and the telephone number of the party or political organisation headquarters. The following documents shall be appended to the application for registration:

- 1) charter, program in two copies;
- 2) a copy of the minutes of the constituent meeting which must indicate the date and place of the founding of the political party or political organisation, as well as stating the number of founding members who voted for the founding of the political party or political organisation;
- 3) founders' list where full name, date of birth, citizenship and personal code, address of the place of residence, occupation, certificate testifying to his not being a member of other political parties or political organisation. The above data must be certified by each founder's signature as well as by the signature of the person who compiled the founders' list;
- 4) samples of symbols, banners of political parties or political organisations or their drafts (the name and symbols of a political party or political organisation which is being registered must be

different from the names and symbols of the already registered political parties and political organisations or public organisations).

The charter, program, minutes and the founders' list must be signed by the leader of the political party or political organisation.

The Ministry of Justice shall examine the above-mentioned documents within a month from the day of their filing and shall register the political party or political organisation provided that all the required documents have been filed and there have been no violations of the requirements of this law.

In case not all documents are filed, the founders shall be notified thereof in writing and the deadline for the presentation of the missing documents shall be set. The term may not be longer than one month. The political party or political organisation shall be registered within a month from the day of filing of the missing documents.

A political party or political organisation which misses the deadline for the filing of documents set forth in this law as well as having violated other requirements of the law shall not be registered.

2. The Law on Political Parties and Political Organisations provides that upon refusal to register a political party or political organisation, the founders shall be notified thereof in writing and the reasons for refusal shall be stated. A political party or political organisation which has been refused registration on the grounds specified in this law shall have to settle the issue of its registration anew in accordance with the procedure established by law (article 4).

Article 8 of the above-mentioned law provides procedure for the appealing the decision of Ministry of Justice: "refusal to register a political party or a political organisation (...) may be appealed against to the County Administrative Court within one month after the day of receiving the note on refusal".

3. Unregistered party or political organisation can not start its activities. As it is stated in the first paragraph of article 2 of the Law on Political Parties and Political Organisations, "political parties and political organisations shall function in accordance with the Constitution, this law, and other laws of the Republic of Lithuania, and conduct their activity according to party charters *registered* in the established manner". Last paragraph of article 4 of the above-mentioned law provides that "a political party or political organisation and their structural subdivisions specified in their charter shall be legal persons from the day of registration of the party or political organisation".

### **Luxembourg**

Non.

### **Macedonia**

Registration takes place before a court of law of first instance.

There is a right to appeal the decision before the appellate court.

Political parties cannot start with their activities before the registration is granted.

### **Malta**

Not applicable.

### **The Netherlands**

a) The registration procedure for participation in the elections is conducted by the central polling station. In the case of election of the members of the Second Chamber of Parliament, the Electoral Council functions as the central polling station. In the case of election of the members of the Provincial States the chief polling station of the capital city of the province concerned acts as the central polling station. In the case of election of the members of the Municipal Council the chief polling station of the municipality concerned acts as the central polling station. (Article E.11 of the Law on Elections)

b) If registration of the name of a political party for participation in the elections is refused or cancelled by the central polling station, appeal lies with the Administrative Jurisdiction Division of the Council of State (Article G.5 of the Law on Elections).

c) The central polling station strikes a political party out of its registration if it has been forbidden and dissolved by a final court decision (Article G.1, paragraph 7, of the Law on Elections).

### **Poland**

The registration procedure is conducted by the Warsaw Regional Court. The Court resolves the case in a form of decision. In case of doubts about the conformity to the Constitution of the purposes or principles of operation of a political party, specified in its statute or in the party's programme, the Court suspends the registration proceedings and submits to the Constitutional Tribunal an application to examine the conformity of the purposes of the political party with the Constitution. If the Constitutional Tribunal declares that the purposes of the political party do not conform to the Constitution, the Court shall refuse to enter the party in the register. The provisions of the Code of Civil Procedure concerning non-litigious proceedings shall apply, subject to the provisions of the LPP, to cases concerning entry in the register of political parties. Political Party is obliged to notify the Court about any changes concerning its statute, address of its seat and the composition of the bodies authorized to represent the party in external transactions and to enter into financial commitments. If a political party has failed to fulfill the above requirements within the time-limit described by Court, the Court shall issue a decision deleting the political party from the register. Party pending its registration has no legal existence.

### **Romania**

*A – Quelle autorité coordonne la procédure de l'enregistrement et quelles sont les règles qui gouvernent la procédure de l'enregistrement ?*

Les dispositions de l'art. 18-21 de la Loi no. 14/2003 prévoient la procédure de l'enregistrement des partis politiques.

Pour l'enregistrement d'un parti politique sont nécessaires les suivants documents:

a) la demande d'enregistrement, signée par le dirigeant de l'organe exécutif du parti politique et par au moins 3 membres fondateurs, qui seront cités dans l'instance ;

b) le statut du parti, réalisé conformément aux prévisions de l'art. 10;

c) le programme du parti;

d) le document de constitution, ensemble avec la lista des signatures de soutenance des membres fondateurs ;

e) une déclaration sur le siège et le patrimoine du parti ;

f) la preuve de l'ouverture du compte bancaire.

La demande d'enregistrement est affichée au siège du Tribunal Bucarest pendant 15 jours, et dans 3 jours de la date de la déposition de la demande d'enregistrement, l'annonce concernant cela est publiée par le sollicitant dans un journal central de grand tirage.

La liste des signatures de soutenance doit mentionner l'objet de la soutenance, la date et place de l'élaboration, et pour les souteneurs elle doit contenir les noms et prénoms, la date de la naissance, l'adresse, le type de l'acte d'identité, la série et numéro de celui-ci, le code numérique personnel, aussi bien que la signature. Les souteneurs de l'enregistrement d'un parti politique peuvent être seulement de citoyens avec droit de vote. La liste sera accompagnée par une déclaration sur la propre responsabilité de la personne qui l'a élaborée, qui atteste l'authenticité des signatures.

La liste doit contenir au moins 25.000 membres fondateurs, domiciliés dans au moins 18 des départements du pays et le municipe Bucarest, mais pas moins de 700 personnes pour chacun de ces départements et le municipe Bucarest.

Le Tribunal Bucarest examine la demande d'enregistrement du parti politique en séance publique, avec la participation du représentant du Ministère Public.

Contre la décision du Tribunal Bucarest on peut faire contestation à la Cour d'Appel Bucarest, qui va examiner la demande dans maximum 15 jours de l'enregistrement de celle-ci. La décision de la Cour d'Appel Bucarest est définitive et irrévocable.

*B – Y a-t-il un remède légal au cas où la reconnaissance ou enregistrement n'est pas accordée ?  
Peut-on faire recours à l'instance ?*

Contre la décision du Tribunal Bucarest peuvent faire contestation à la Cour d'Appel dans 5 jours de la communication les suivants :

- le dirigeant de l'organe exécutif du parti politique ;
- au moins 3 membres fondateurs ;
- le Ministère Public ;
- les personnes physiques ou juridiques intéressées qui peuvent intervenir dans le procès s'ils déposent une demande d'intervention en intérêt propre (art. 21 alinéa (2) de la Loi no. 14/2003).

La Cour d'Appel Bucarest va examiner la contestation en séance publique, dans maximum 15 jours de l'enregistrement de celle-ci, la décision de la Cour d'Appel Bucarest étant définitive et irrévocable (art. 21 alinéa (3) et (4) de la Loi no. 14/2003).

*C – Y a-t-il des restrictions concernant les activités du parti pendant l'enregistrement ?*

Pendant la période de l'enregistrement du parti politique ne peut pas développer des activités spécifiques aux objectifs politiques proposés. Depuis la date de l'obtention de la personnalité juridique, les partis politiques peuvent exercer des droits et peuvent assumer des obligations conformément au but pour lequel ils sont fondés.

Les dispositions de l'art. 33 alinéa (1) et (3) du Décret no. 31/1954 concernant les personnes physiques et les personnes juridiques instituent la capacité d'utilisation anticipée des personnes juridiques. Conformément à ce document normatif les „personnes juridiques qui sont soumises à l'enregistrement ont la capacité d'avoir droits et obligations depuis la date de leur enregistrement” (art. 33 alinéa 1). „Quand même, même avant de la date de l'enregistrement, (...)

la personne juridique a la capacité même depuis la date du document de constitution en ce qui concerne les droits constitués dans sa faveur, l'accomplissement des obligations et de toute mesure préliminaire qui serait nécessaire, mai seulement car celles-ci sont requises pour que la personne juridique soit crée valablement” (art. 33 alinéa 3).

### **Russia**

See 2.4.

### **Slovak Republic**

Se 2.4 above.

### **Slovenia**

The registration procedure is conducted by the Ministry of Interior and the registration has to be granted if the above conditions are fulfilled. The registration can be denied if the above conditions are not fulfilled. In this case the party can appeal to the administrative court according to the general Act on administrative procedure.<sup>29</sup> Parties, the registration of which are pending are not considered registered parties and therefore they cannot act as such – for example in elections.

### **Spain**

#### *a) Which authority conducts...?*

The recordation on the Register of Political Parties must be requested by the founders, and is effected by the Register personnel who in principle are civil servants acting under the authority of the Minister of the Interior.

Registration constitutes a right, and it must be performed by the Administration if requested by the party's founders. The Administration may advise the founders of the need to complete the required documentation, if there are any missing documents or formalities. Registration can only be refused by a complex procedure, by which:

- 1) the Register considers there are reasons to assume that the party is illegal, pursuant to Article 22.2. of the Constitution;
- 2) the Register sends the registration file to the Public Prosecutor to examine the reasons for considering the party as illegal;
- 3) the Public Prosecutor considers that the party pursues goals or employs means classified legally as criminal;
- 4) the Public Prosecutors files a criminal action against the party in criminal court;
- 5) the criminal court having jurisdiction decides that the party is indeed illegal, and, as a consequence, recordation on the Register must be denied.

On the other hand, as expressed above, the Law on Political Parties introduces several mandates to prevent the registration under a new legal personality of parties previously dissolved by the Courts as illegal.

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<sup>29</sup> See art. 18 of the Act on Political Parties.

*b) Is there a legal remedy, if recognition or registration is.....?*

The ultimate decision on the registration of a political party belongs to the courts, and it is subject to the usual recourses and remedies within the judicial system. All administrative decisions concerning political parties are subject, as are all activities of the Administration, to the control of the courts of the Contentious-Administrative jurisdiction.

*c) Are there any restrictions on the activity...?*

Pending registration, political parties are de facto associations. They are free to perform political activities, but they do not enjoy the benefits and advantages derived from public registration. Liability for their acts corresponds personally and jointly to the party's founders.

### **Sweden**

Registration of the name of a political party for participation in a general election – the only form of registration which may be necessary under Swedish law – is governed by the rules in Chapter 5 of the Election Act. The registration procedure is conducted by the National Tax Board (acting as national election authority). An application for registration of a party name has to be made in writing with proof that at least 1500 voters are supporting the application (at least 100 voters in regional elections and 50 voters in local elections). Political parties with seats in parliament are not required to prove this support of voters. Parties registered for participation in a general election then have to register their candidates by name.

Appeals against decisions of the National Tax Board under Chapter 5 of the Election Act may be lodged with the Election Review Board, a tribunal appointed by parliament. The chairman of the Board must be currently, or have been previously, a permanent salaried judge and may not be a member of parliament.

There are no restrictions on the activities of a party pending registration of its name for participation in a general election.

### **Switzerland**

Une procédure d'inscription n'est pas obligatoire.

### **Turkey**

a) The registration procedure is conducted by the Chief Public Prosecutor of the Court of Cassation. Registration documents are submitted to the Ministry of Interior, which then passes them on to the Chief Public Prosecutor. If there are missing elements in the registration documents, the Chief Public Prosecutor asks the party concerned to complete the documents in 30 days,

b) Registration cannot be denied under the constitutional rule that parties can be established without prior permission. However, if the missing documents are not provided within 30 days, the Chief Public Prosecutor may start prohibition proceedings.

c) There are no restrictions on the activities of the party pending its registration.

### **Ukraine**

See 2.4.

### **The United Kingdom**

(a) The registration authority is the Electoral Commission, an independent and impartial body created by PPERA. It is charged with overseeing all aspects of the electoral process, including the revision of constituency boundaries, the conduct of referendums (if a law provides for a referendum), the regulation of political expenditure, the registration of political parties and reporting on general elections. It must be consulted on changes to electoral law and it has power to make regulations on many matters. The rules on the registration procedure have already been described (in answer to question 2.2). There is no right for third parties to intervene in the registration of a new party and no requirement to give notice to third parties of an intended name.

(b) There is no right of appeal from the decision of the Electoral Commission. The Commission must give reasons for a refusal to register a party or an emblem (ss 28-30, PPERA). The sole right of recourse to a party that is refused registration is to seek judicial review of the Commission's decision in the Administrative Court.

(c) As already stated, an unregistered party may nominate candidates at an election but only if they are described as 'Independent'; and such a party will be allowed no party political broadcasts. Nor will the party be eligible for grants to assist with compliance with the system of control of party financing created by PPERA. Apart from these restrictions, an unregistered party may undertake normal political activities, recruit members, hold meetings, issue literature and so on.

### **3. ORGANISATION**

#### *3.1 Are there any constitutional, legislative or regulatory texts on the organisation of political parties?*

*– Who can be a member?*

*– Is membership open for national citizens only, or are foreign citizens and stateless persons accepted as members?*

*– Are there other legal requirements for membership as for example residence in the country or knowledge of a certain language?*

### **Albania**

Les normes sur l'organisation des partis politiques sont incluses dans la loi sur les partis politiques.

– Selon la Constitution chaque personne a le droit de s'organiser collectivement pour un but legal.

– Selon la loi, l'adhésion est réservée aux citoyens albanais.

– La loi ne prévoit pas des conditions juridiques d'adhésion, telles que la résidence dans le pays ou la connaissance d'une langue spécifique.

### **Andorra**

Seules les andorrans peuvent adhérer à un parti politique.

En application aux partis politiques de la loi sur les associations, seuls les majeurs peuvent constituer un parti, les mineurs peuvent y participer mais non élire leurs dirigeants.

**Armenia**

a) According to Paragraph 2 of Article 25 of the Constitution, every citizen is entitled to form political parties with other citizens and join such parties. These rights may be restricted for persons belonging to the armed forces and law enforcement organizations. Paragraph 2 of Article 17 of the Law of the Republic of Armenia "On political parties" states that the citizens of the Republic of Armenia having attained the age of eighteen may become party members. Other persons vested with the voting right in the Republic of Armenia may join the membership of the party without the right of being elected in the management and supervision performing bodies. Besides, according paragraph 3 of Article 25 of the Constitution no one shall be forced to join a political party or association.

Paragraph 2 of Article 10 of the Law of the Republic of Armenia "On political parties" establishes the restriction for membership: the following persons cannot be party members:

- 1) judges;
- 2) prosecutors;
- 3) employees of the National Security, the police and other law enforcement bodies of the Republic of Armenia;
- 4) servicemen of armed forces of the Republic of Armenia and other military units.

b) As Point 1 of Paragraph 3 of Article 3 of the Law of the Republic of Armenia "On political parties" establishes that a union shall not be recognized as a party, if its Charter: allows membership of foreign citizens, citizens lacking citizenship, with the exception of cases envisaged by this Law, as well as membership of foreign and international organizations; consequently only the citizens of the Republic of Armenia can be members of the political parties. The Law also enables the non-citizens, which have the right to vote, with the right to be member of political parties. Especially, according to the Electoral code of the Republic of Armenia, during the elections to local self-governing bodies the rights and obligations of the citizens of the Republic of Armenia in accordance to this Code shall be spread over also the people who have the status of a refugee or who have the right to vote with the refugee certificate received as established. At the same time Paragraph 2 of Article 17 of the Law of the Republic of Armenia "On political parties" establishes that other persons vested with the voting right in the Republic of Armenia may join the membership of the party without the right of being elected in the management and supervision performing bodies. It is also important that each person may simultaneously become the member of one party only. Each member of the party shall be registered solely with one subdivision of the party.

c) There are no any other restrictions, except the mentioned ones.

**Austria**

La liberté d'association est garantie à toute personne par les lois constitutionnelles fédérales (voir 1.1) et l'art. 11 CEDH. Elle inclut au temps le droit d'adhérer à une association privée ou à un parti politique respectivement ainsi que le droit d'y refuser l'adhésion. Bien que l'exercice de ces droits ne soit pas réservée aux nationaux autrichiens, ce sont eux qui doivent voter et être élus aux élections générales.

**Azerbaijan**



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### **Belgium**

Les partis politiques fixent librement leur statut, conformément aux principes de la liberté d'association.

A titre purement informatif, on constatera à la lecture des statuts des principaux partis politiques représentés à la Chambre des représentants qu'il ne faut pas nécessairement avoir atteint l'âge de la majorité civile (qui correspond actuellement à l'âge du vote) pour adhérer.

### **Bosnia-Herzegovina**

Art. 15 of the RS and F BH law provided that all parties have to have a statute. The statute, inter alia, regulates internal organization (item 3), conditions for acquiring of membership, rights and obligations of members (item 4), party's structure, and rights, responsibilities and obligations of the party's organs (item 5), representing a party (item 6). Depending on the entity-law, a membership is limited to RS and to BH citizens in the Federation of BH (Art. 12 of the RS and F BH law).

### **Bulgaria**

Oui

- des citoyens bulgares qui ont des droits électoraux;
- des citoyens étrangers et des personnes apatrides ne peuvent pas adhérer à des partis politiques;
- il n'y a pas d'exigences du genre avoir sa résidence dans le pays ou la connaissance de certaines langues.

### **Canada**

*- Existe-t-il des textes constitutionnels, législatifs ou réglementaires concernant l'organisation des partis politiques?*

Outre la *Loi électorale du Canada* qui prévoit la procédure à suivre pour créer un parti politique et qui contient certaines exigences pour maintenir un parti politique dûment enregistré (documents, rapports financiers, etc.), chaque parti politique possède des règles de régie interne.

*- Qui peut adhérer?*

Toute personne âgée de 18 ans ou plus.

*- L'adhésion est-elle réservée aux ressortissants du pays, ou des étrangers et des apatrides peuvent-ils adhérer?*

Adhésion réservée aux citoyens canadiens.

*- Existe-t-il des conditions juridiques d'adhésion comme par exemple la résidence dans le pays ou la connaissance d'une langue spécifique?*

Il n'y a pas d'exigence spécifique, sauf pour ce qui est de la citoyenneté.

**Croatia**

The Constitution - the internal organization of the parties has to be in compliance with the basic constitutional democratic principles.

The Law on Political Parties - The political party is obliged to inform the competent ministry on the organizational forms within 15 days from the day of organization of such forms. These organizational forms (like branches) have no legal entity status.

*Who can be a member?*

Every citizen of age 18 of the RC.

*Is membership open for national citizens only or are foreign citizens and stateless persons accepted as members?*

By the Law, it refers only to the citizens of the Republic of Croatia.

*Are there other legal requirements for membership as for example residence in the country or knowledge of a certain language?*

No.

**Cyprus**

The only text is Article 21 of the Constitution.

The above laws do not make provision for the qualifications of membership. It is however presumed that for a person to become a member he must have capacity to enter into a contract i.e. to have attained the age of 18 years.

Membership of foreign citizens and stateless persons is not directly excluded by the relevant laws. But it is presumed that membership is open for national citizens only.

National citizens need not reside in the country and need not know a certain language.

**Czech Republic**

Pursuant to the law, only natural persons – individuals – Czech citizens aged 18 and over may be members of political parties and movements. Any one person may be a member of only one party or movement. The law may restrict the right to associate in political parties where judges and public prosecutors, civil servants and members of security and armed forces are concerned.

The law does not impose any further requirements, such as residence in the country or knowledge of the language.

The individual parties' statutes provide in detail for the establishment and extinction of party membership.

The Act on the Constitutional Court stipulates that the office of the Constitutional Court judge is incompatible with membership in a political party or movement.

**Estonia**

The Constitution stipulates that only Estonian citizens may belong to political parties. The Political Parties Act provides additionally that a citizen with active legal capacity who has attained eighteen years of age may be a member of a political party. There are no residence or language requirements for members of political parties. However, the directing bodies (e.g. management boards) and structural units of political parties founded, registered and operating in Estonia shall be located in Estonia. Structural units of political parties may also be located in a foreign state if this is not contrary to the laws of that state.

### **Finland**

In addition to the provisions in the general law on associations, the registration of a political

party presupposes that the party secures through its statutes the observance of democratic principles in its decision-making and activities. There are no other restrictions or requirements concerning the membership than the one included in the general law on associations: in associations, aiming at influencing political matters, non-citizens may be members only if their residence is in Finland.

### **Georgia**

As the member of the political party may be citizen of Georgia. According to the law is prohibited any restriction on the ground of race, skin color, language, sex, religion, national, ethnic and social origin, property, title of nobility or place of residence.

At the same time is prohibited membership at the party for the following persons: Judges, Prosecutors, corps of the Ministry of Internal Affairs, Ministry of State Security, Military Forces.

### **Germany**

According to Section 2 (1) *Political Parties Act* it is in particular the size and the strength of an organization, the number of its registered members and its public activities which indicate whether it offers sufficient guarantee of the sincerity of its aims, the circumstances and attendant conditions.

According to Section 7 (1) (1) *Political Parties Act* parties must be subdivided into regional organizations. The size and scope of these units must be determined in the party's statute. The regional structure of the party must be developed to a sufficient degree to enable individual members to participate in an appropriate extent in the forming of political opinions within the party (Section 7 (1) (2) *Political Parties Act*). It is permissible to merge several regional organizations for organizational purposes if they do not substantially impair the structure of the party as an organization (Section 7 (1) (4) *Political Parties Act*). Mandatory organs of the party and its regional organization are the members' meeting and the executive committee (Section 8 (1) (1) *Political Parties Act*).

The party's statute may provide that in supra-local organizations the members' meeting may be replaced by a meeting of representatives whose members are elected for a maximum of two years at meetings of members or representatives in subordinate organizations (Section 8 (1) (2) *Political Parties Act*). Representatives' meetings may also be convened for local organizations which have more than 250 members or which cover a large geographical area (Section 8 (1) (4) *Political Parties Act*). The party statute may also provide for other institutions or bodies which help to form policy at regional organization level. They must be explicitly designated in the party's statute as such (Section 8 (2) *Political Parties Act*).

Section 9 Political Parties Act deals with parties' Members' and Delegates' Assemblies (Convention, General Assembly). The assemblies of members or delegates (Convention, General Assembly) constitute the supreme organ of a given regional organization (Section 9 (1) (1)). In higher-level regional organizations these are designated as party conventions and, at lower levels, as general assemblies (Section 9 (1) (2)). The provisions set out for the party conventions also apply to this general assembly (Section 9 (1) (3)). Party conventions have to be convened at least every second calendar year (Section 9 (1) (3)).

Section 11 (1) *Political Parties Act* deals in a more detailed sense with the party's executive committee. It postulates that an executive committee must be elected every second calendar year, and must consist of at least of three members. Pursuant to the statute, 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 (Section 11 (2) (1)). However, the proportion of these unelected members may not exceed one-fifth of the total number of executive committee members (Section 11 (2) (2)). The chairman and the treasurer of a party may not exercise comparable functions in any political foundation associated with the party (Section 11 (2) (3) *Political Parties Act*). The executive committee's function is to manage the regional organization and to conduct its affairs in accordance with the law and the statute as well as with the resolutions of the supreme bodies of the party (Section 11 (3) *Political Parties Act*). According to Section 11 (4) (1) *Political Parties Act* 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 statute (Section 11 (4) *Political Parties Act*).

Subordinate regional organizations may also elect members to general party committees and similar bodies endowed pursuant to the party's statute with wide powers to deliberate or decide on questions of party policy and organization (Section 12 (1) *Political Parties Act*). The chairperson and also members of parliament or other high-ranked persons in the party holding office or mandate as the result of elections, may belong to such a body by virtue of the terms of the statute (Section 12 (2) (1) *Political Parties Act*).

#### *Who can be a member?*

Only natural persons can be party-members (Section 2 (1) (1) *Political Parties Act*). Minors also have a right to be active in political parties. Minors are deemed at the age of 16 to be politically major. Persons who have been deprived by judicial decision of the right to vote or to be elected may not become members of a party (Section 10 (1) (3) *Political Parties Act*).

#### *Is membership open for national citizens only, or are foreign citizens and stateless persons accepted as members?*

According to ordinary legislation membership in a political party is open for foreign citizens. However, political organizations are not deemed to be political parties if the majority of their members or the members of their executive committees are foreign citizens (Section 2 (3) No. 1 *Political Parties Act*). This provision has to be seen in the context of the existing electoral laws and their interpretation by the judiciary. Foreign citizens do not have the right to vote in Federal and State elections (exceptions do exist for citizens with the citizenship of other European Union member countries as far as elections to regional representations or to the European Parliament are concerned).

Apart from these rules of ordinary legislation the question whether membership to political parties is constitutionally guaranteed for foreign citizens is not entirely clear. There does not exist

any jurisprudence in this context. Some authors claim that a free membership for foreign citizens is not constitutionally guaranteed since the primary function of political parties is to shape the political will of the persons which have the right to vote. Foreign citizens are not deemed as a part of this group.

*Are there other legal requirements for membership as for example residence in the country or knowledge of a certain language?*

Political organizations which have their registered seat outside the German are also not deemed to be political parties (Section 2 (3) No. 2 *Political Parties Act*). But German political parties may have groups of members who live outside of Germany. There are no other restrictions or conditions for membership.

### **Greece**

The Constitution reserves participation in political parties to persons possessing the Greek nationality and the right to vote. On the other hand, it is the party itself which sets the requirements for membership according to its statute.

### **Hungary**

See 2.2 above.

### **Ireland**

There are no legislative rules on the organisation of political parties.

#### *Election Expenditure*

However the Electoral Act, 1997 Section 31 as amended sets rules for the control and limiting of election expenditure by political parties and candidates in Dáil, European and presidential elections. 'Election expenditure' is defined as all expenditure incurred in connection with an election in order to promote or oppose the interests of a political party or of one or more candidates to solicit votes for or against a party or otherwise to influence the outcome of an election. Where a candidate represents a political party, the party can incur a portion of the candidate's expenditure where the candidate assigns a portion of his limit.

Each party is required by law to appoint a 'national agent' for the purpose of accounting for and controlling election expenditure. This national agent must make all contracts entered into by the party which involve spending for election purposes. The Agent must account for all election expenses of the party and its candidate to the Public Offices Commission. Where a party or its candidate exceeds the expenditure limit in an election, the amount of the excess must be deducted by the Minister for Finance from the Exchequer payment to the party (see below).

#### *Exchequer Funding of Political Parties*

A 'qualified political party' is one which is registered in the Register of Political Parties as a party organised in the State to contest a Dáil election and which has secured not less than 2% of the national first preference vote in the previous election. The State makes an annual payment to such a party for non-election related administration, research and organisation expenses. The total annual payment to all such parties is divided between them on the basis of their percentage

share of the national first preference poll in the preceding general election. (Electoral Act, 1997 Part III).

#### *Political Donations*

Political parties must make an annual declaration to the Public Office's Commission giving details of all donations of over a specified amount received during the previous year.

#### *Who can be a member?*

*Is membership open for national citizens only, or are foreign citizens and stateless persons accepted as members?*

*Are there other legal requirements for membership as for example residence in the country or knowledge of a certain language?*

Subject to the rules of the party itself, there are no laws providing for restrictions or rules on membership.

#### **Italy**

There are no legal texts providing for the organisation of political parties, whose rules are thus entirely contained in internal statutes of the parties. Statutes determine also whether membership is open to foreign citizens and stateless persons. Some statutes certainly contain such a rule. For example, during the '70, Mr. Fabre, a French citizen, was elected Secretary of the Radical Party, and this posed the question of whether he was entitled to be consulted by the President of the Republic during the procedure concerning the constitution of the new national Executive.

#### **Japan**

There are no provisions on the organisation of political parties either in the Constitution, the above-mentioned laws, etc.

#### **Korea**

Article 8, clause 2 of the Constitution states, political parties must be democratic in their objectives, organization, and activities, and have the necessary organizational arrangements for the people to participate in the formation of the political will, and the Political Party Law provides detailed regulations concerning the organization of political parties.

- All citizens of the Republic of Korea (20 years or older) are entitled to become a member of the National Assembly. However, certain public officials and members of the teaching staff are restricted from becoming a party member as prescribed by law. (Article 6 of the Political Party Law) This guarantees the status and political impartiality of public officials (Article 7 of the Constitution) and the independence, professionalism, and political impartiality of education and the autonomy of institutions of higher learning. (Article 31, clause 4 of the Constitution)

- A person who is not a citizen of the Republic of Korea is prohibited from becoming a member of the National Assembly (Article 18 of the Political Party Law). Therefore, foreign nationals and denationalized or stateless people cannot become members of the National Assembly.

- As stated above, all citizens of the Republic of Korea who have reached the legal age of 20 and are not a public official or a member of the teaching staff mentioned earlier may become a member of the National Assembly. However, certain members of the National Assembly must

reside in their constituency chapters to comply to the party establishment policy which stipulates that a given number of party members must live within the party's constituency chapter. (Article 21 of the Political Party Law) There are no other restrictions concerning membership of the National Assembly (for example, there are no restrictions concerning the use of certain languages.), but no one person can become a member of more than one political party. (Article 19, clause 2 of the Political Party Law)

### **Latvia**

See answers to questions 1.3 and 2.2.

### **Liechtenstein**

Il n'y a pas de règles particulières concernant les partis politiques.

### **Lithuania**

1. Article 35 of the Constitution of the Republic of Lithuania provides that only citizens shall be guaranteed the right to freely form political parties. The term "citizen" means citizen of the Republic of Lithuania, that is, membership in political parties is open for national citizens only; foreign citizens and stateless persons are not accepted as members.

Constitution also provides some restrictions concerning persons, who can not be members of political parties or political organisations, such as: article 83 ("A person elected President of the Republic must suspend his activities in political parties and political organisations until the beginning of a new campaign of the election of the President of the Republic"), article 104 ("The restrictions on work and political activities which are established for court judges shall apply also to justices of the Constitutional Court"), article 113 ("A judge may not participate in the activities of political parties and other political organisations"), and in article 141 ("Persons performing actual military service or alternative service, as well as officers of the national defence system, of the police and the Interior, non-commissioned officers, re-enlistees and other paid officials of paramilitary and security services who have not retired to the reserve (...) may not take part in the activities of political parties and political organisations").

2. Article 1 of the Law on Political Parties and Political Organisations provides that "citizens of the Republic of Lithuania have the right to form political parties and political organisation and to take part in their activities. Only a citizen of Lithuania who possesses an active voting right may be a member of a political party or political organisation". Following the provisions of article 34 of the Constitution, those Lithuanian citizens, who have reached 18 years of age, shall have the electoral right (or active voting right).

Besides, the same article of the Law on Political Parties and Political Organisations provides that citizens of Lithuania may belong to only one political party or political organisation at a time.

Article 10 of the Law on Political Parties and Political Organisations also repeats constitutional provisions concerning restrictions to become a member of political party or political organisation: "National defence of the Republic of Lithuania officers or re-enlistees, personnel of the services of internal affairs or state security institutions, judges, prosecutors or investigators may not be members of political parties or political organisations. Political party or political organisation membership of persons called for defence service or persons appointed by the Parliament or the Government of the Republic of Lithuania for positions in the Departments of National Defence or State Security, the Ministry of Internal Affairs, the Prosecutor-General, as well as officers of the

Department of State Control shall be suspended for the duration of their service or employment. Persons whose membership in a political party or political organisation has been suspended may not vote or be elected to the organisational bodies of a political party or political organisation or their subdivisions, nor may such persons execute their directives.”

3. In constitutional, legislative or regulatory texts there are no other legal requirements for membership, as for example residence in the country or knowledge of a certain language.

### **Luxembourg**

Non.

### **Macedonia**

The Law foresees that political parties are organized and carry out their activities on the basis of territorial principle.

Any citizen over 18 can be a member.

Membership is open only to national citizens.

Residence is required for the founding 500 members. This figure must appear in the Act of establishment of the political party. However, further membership is not conditioned by this, and statutes of political parties allow membership regardless of residence.

### **Malta**

There are no constitutional references, laws or other texts concerning the organisation of political parties. Subject to what has been said above concerning political activities by "aliens" during elections, and in the months preceding, there are no restrictions as to membership.

*Are there any legal requirements for membership, as for example, residence in the country or knowledge of a certain language ?*

None.

### **The Netherlands**

The only legal regulations concerning the organisation of political parties are those laid down in Title 2 of the second Book of the Civil Code concerning associations. There are no specific legal regulations for political parties.

Membership of political parties is regulated in the by-laws of each individual party. They differ considerably among the different parties. Usually there is an age limit, varying between 14 and 18 year (the latter age is also the minimum age for the right to vote and to be elected). Citizenship used to be a requirement for the membership of some parties, since the right to vote was restricted to citizens. However, that restriction no longer applies to local elections. Consequently, aliens who reside in the Netherlands are also admitted as members, and even in their case residency is not required by all parties. Certain parties do not allow persons who are already member of another political party. One Dutch reformed party used to require membership of certain religious denominations, but it no longer does so. One political party accepts men only as full members.



The general provisions concerning equal treatment and prohibition of discrimination on any ground (Article 1 of the Constitution; the Law on Equal Treatment) apply to political parties as well. However, the question of whether a certain membership requirement constitutes discrimination is to be answered within the context of the specific character and goals of the party concerned.

Residency in the Netherlands is not a general membership requirement. This may be partly explained by the fact that Dutch citizens may participate in the elections for the Second Chamber of Parliament from their country of residence (Article B.1 in conjunction with Article M.1 of the Law on Elections). Aliens may participate in the local elections under certain conditions, but only if they reside in the Netherlands (Article B.3, second paragraph, of the Law on Elections). However, even in their case residency is not for all parties a requirement for membership.

### **Poland**

Apart from the age (18 years), being a Polish citizen and having full legal capacity there are no other legal requirements for membership in the party like residence in the country or knowledge of a certain language.

**Romania**

Art. 37 de la Constitution de la Roumanie prévoit que les citoyens peuvent s'associer librement dans des partis politiques, dans des syndicats et dans d'autres formes d'association.

Chapitre 3 art. 9-17 de la Loi 14/2003 réglemente l'organisation des partis politiques.

Conformément à la Loi 14/2003 **les** partis politiques sont des associations à caractère politique des **citoyens roumains avec droit de vote**, qui participent librement à la formation et l'exercice de leur volonté politique, accomplissant une mission publique garantie par la *Constitution*. Elles sont des personnes juridiques de droit public.

Conformément à la Constitution *ont droit de vote les citoyens* qui ont l'âge de 18 ans. N'ont pas droit de vote les débiles ou aliénés mentaux, posés sous interdiction, ni les personnes condamnées, par décision judiciaire définitive, à la perte des droits électoraux.

Les organes fondés de pouvoirs du parti politique décident la réception de membres, dans des conditions établies par le statut, comme suite aux demandes écrites déposées par les sollicitateurs.

**Russia**

There are such texts in the Federal Law on Political Parties.

Members of any political party shall be only Russian citizens with age no younger than 18. Foreign citizens, stateless persons, as well as Russian citizens, recognized incapable by court, may not be accepted as members. A citizen may be a member of only one political party and of only one regional branch. For certain categories of citizens there may be established by law limitations of the right to join political parties or their duty to suspend the party membership. This may depend for example on the public service of the citizens concerned. There are no other legal requirements for membership.

**Slovak Republic**

Political Parties Act embodies a number of rules and principles governing the structure and organisation of political parties and/or movements. It however regulates only basic organisational principles common and binding for all political subjects and consequently this regulation is not too detailed and leaves a number of organisational items into exclusive competence of each political party. Among general organisational principles having a statutory regulation it is pertinent to note territorial principle of organisation, prohibition of the setting up political parties on the workplaces (Article 5.para.4 of the Act), prohibition of armed political parties or political parties with armed „segments” (Article 5.para.2), the separation of political parties from the state and exclusion of possibility to replace the competences of the state's organs through the political subjects (Article 5.para 1 of the Act) etc. Such framework regulation may be fully confirmed with respect of the membership in political party as well. Article 2.para.3 of the Political Parties Act only prescribes that each member of the political party or movement must be of age national citizen of the Slovak Republic. No other conditions (f.e. permanent residence, skill of the official language) are required. For the entirety it should be noted that according to Article 3.para.2 of the Act it is forbidden to compel anybody to become the member of political party or to leave it freely, and nobody may be restricted in his/her rights for its membership or non-membership in concrete political party or movement (Article 3.para.3 of the Act.)The denial or termination of the membership against the will of concerned person belongs into exclusive competence of each party. According to Article 16 of the Political Parties Act only a limited number of decisions in specified party areas (embodied in Article 8.para.7 of the Act) may be reviewed by the courts of general jurisdiction but involuntary denial or termination of membership is not among them. The

regulation of other questions connected with the membership falls as well as into competence of each political party including internal registration of party members, and access and disclosure of informations concerning the membership.

### **Slovenia**

According to the original 1994 text of Act on Political Parties only citizens of Republic of Slovenia could become members of Slovenian political parties. However, from 2002 also foreigners, who are citizens of European Union member countries and have the right to vote in Slovenia (citizens of EU member countries have a right to vote at the local elections if they are residents of Slovenia). Therefore, citizen of Slovenia can become member of the party regardless of the residence, but citizens of other European Union countries can become members of Slovenian parties only in case they are Slovenian residents.<sup>30</sup>

Under-aged (under 18) citizens can become members of the party with a written consent of the parents. Without such consent under-aged citizens can become members of the youth organization within the party.<sup>31</sup>

### **Spain**

Mainly, the regulatory norm on these matters is the Law on Political Parties (vid. *supra*, 1.1). Some other mandates can be found in other norms, such as the Law governing Aliens (Ley de Extranjería), among others.

#### *Who can be a member?*

The Law on Parties does not completely regulate this matter. The general regulations concerning associations require that to become a member of an association one must have full legal capacity, although minors over fourteen years of age can become members with the consent of their parents or guardians. The Law on Parties allows (Art.2.2) the creation of political youth groups. As a result, any person of legal age, or a minor over fourteen with his/her parents' or guardians' consent can become a member of a party or the party's youth group.

#### *Is membership open for national citizens only, or are foreign citizens and stateless persons accepted as members?*

Foreigners enjoy the right to become members of any type of associations, on the same terms as Spanish citizens, with no exceptions made concerning political parties. The Law governing Aliens (LO 4/2000, of January 11), however, excludes **illegal aliens who do not hold a residency permit** from the right of association (Art. 8).

#### *Are there other legal requirements for membership.....?*

No

### **Sweden**

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<sup>30</sup> See art. 7. of the Act on Political Parties.

<sup>31</sup> See art. 6 of the Act on Political Parties.

This is entirely a matter for the charter of the political party.

### **Switzerland**

Non.

### **Turkey**

Organisation of political parties is regulated in detail in the LPP.

Any Turkish citizen who has completed his/her 18 years of age and has the capacity to exercise his/her civil rights can be a member. Civil servants (with the exception of the teaching staff of the universities), pre-university students, and those who have been sentenced for one of the crimes enumerated in Article 11 of the LPP cannot become a member.

Membership is open only to Turkish citizens. There are no other requirements for membership.

### **Ukraine**

According to Article 6 of the Law of Ukraine on political parties of Ukraine only citizens with a right to vote under the Constitution of Ukraine shall be eligible as members of political parties.

A citizen shall be a member of only one political party at a time.

According to Article 6 of the Law of Ukraine on political parties of Ukraine the procedures of joining a political party, suspending or terminating membership shall be determined by that party's statute.

Political party membership shall be attested. A compulsory condition of such attested membership shall be a Ukrainian citizen's statement submitted to a given party's statutory body and expressing that citizen's desire to become a member of that party.

The form of attesting political party membership procedures of admission to the political party, suspension and termination of membership are determined by a given party's statute rights and obligations of the membership, grounds on which membership is suspended or terminated;

According to Article 1 of the Law of Ukraine on political parties of Ukraine no one shall be forced to join a political party or restricted in voluntarily withdrawing from a political party.

### **The United Kingdom**

As explained above, before PPERA there were no legal controls over the internal organisation of the political parties. This tradition was set aside to an extent by PPERA, the effect of which in the opinion of one expert was to "transform British political parties from being one of the least to being one of the most highly regulated in Europe".<sup>32</sup> However, the subject-matter of the regulatory scheme introduced by PPERA is essentially financial; Part 3 of PPERA deals with the accounting requirements for registered parties, Part 4 with control of donations to registered parties, and Part 5 with control of campaign expenditure in relation to elections. The assumption behind PPERA is that if these financial requirements are met by registered parties, it is unnecessary to go further and to regulate the rules or constitution of political parties in other respects.

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<sup>32</sup> KD Ewing, [2001] *Public Law* 542.

(a) Anyone can be a member of a registered or unregistered political party who is prepared to pay the relevant subscription, to comply with any statements of political opinion or belief required by the party and to accept the party's constitution.

(b) There is no legal requirement that members of political parties must be national citizens, and in principle foreigners may be active members. For certain purposes, for example the right to nominate candidates at local and parliamentary elections, one must be a registered elector resident in the area concerned; aliens are not in general entitled to vote and are omitted from the election register. However, Commonwealth citizens have the same rights as British citizens in election law. All political parties are subject to the general duty in law not to discriminate on unlawful grounds under the Sex Equality Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995. Accordingly, a political party runs a serious risk of acting in breach of one of these Acts if it imposes rules such as 'no women members' or adopts practices discriminating against members of ethnic groups.<sup>33</sup>

(c) There are no legal requirements for membership that apply to all parties, and in law knowledge of the English or other language is not required. The rules of every major party will provide a procedure to be followed for breaches of party discipline; this procedure may come into play when a member acts in a way that is likely to prejudice the reputation or interests of the party (e.g. by standing as an election candidate against a candidate of the party, or by committing a serious criminal offence).

*3.2 Can membership be denied or can membership be terminated against the will of the person concerned? Can denial or termination be challenged within the party organisation or by appeal to an external authority? Can other decisions of the party be challenged by members within the party organisation or through appeals to courts?*

### **Albania**

Le refus de l'adhésion ou l'exclusion d'un parti politique sont prévus dans les statuts ou dans les règlements intérieurs des partis politiques. La loi ne prévoit pas le recours devant une autorité extérieure, mais dans les règlements des partis politiques est prévue la possibilité d'un recours à l'intérieur du parti.

### **Andorra**

Oui, dans une mesure où le parti est organisé en association ; l'intéressé peut saisir l'autorité judiciaire.

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<sup>33</sup> See *Jepson v Labour Party* [1996] IRLR 116 (all-women short-lists for selection of parliamentary candidates held unlawful).

**Armenia**

According to Paragraph 7 of 17 of the Law of the Republic of Armenia "On political parties", members of the party, in conformity with the requirements of the Charter, have rights and responsibilities. In case of failure to perform their statutory responsibilities members may be subjected to disciplinary liability in the procedure envisaged by the Charter, right up to the dismissal from the party. The internal mechanism of restoration of denied or terminated membership could be established by the Charter of the political party.

**Austria**

Ni le cas de refus d'adhésion ni l'exclusion d'un parti politique ne sont réglés par la loi, pourtant les statuts des partis politiques doivent déterminer les droits et les devoirs individuels de leurs membres (voir 2.2). Les partis politiques jouissent d'une grande marge d'autonomie en ce qui concerne l'organisation interne du parti et les procédures d'arbitrage et de médiation internes. Les possibilités de contester les décisions internes d'un organe du parti tant à l'intérieur du parti que par la voie d'un recours de justice arbitrale ne sont réglées que par les statuts du parti.

**Azerbaijan**

According to Article 6 of the Law of Azerbaijan Republic "On Political Parties" the statute shall provide for disciplinary measures with respect to the members of political parties and grounds for their application without any contradiction to the laws of Azerbaijan Republic.

According to Article 8 of the same Law every capable citizen, who has reached the age of 18 and voluntarily joined the party and recognizes its statute and programme, can be the member of political party.

According to Article 9 of this Law rights of the members of political parties shall be determined by its Statute and cannot be in conflict with the Constitution, laws of Azerbaijan Republic and international law acts concerning rights and freedoms of persons, ratified by Azerbaijan Republic.

Every member of the party or group of the members has the right to free expression.

In accordance with Article 10 the order of free expression in bodies of political parties shall be regulated by Statute of the party.

**Belgium**

A notre sens, un parti politique peut très bien refuser l'adhésion d'une personne ou l'exclure afin d'assurer sa réputation ou sa cohérence doctrinale.

D'ailleurs, la loi du 24 mai 1921 garantissant la liberté d'association énonce en son article 2 que

« Quiconque se fait recevoir membre d'une association, accepte, par son adhésion, de se soumettre au règlement de cette association, ainsi qu'aux décisions et sanctions prises en vertu de ce règlement. Il peut en tout temps se retirer de l'association en observant le règlement ; toute disposition réglementaire ayant pour effet d'annihiler cette liberté est réputée non écrite. »

Cette solution nous semble par ailleurs implicitement consacrée dans l'arrêt n°10/2001 du 7 février 2001 de la Cour d'arbitrage, rendu sur recours en annulation de la loi du 12 février 1999 « insérant un article 15ter dans la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales, ainsi qu'au financement

et à la comptabilité ouverte des partis politiques et un article 16bis dans les lois sur le Conseil d'Etat, coordonnées le 12 janvier 1973 », selon lequel :

« B.4.8.2. En vertu des dispositions attaquées, un parti politique peut perdre sa dotation lorsqu'il montre une des formes d'hostilité visées à l'article 15ter, § 1er, tant « par son propre fait » que « par celui de ses composantes, de ses listes, de ses candidats ou de ses mandataires élus ». Le législateur pouvait viser les éléments du parti, compte tenu de ce que les formations politiques n'ont généralement pas la personnalité juridique et qu'influencer la volonté populaire peut être le fait d'un parti politique en tant que tel aussi bien que de l'un de ses éléments, pour autant qu'il ne subsiste aucun doute quant au lien entre ces éléments et le parti politique concerné.

La mesure serait toutefois manifestement disproportionnée si elle avait pour effet que le parti concerné perde une partie de sa dotation en raison de l'hostilité visée à l'article 15ter, § 1er, qu'aurait manifestée l'un des éléments précités, et ce nonobstant le fait que ce parti l'ait clairement et publiquement désavoué. »

Le désaveu doit pouvoir impliquer, dans les cas extrêmes, l'exclusion.

La question de savoir si un recours interne est possible dépend des statuts que chaque parti se donne librement. Quant à un recours judiciaire, il n'est pas exclu quoique rendu difficile par l'absence de personnalité juridique de la plupart des partis politiques belges.

### **Bosnia-Herzegovina**

It depend on a party's statute ( see also 2.3)!

### **Bulgaria**

Les statuts de chaque parti politique régissent les conditions d'adhésion au parti, la suspension de l'adhésion y compris l'exclusion du parti. Le refus, l'exclusion et les décisions d'un parti peuvent faire l'objet d'un appel devant les organes de celui-ci conformément à ses Statuts.

### **Canada**

Chaque parti politique a ses propres statuts.

### **Croatia**

All these questions are the matter of internal provisions of the statutes of the political parties.

### **Cyprus**

Whether membership can be denied depends on the Charter of the Party. The latter usually specifies the qualifications of membership. Therefore if a person does not possess the relevant qualifications he may be denied membership. Membership can be terminated against the will of the person concerned. The Charter of the Party prescribes the procedure for termination of membership. Such procedure is in accord with the Rules of natural Justice. If a member is found guilty of any offence the commission of which is punishable by termination of membership such membership may be terminated. Both denial and termination of membership can be challenged within the party organization. Termination may, also, be challenged before the Civil Courts. Other decisions of the party can be challenged by members within the party organization.

**Czech Republic**

The law stipulates that no one may be forced to be or become a member of a party or movement. Anyone may leave the party of his/her own free will. The statutes of individual parties contain provisions on establishment, suspension, stay and extinction of membership. A decision on non-admittance, withdrawal or invalidity of membership may be appealed within the stipulated period of time to the party body stipulated by the statutes for that purpose.

Such decisions are not subject to review by general courts.

**Estonia**

According to the Non-profit Associations Act, which is applicable to the political parties with regard to the admittance of members, the management board shall decide on membership in a political party, unless this is placed in the competence of the general meeting or some other body by the articles of association. If the management board or a body other than the general meeting denies membership to an applicant, the applicant may demand that the general meeting decide on his or her membership.

A member of a political party can be excluded from the party by a resolution of the management board in the cases and pursuant to the procedure prescribed by the articles of association. The articles of association may prescribe that exclusion of members is decided by the general meeting. Secondly, regardless of the provisions of the articles of association, a member may be excluded from a political party (as from any non-profit association) due to failure to adhere to the articles of association or for significantly damaging the political party.

If exclusion of a member is decided by the management board, the member may demand that exclusion be decided by the general meeting. If a member was excluded by some other competent body of the political party, the general meeting may declare the resolution on exclusion invalid on the basis of a petition by the excluded member.

On the basis of a petition of a member of a political party, a court may declare invalid a resolution of the general meeting or of another body of a political party, if the resolution is contrary to law or the articles of association. Any resolution, including a resolution concerning exclusion of a member can be challenged with a court.

**Finland**

According to the general law on associations, an association is free to choose its members. An association may terminate the membership on terms laid down in the law on associations and its own statutes. The member has the right to appeal the decision to a court on the ground that it contradicts the law or the statutes of the association. Other decisions of associations may, according to the general law on associations, also be appealed to courts on the same ground. The law on political parties does not contain any specific provisions on these issues.

**Georgia**

According to the organic law going out from the party is free. The rule for execution of disciplinary measures against members is determined by the charter of the party. Generally, is possible to delete membership (dismiss from membership).The following decision can be appealed to the organ beyond.



## Germany

Article 21 (1) (2) *Grundgesetz* guarantees to a political party the right to freely decide about the granting or disclosure of membership. The party's statute must contain provisions about access to the party and termination of membership (Section 6 (2) No. 2 *Political Parties Act*). Pursuant to these detailed provisions, the competent bodies of the party freely decide on the admission of new members (Section 10 (1) (1) *Political Parties Act*). Note that no justification needs to be given for the refusal of an application for membership (Section 10 (1) (2)). But neither general nor temporary embargoes on new members are permissible (Section 10 (1) (3) *Political Parties Act*).

A member can be expelled from the party if he or she deliberately infringes on the statute or acts in a manner contrary to the principles or discipline of the party and thus seriously impairs its standing (Section 10 (4) *Political Parties Act*). The party arbitration court which is competent in accordance with the Arbitration Procedure Code decides upon expulsion from the party (Section 10 (5) (1) *Political Parties Act*). In addition, the right to appeal to a higher court is guaranteed (Section 10 (5) (2) *Political Parties Act*). Decisions must be justified in writing (Section 10 (5) (3) *Political Parties Act*). In urgent and serious cases, the executive committee of the party or a regional association may exclude a member from exercising rights until such time as the arbitration court has reached a decision (Section 10 (5) (4) *Political Parties Act*).

Furthermore, according to Section 6 (2) Nos. 3 and 4 *Political Parties Act* (see above, question 2.2.) and Section 10 (3) Nos. 1 – 3 *Political Parties Act* the party's statute must contain provisions dealing with admissible disciplinary measures against members (no. 1), reasons for such measures (no. 2) and those bodies within the party which may initiate disciplinary measures (no. 3). If a member is deprived of party offices or qualifications to hold them, justification for such a decision must be stated (Section 10 (3) (2) *Political Parties Act*).

Section 14 *Political Parties Act* regulates that the parties and highest – level regional organizations must set up courts of arbitration to settle and decide disputes between the party or a regional organization and individual members as well as differences of opinion about the interpretation and implementation of the statute (Section 14 (1) (1) *Political Parties Act*). The members of these courts of arbitration may only be elected for a maximum period of four years (Section 14 (2) (1) *Political Parties Act*). They are independent and not bound by any instructions (Section 14 (2) (2) *Political Parties Act*). The functions of the Court of Arbitration are governed by a Court of Arbitration Code designed to ensure that litigations provide for a fair hearing and guarantee the rejection of any prejudiced member of the Court of Arbitration (Section 14 (4) *Political Parties Act*).

Section 16 (1) *Political Parties Act* provides that the dissolution and exclusion of subordinate regional organizations or the termination of whole regional organization bodies are permissible only in cases of serious infringement of party principles or discipline. The statute must stipulate (1) the reasons justifying the measures and (2) which higher-level regional organization and which regional organization body may adopt such measures.

In order to implement a measure in pursuance of Section 16 (1), the executive committee of the party or a higher-level regional organization must receive the confirmation of a more senior body. The measure is invalid if it is not confirmed at the next party convention (Section 16 (2) *Political Parties Act*). An appeal to a court of arbitration against measures adopted under Section 16 (1) *Political Parties Act* is permissible.

**Greece**

Membership can be denied according to the statute of the political party. Membership can be terminated against the will of the person concerned pursuant to any disciplinary procedure in the party's statute. Denial of membership cannot be challenged. Termination can, however, be challenged within the party organization, according to the procedure provided for by the party's statute.

**Hungary**

There is no legal provision and no case law on free access to membership, on suspension thereof or on exclusion from the party. These are matter for the charter. However, the basic right to freedom of association and the requirement of democratic organisation of associations (§.6 (1) AA) make it obligatory, that access to membership be free (on the condition of accepting the goal of the party and being loyal to the party.), and that internal remedies be available against decisions of party organs. Internal decisions of the party can be challenged before ordinary courts. While the member of an association may sue the party for any decision, which he/she alleges being contrary to the law, the challenge of party decisions is limited to cases, where the decision violates the AA or the PA. (§ 10 (3) AA) It is established case law that decisions of an organ of an association may also be challenged if it violates not a law but the charter. Because the language of the AA is the same as regards associations and parties (it speaks in both cases of violation of a law and two certain laws, respectively) this interpretation could be extended also to parties. The Supreme Court held in more cases that the violation of the charter of the party qualified as violation of the law and might be challenged by party members before the court.

**Ireland**

Membership of political parties is subject to the particular party's rules. General law applying to organisations such as that concerning equality, discrimination, unlawful purposes etc. applies and recourse to the courts would be available to members of political parties as it would be available to members of other organisations.

**Italy**

According to most internal statutes of the parties, membership can be denied or terminated against the will of the person concerned. Usually these rules provide also that termination (but not denial) can be challenged against ad hoc internal boards as composed according to statutes, but never provide for appeal to an external authority. Internal rules do not give members or internal minorities the chance of challenging before ad hoc internal boards decisions of the party such as party Congress deliberations. However, in spite of the fact that statutes never provide jurisdictional remedies against party decisions, these decisions are sometimes challenged before ordinary courts. This has seldom occurred not only for what concerns terminations, but also for local Congresses decisions. According to the Italian legal order, the right to challenge whichever party decision before ordinary courts, is given to party members to the extent that, as it was already mentioned, parties are qualified as non recognized associations. It is worth adding that judicial controversies may, and sometimes do, arise in cases of parties division or secession of some members to another party or to a new association, for what regards the right to maintain the former party's appellative or the party's properties. Given the number of national and local parties, these controversies are not unlikely to occur.

### **Japan**

There are no provisions on this point either in the Constitution, the above-mentioned laws, etc.

### **Korea**

No one may be forced to join or withdraw from a political party unless they choose to do so voluntarily, but a party member may be revoked his membership if stipulated in their political party's bylaws. (Article 19 of the Political Party Law) Should a person be denied/revoked membership or disagree with a party decision, they may file a protest according to the party bylaws and may also request a hearing by filing a complaint at the administration of justice.

### **Latvia**

Every political organization (party) must indicate in their statutes the regulations for admitting and expelling members as well as the member's rights and obligations.

The law prescribes, that illegal decisions of party could be appealed to courts (See answer to question 5.)

### **Liechtenstein**

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### **Lithuania**

1. These questions are solved neither in the Constitution, nor in the Law on Political Parties and Political Organisations. Nevertheless, article 3 of the Law on Political Parties and Political Organisations provides that in the party's or organisation's charter (statutes) *inter alia* have to be included provisions on the conditions and procedure to enter and leave the party or political organisation, on rights and obligations of the members of party or political organisation, on execution of the control on the activities of the institutions of party or political organisation as well as on other questions of the organisation of the activities of party or political organisation. Therefore these questions have to be solved in the charter (statutes) of each political party or organisation.

2. For what concerns the right to apply to the court, it has to be mentioned that article 30 of the Constitution provides that "the person whose constitutional rights or freedoms are violated shall have the right to apply to court". Therefore, the person, who's constitutional right to form a political party has been denied, have the right to apply to the court.

### **Luxembourg**

Cela dépend des statuts des différents partis politiques.

### **Macedonia**

These issues are not regulated by law, but are left to be regulated by statutes of the political parties. The Law, however, recognize the termination of membership under conditions established by the statute of the party. Solutions may be different, but in principle the answers to these questions are affirmative.

Membership can be denied, since it is subject to verification by competent party organs. No specific reasons of denial are foreseen.

Termination of membership against the will of the person concerned is possible, mainly due to his/her conduct against the program and the statute, membership in another party, or acts which diminished the credibility of the party.

Right to appeal before the higher organs of the parties is guaranteed in both denial and termination cases.

Members are entitled to challenge the decisions of lower organs before the higher in cases concerning their rights (right to be elected in the organs, right to obtain information etc.)

No specific provisions on judicial review. However, if a case implies a breach of constitutional or legal rights, a court trial is not excluded.

### **Malta**

Every party in Malta has prescribed procedures for admittance to membership, for suspension from membership and for expulsion. Admittance is in most cases a mere formality in the hands of the party bureaucracies. Suspension and expulsion are disciplinary measures and there are organs possessing the function of applying these measures, and in built the right of the member to be heard. There exists also the right of appeal to the Party Executive Committee or another special organ. Occasionally recourse is had to the ordinary courts to establish points of fact or to have a declaration that the rules of natural justice have not been observed, or that an organ has acted *ultra vires*. The courts are extremely reluctant to be drawn in to enquire into the merits of particular cases.

### **The Netherlands**

Membership may be denied according to a procedure provided for in the by-laws of the party (Article 2: 33 of the Civil Code).

Concerning termination of membership against the will of the person concerned, Article 2:35, second paragraph, of the Civil Code provides that this is possible on the grounds mentioned in the by-laws of the association concerned, and moreover, if the person has ceased to fulfil the requirements of membership set in the by-laws or if the association cannot reasonably be expected to continue membership.

The third paragraph provides that deprivation of membership is allowed only if the person concerned has acted in violation of the by-laws, regulations or decisions of the association, or has unreasonably harmed the association.

A decision of deprivation of membership by the board may be challenged before the general assembly of the association, unless the by-laws assign another body or to a third person or institution to hear the appeal (forth paragraph).

From a decision of termination or deprivation of membership appeal lies to the civil court in a tort action.

### **Poland**

The questions of membership in the party are not the subject of the law on political parties. There is however one exception, the LPP states very clearly that a member of a political party shall have the right to resign his/her membership.(art.10)

### **Romania**

*Conformément à l'art. 37 de la Constitution* ne peuvent pas faire partie des partis politiques les juges de la Cour Constitutionnelle, les avocats du peuple, les magistrats, les membres actifs de l'armée, les policiers et autres catégories de fonctionnaires publics établies par la loi organique.

*Loi 14/2003* prévoit qu'on interdit la constitution de structures des partis politiques conformément au critère de la place de travail, aussi bien que le développement d'activités politiques au niveau des agents économiques ou des institutions publiques.

Des partis politiques ne peuvent pas faire partie :

- les personnes auxquelles on interdit par la loi l'association politique ;
- un citoyen roumain ne peut pas faire partie en même temps de deux ou plusieurs partis politiques ;
- l'inscription d'une personne dans un autre parti politique constitue de droit démission du parti dont le membre il fut en avance.

*Art. 16 de la Loi 14/2003* prévoit que les membres ont le droit de démissionner du parti à tout moment, à effet immédiat.

L'obtention ou la perte de la qualité de membre d'un parti politique *est soumise seulement à la juridiction interne du parti respectif, conformément au statut du parti.*

### **Russia**

All problems of membership are solved within the party concerned according to its statute. There are no appeals of the members to courts or other external authorities concerning their membership.

### **Slovak Republic**

See 3.1 above.

### **Slovenia**

There are no legal provisions prohibiting the party from denial or termination of the membership in the party. Therefore this question can be regulated by the party statutes and rules and therefore party is allowed to deny or terminate a membership. In addition, Act on Political Parties provides that in order to become a party member a person has to fulfill the conditions set by the party statute.<sup>34</sup> Challenge of denial or termination within the party of organisation is regulated by internal party rules. Also the challenge of other decisions is regulated by the internal party rules and the Act on Political Parties contains no provision on this question.

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<sup>34</sup> See art. 6 of the Act on Political Parties.

**Spain**

According to the Law of Political Parties, the Party Bylaws or internal rules must regulate the rights of the party members. There are several mandates of the Law concerning the procedures required to expel or exclude members (Art. 8.3 Law on Parties), procedures which must include a right of defense. A right to internal appeals (within the party) before the party authorities against any type of decisions is also recognized (Art. 8.2 d. of the Law)

Decisions concerning expulsion from any association may be appealed before the Courts, on the common grounds governing civil law contracts. The Constitutional Court has recognized this right (Decisions 218/88 and 96/94), although it also admits that the type of association must be taken into account by the Courts in their decisions.

**Sweden**

This is entirely a matter for the charter of the political party. There are no known cases of appeal to courts of law in situations of this kind.

**Switzerland**

C'est de le droit civil (droit des associations) ou les règles statutaires adoptées par chaque parti qui déterminent les modalités de telles procédures.

**Turkey**

Membership can be denied by the party. However, party constitutions shall not contain discriminatory provisions based on language, race, sex, religion, sect, family, group, class or occupation. Denial can be challenged before the next level of party hierarchy whose decisions are final.

Termination of membership can be decided by the appropriate disciplinary board as defined by the party constitution. The party constitution may provide a right of appeal against such decisions. There is also the possibility of challenging such decisions before the courts (LPP, Art. 57).

**Ukraine**

See 3.1.

**The United Kingdom**

Questions such as these depend upon the rules or constitution of each political party. In the case of the major parties, the rules are likely to authorise certain officers or committees to withhold membership from an undesirable applicant, or to expel from membership a member whose conduct is considered detrimental to the party. The rules generally provide for a right of appeal within the party, whether to a higher administrative level or to a specially constituted appeal committee. In the Labour and Liberal Democrat parties, a final right of appeal against certain decisions lies to the national conference of the party. As already explained, recourse to the courts is possible where a person claims that the party's rules have not been observed, that a committee or official lacked competence under the rules to take a certain decision, or that a section of the

party has acted unfairly or with bias in deciding, for instance, that an individual should be expelled from the party.<sup>35</sup>

*3.3 Are there regulations concerning the internal registration of party members and concerning access to and disclosure of information on membership, e.g. in matters concerning public financing, taxation or upon dissolution?*

**Albania**

Il n'y pas des normes juridiques concernant l'inscription interne des membres du parti ou concernant l'accès à des informations sur ces membres.

**Andorra**

Oui, en application de la loi sur les associations.

**Armenia**

Taking into account that the political party is an organization based on membership, consequently the registration of members of political party is obligatory. The rules of the registrations of members of political party are established in Article 17 of the Law of the Republic of Armenia "On political parties". Paragraph 4 of Article 17 of the Law of the Republic of Armenia "On political parties" establishes that Membership to the party is performed in the procedure established by this Law and the Charter of the party. Members of the party participate in its activity in the procedure prescribed by this Law and the Charter of the Party. Membership to the party is performed in the procedure established by this Law and the Charter of the party. In the official document the note on party affiliation may be included solely in cases stipulated by the law."

Paragraph 2 of Article 8 of the Law of the Republic of Armenia "On political parties" enumerates the principle of the activity of political party, among these principles the publicity is also mentioned. According Paragraph 4 of Article 8 of the Law of the Republic of Armenia "On political parties", parties function publicly, their founding and program documents are published for general awareness.

As the Law does not envisaged the restrictions for access to information on political parties, consequently the information is accessible for anybody. At the same time it should be taken into account that in the official documents the note on information about party affiliation is not mandatory. Joining or not joining the membership of the party by citizens is not a basis for limitation of their rights and freedoms and/or granting to them of any privilege or advantage by the state.

**Austria**

Selon l'art. 4 de la LPP, les partis politiques ont l'obligation de rendre compte annuellement sur tous les revenus et dépenses du parti qui sont contrôlés par deux vérificateurs des comptes indépendants. Les résultats de la vérification des comptes doivent être publiés dans le Journal des avis officiels de l'État.

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<sup>35</sup> See above, cases cited in note 7.

**Azerbaijan**

In accordance with Article 17 of the Law of Azerbaijan Republic "On Political Parties" funding of political parties by foreign states, including legal and physical persons of foreign states shall be prohibited.

In accordance with Article 18 of the Law membership fees shall be considered as incomings of political parties.

The state tax bodies shall realize supervision of incoming sources, amounts of funds adopted and payment of taxes in order specified by the tax legislation.

**Belgium**

La loi du 8 décembre 1992 relative à la protection de la vie privée à l'égard des traitements de données à caractère personnel prévoit que

« art.6 § 1. Le traitement de données à caractère personnel qui révèlent l'origine raciale ou ethnique, les opinions politiques, les convictions religieuses ou philosophiques, l'appartenance syndicale, ainsi que le traitement des données relatives à la vie sexuelle, est interdit. »

Toutefois, cette interdiction de principe ne s'applique pas « lorsque le traitement est effectué dans le cadre des activités légitimes d'une fondation, une association ou tout autre organisme à but non lucratif et à finalité politique, philosophique, religieuse, mutualiste ou syndicale, à condition que le traitement se rapporte aux seuls membres de cet organisme ou aux personnes entretenant avec lui des contacts réguliers liés à sa finalité et que les données ne soient pas communiquées à des tiers sans le consentement des personnes concernées » (art.6, §2, d).

Cette disposition signifie que les partis politiques peuvent tenir le fichier de leurs membres, à condition qu'il ne soit pas communiqué à des tiers.

Il faut toutefois noter cette restriction importante : selon l'article 3, § 4 de la loi,

« Les articles 6 à 10, 12, 14, 15, 17, 17bis, alinéa 1er, 18, 20 et 31, §§ 1er à 3, ne s'appliquent pas aux traitements de données à caractère personnel gérés par la Sûreté de l'Etat, par le Service général du renseignement et de la sécurité des forces armées, par l'Autorité de sécurité, par les officiers de sécurité et par le Comité permanent de contrôle des services de renseignements et son Service d'enquêtes, lorsque ces traitements sont nécessaires à l'exercice de leurs missions. »

**Bosnia-Herzegovina**

Every party is obliged to submit to the Election Commission of Bosnia and Herzegovina an annual financial report (Art. 11 of the BH Law on Financing the Political Parties). In this report, the party is obliged to register every contribution in the amount of 100 KM or more (Art. 6 of the Law on Financing the Political Parties). Furthermore, in its statute, every party has to establish how the publicity shall be informed about its financing (Art. 14 paragraph 2 item 8 of the RS and F BH Law). The representation of a party before the Election Commission of BH, the party is also obliged to have representatives (Art. 12 of the BH law on financing the Political Parties).

**Bulgaria**

De telles règles n'existant pas.



### **Canada**

En vertu du projet de loi C-24, les associations de circonscription, les candidats à la direction et les aspirants à l'investiture seront tenus de divulguer le nom de toute personne versant une contribution de plus de 200\$ ainsi que le montant de cette dernière. Toutes les dépenses engagées devront également être divulguées. À l'heure actuelle, seuls les candidats et les partis politiques doivent rendre public le montant des contributions reçues. Le projet de loi C-24 prévoit des règles pour régir les nouvelles exigences en matière de divulgation.

### **Croatia**

By the Law on Political parties it is foreseen that the Statute of the political party has to have the rules on:

- representation and legal representation,
- the working goals,
- membership,
- governing bodies, the way of their elections, revocation, mandate and deciding.

So, it is again the matter of the internal rules set by the Statute.

### **Cyprus**

No.

### **Czech Republic**

The law does not prescribe the manner in which party membership is established, nor does it impose the obligation or prohibit to provide information on party membership. The statutes of individual parties contain provisions on internal registration of party members. As regards information on party membership, this is the members' personal data. Such information falls under the protection of Act No. 101/00 Coll., on Personal Data Protection. The information is not publicly available.

A registered party is entered into the register of parties and movements maintained by the Ministry. The said register is a public list and is accessible to the public. Aside from other information, the register contains information on suspension of activities of parties, or the abolishment of parties or movements.

Pursuant to the applicable legal regulations, each party or movement is obliged to submit by April 1 of each year its annual financial report to the Assembly of Deputies.

### **Estonia**

The management board of a political party shall maintain a list of members of the political party with the given name, surname and personal identification code of each member and the time of his or her admittance, resignation or exclusion.

Each year, the management board of a political party shall submit a list of members of the political party to the registration department of the court of its location. The lists of members shall be made public on an internet site of the register.

**Finland**

No.

**Georgia**

The regulations for the internal registrations of party is determined by the charter of the party. The legislation says nothing about access to and disclosure of information concerned. At the same time, must be mentioned that on every 1<sup>st</sup> of February of each year party should publish financial declaration with an conclusion of an auditor. At the declaration must be shown annual profit (indications of sources) and expenditures, property.

**Germany**

There do not exist any rules concerning access to internal registration of party members for privacy reasons. As far as registered associations are concerned the general rule of Section 72 of the *Civil Code* regulates that the party's executive committee must confirm to the court of registration at any given time the number of the party's members. However the only information which must be submitted is the actual *number of members*; no more information about the members may be required. This rule only applies to registered associations.

Information on membership is granted for reasons of equal opportunity at internal elections for positions within the regional-organization to members of the organization. They can have access to its regional – organizations' members' list. One reason for this principle is to give members the possibility to run independently from the party' s actual executive branch at internal elections. It is neither compulsory for a political party to submit personal information about its members for public financing, nor for taxation or upon dissolution. Parties do have the duty make names of donators public in cases where a legally defined amount is surpassed. This also applies when the donator is a party member.

**Greece**

Such regulations are provided for by the party's statute.

**Hungary**

Parties (as all associations) shall have registered membership. (§ 3 (1) AA.) There is no regulation on disclosure the names or number of members. The criteria for financing etc. are not the number of members but results achieved in elections.

**Ireland**

There are no laws concerning internal registration of party members or concerning access or disclosure of information on membership.

**Italy**

No, there aren't.

**Japan**

There are no provisions on this point either in the Constitution, the above-mentioned laws, etc.

**Korea**

A party's constituency chapter must be provided with a list of all its members, and those not listed will not be considered a member of that political party. (Article 19, clause 3 and article 22 of the Political Party Law) The party will not be asked to publicize its list of members unless the Court of justice requests it for trial related reasons or the concerning Election management committee wishes to check party information. A warrant must be issued for a party to authorize the use of its list of members for a criminal investigation, and the political official in charge of the investigation must not disclose the acquired knowledge. (Article 22 of the Political Party Law) A party may establish and manage a party expenditure payment system in order to better facilitate its contingent and obtain financial independence. (Article 22, clause 2 of the Political Party Law) A political party's finances, including its assets, income and expenditure, are itemized and governed by the law. (Laws Pertaining to Political Finances)

**Latvia**

No.

**Liechtenstein**

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**Lithuania**

1. Neither the Constitution, nor the Law on Political Parties and Political Organisations provide such rules. These questions could to be solved in the charter (statutes) of each political party or organisation, while defining other rights and obligations of party's members.

**Luxembourg**

Non.

**Macedonia**

The law requires that the Act of establishment, which is presented to the court upon registration, contain the names of the founding members, their ID numbers and addresses on the territory of the Republic. It is required to maintain the membership above 500 members and to inform the court once a year about that. The president of a party submits a statement credited by Notary Public, which is sufficient. No records are presented.

It appears that political parties have no internal rules about these issues. They have records of admission of members, but in practice they do not disseminate information.

**Malta**

There are no public regulations, but every party has these matters regulated by its own Statute. In Malta there is no State financing of Political Parties. The Parties are financed by membership contributions and by extraordinary financing campaigns. Some parties have also interests in the media, with very dubious financial gain. The finances of every party are scrutinised and audited by internal committees.

**The Netherlands**

There are no specific legal regulations concerning the internal registration of party members and access to and disclosure of information on membership. The Law concerning the Protection of Personal Data is applicable. In addition, the by-laws of the political party may contain provisions concerning these issues.

If a political party receives a subsidy from the Minister of the Interior in accordance with the Law concerning Subsidising Political Parties, it has to prove that it meets the requirement of Article 2 of that Law concerning the minimum number of members (1.000) and the minimum of contribution paid by each of these members (EUR 11,34). This presupposes access for the Minister to the information on membership and financial contributions. Moreover, Article 9 of the Law stipulates that the political party, when receiving a subsidy, accepts the obligation to organise its administration in such a way as to provide insight in the rights and obligations of the party, as well as in its payments and receipts. According to Article 10 of the Law an application for a subsidy has to be accompanied by a financial report, including data concerning membership, and a report on activities. Article 12 of the Law regulates the obligation of the party to annually submit its financial report to an audit for approval. Article 18, finally, stipulates that the financial report of the party must mention the total of donations received other than contributions by its members. Moreover, it must reveal each donation above a certain amount (EUR 4.537,80) received from another source than a private person.

**Poland**

The LPP does not regulate the details concerning internal registration of party members and issues concerning internal democracy in the party. Art. 1 giving the definition of a political party states clearly, but in a very general way that political party shall "use democratic means".

**Romania**

Conformément à la Loi 14/2003 les droit et devoirs des membres, les sanctions disciplinaires et procédures par lesquelles celles-ci peuvent être appliquées aux membres sont contenus dans le statut de chaque parti.

**Russia**

There are such regulations in several federal acts.

**Slovak Republic**

See 3.1 above.

### **Slovenia**

There are no legal provisions concerning the internal registration of party members and access to and disclosure of information on membership except for the provision requiring the party to have a registry of the party members. However, it does not state that the registry is public.

### **Spain**

According to the Law on the Financing of Political Parties (*Organic Law 3/1987*), political parties must maintain a detailed system of accounting registers (Art. 9). They must also have a system of internal economic control (Art.10). Jurisdiction over the external control of the economic activities of parties belongs to the Court of Accounting (Tribunal de Cuentas). Parties receiving public subsidies must present detailed reports to the Court of Accounting every six months (Art. 11). The Accounting Court may ask the parties to present reports on private contributions, both national and foreign. It should be underscored that the Court of Accounting must periodically publish a Report on its activities, including its control of political parties.

No regulations exist concerning access by the public to parties' documents or organizational details, nor concerning obligations to disclose lists of members.

### **Sweden**

No.

### **Switzerland**

Cf. 3.2.

### **Turkey**

Article 60 of the LPP requires party organisations at all levels to keep a membership registration book.

### **Ukraine**

See 3.1.

### **The United Kingdom**

In general, despite PPERA, there are no regulations that confer rights on party members as against their party in respect of these matters. Political parties are not regarded as governmental bodies for the purposes of the law on freedom of information. Under PPERA, the Electoral Commission must maintain several registers which contain a record of donations to the parties by individuals and other bodies above a specified value, a record of campaign expenditure and annual statements of accounts. Access to these registers is available to the public at large and thus to party members. It will be for the constitution or rules of the party to provide for distribution of the party's assets in the event of its dissolution.

*3.4 Which individual or body represents a political party in legal matters?*

### **Albania**

Selon la loi sur les partis politiques, dans chaque parti doit exister un organe compétent pour représenter le parti dans les relations avec les tiers. Cet organe doit être prévu dans le statut ou le règlement du parti.

### **Andorra**

Une disposition spéciale de la loi précitée permet aux partis politiques de déterminer, plus librement que les autres associations, les modalités de leur gestion, les modalités de l'élection de leur Président et de leur bureau. Toutefois, toutes ces modalités doivent respecter le principe démocratique.

### **Armenia**

According to Paragraph 2 of Article 18 of the Law of the Republic of Armenia "On political parties", in accordance with the Charter of the party, the permanently functioning management body of the party exercises in the name of the party powers reserved to it as a legal entity.

### **Austria**

Les statuts d'un parti politique doivent impérativement déterminer l'organe ou les personnes qui représentent le parti à l'extérieur. En règle générale, ce sont les présidents, les porte-parole ou les secrétaires généraux du parti.

### **Azerbaijan**

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### **Belgium**

Les partis politiques n'ont, en règle, pas la personnalité juridique. Rien ne les empêche de créer s'ils le désirent des associations personnalisées, par exemple pour la gestion des locaux ou l'engagement de personnel.

En ce qui concerne les règles de financement public, l'association sans but lucratif visée dans la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales, ainsi qu'au financement et à la comptabilité ouverte des partis politiques peut, comme toute les associations, valablement représenter ses intérêts, dans le cadre de son objet social, par hypothèse limité aux questions de financement.

Enfin, il faut faire état de la jurisprudence de la Cour d'arbitrage selon laquelle le président d'un parti politique pourrait introduire un recours en annulation (recours objectif) d'une loi devant elle à condition d'avoir reçu un mandat explicite de l'organe compétent du parti politique, même s'il est constitué en association de fait (C.arb., n°10/2001 du 7 février 2001, B.2.3.).

### **Bosnia-Herzegovina**

In its decision on establishment and statute, every party is obliged to refer to its legal representative, especially for its registration (art. 13 paragraph 2 item 5 and Art. 14 paragraph 2 item 6 of the RS and F BH Laws).

### **Bulgaria**

Cette représentation est régie par les Statuts du parti politique.

**Canada**

C'est le président du parti (pas nécessairement le chef) qui représente le parti sur la scène juridique.

**Croatia**

That should be foreseen by the Statute of the political party and has to be known by the registration. (see 3.3.).

**Cyprus**

The individual or body representing a political party is named in the Charter of the Party.

**Czech Republic**

Pursuant to the Act on Political Parties, statutes must contain provisions on statutory bodies, their constitution and definition of their authority, acting and signing, provisions stipulating whether and to what extent other party members or associates may take legal acts on behalf of the party.

**Estonia**

Every member of the managing board of a political party has the right to represent the party in all legal acts unless otherwise provided by law. The articles of association may prescribe that all or some of the members of the management board may represent the political party only jointly.

**Finland**

According to the general law on associations, an association is represented by its board. The law on political parties does not include any provisions on the matter

**Georgia**

These issues are not decided by the legislation.

**Germany**

Section 11 (3) *Political Parties Act* provides that the party's executive committee represents the regional organization pursuant to Section 26 (2) of the *Civil Code* unless the party's statute provides otherwise. Section 26 (2) *Civil Code* stipulates that the executive committee represents the party in legal matters.

**Greece**

Its President or whoever is designated for that purpose by its statute.

**Hungary**

The charter shall identify the organ, which represent the party.

**Ireland**

The trustees of the party or a nominated individual would represent the party. Political parties are generally unincorporated associations.

**Italy**

Article 36 of the Civil Code states that whoever is charged to take the presidency or the direction of the non-recognized association (parties included), according to its internal agreement, represents that association in legal matters.

**Japan**

Under the Political Funds Control Law, it is provided that the notification should contain the name of its representative (Article 5). Under the Law on Granting Legal Personality to Political Parties, etc., it is provided that the notification should contain the name of its representative (Article 5), and the representative can represent the political party as a juridical person (Articles 8, 9).

**Korea**

A party chairman may represent their party legally, and a party must state their party chairmans address and name upon registration. In addition, the party constitution must stipulate their chairmans means of nomination, the duration of their term, their means of management and their responsibilities. (Articles 12, 28 of the Political Party Law)

**Latvia**

Every politic party sets its structure in its own statutes.

**Liechtenstein**

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**Lithuania**

1. Neither the Constitution, nor the Law on Political Parties and Political Organisations provide detailed rules (only in the article 10 of the Law on Political Parties and Political Organisations it is generally stated that the application to register the political party shall be signed by the "leader"), therefore an institution, representing political party in legal matters, has to be indicated in the charter (statutes) of each political party or organisation.

**Luxembourg**

Comme les partis politiques ne sont pas dotés de la personnalité juridique, mais doivent être considérés comme associations de fait, l'ensemble des membres composant l'association est censé représenter un parti politique sur le plan juridique.

**Macedonia**



In general, the president represents the political party. He/she may authorize another person, usually, the secretary or one of the secretaries. A lawyer could be hired also.

### **Malta**

Every party statute provides for legal representation by the indication of the official or officials who would validly appear for and bind the party on contracts, as well as actively or passively in court proceedings.

### **The Netherlands**

According to Article 2:45 of the Civil Code an association is represented by its board unless the law provides otherwise. The by-laws may provide that the association is represented by one or more members of the board, or may assign other persons to represent the association. There is no specific regulation concerning political parties.

### **Poland**

Art. 3 of the LPP stresses that a political party shall base its activity on the voluntary work of its members. It may of course employ persons to conduct its affairs. (including lawyers).

### **Romania**

Conformément à la loi dans le Statut de chaque parti politique on prévoit l'organe qui représente le parti dans les relations avec les autorités publiques et les <sup>o</sup>i tiers.

### **Russia**

As a rule, it is for a party to decide, who is to represent it legally. But in some cases laws determine, that representation may be realized only by people, who have juridical training.

### **Slovak Republic**

The statute of each political party or movement determines which body (ies) are authorized to represent and to act on behalf them out-wardly (*in foro externo*) including its legal matters (so called statutory organs). According to Article 10 of the Political Parties Act each political party or movement is obliged to inform the Ministry of Interior of its statutory organs (including its name and seat) within the 15 days term since their setting up.

### **Slovenia**

A party must have an individual who represents it in legal matters. Already at the time of registration this individual has to be named in the registration request. The name of the present member, who is legally responsible for the party (usually the party president) is public and it is a part of the party registry, conducted by the Ministry of Interior.<sup>36</sup>

### **Spain**

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<sup>36</sup> See art. 10 of the Act on Political Parties.

According to the Law on Political Parties (Art. 7.3), the party Bylaws shall determine the governing bodies of the party, which implies that the Bylaws must also determine the specific bodies or individuals in charge of the external representation of the party. The Law establishes that the members of these governing bodies shall be elected by direct and secret ballot. In any case, according to Art. 7.2 of the Law, the “most important decisions” must be adopted by the party Assembly.

### **Sweden**

This is entirely a matter for the charter of the political party.

### **Switzerland**

Cf. 3.2.

### **Turkey**

The party leader (president) represents the party in legal matters.

### **The United Kingdom**

In the matters covered by PPERA, each party’s entry on the register maintained by the Electoral Commission will state the office-holders who are accountable for compliance with PPERA. Apart from this, no single answer is possible. In the general law of unincorporated associations, the members of the governing committee of an association may sue and be sued on behalf of the party, but a party’s rules will generally provide for a group of trustees in whom is vested legal title to the property owned by the party. As regards the enforcement of PPERA by recourse to criminal penalties, proceedings may be brought against a body or party in its own name, even if it is an unincorporated association (PPERA, ss 151, 153).

### *3.5 Are there legal requirements concerning internal democracy in a political party?*

#### **Albania**

La loi statue que: ”le partis politiques, dans l’activité pour la réalisation de leurs bûts doivent utiliser seulement des moyens et des méthodes démocratiques”.

Entre autre la loi interdit l’enregistrement d’un parti si son organisation interne est en contradiction avec les principes démocratiques et, notamment, avec les principes suivants: structuration du parti de la base jusqu’au sommet, elections internes démocratiques des forums du parti, droit pour chaque membre d’exprimer ses opinions, liberté pour adhérer et sortir du parti, droit pour chaque membre d’élire et être élu.

#### **Andorra**

Oui ; d’après la Constitution et la loi précitée, l’organisation et le fonctionnement du parti doivent être démocratiques.

#### **Armenia**

First of all, Paragraph 2 of Article 8 of the Law of the Republic of Armenia "On political parties" enumerates the principles of the activity of political party: the activity of parties is based on voluntary, self-governing, legal equality, legality, and publicity principles.

Besides, according to Article 19 of the Law of the Republic of Armenia "On political parties", The Conference of the party is competent, if at least the two-third of the total number of delegates to the Conference is present (registered) at the Conference.

Decisions on adoption of the Charter and the Program of the party, making amendments and restatements thereto, reorganization, self-liquidation, as well as nomination of a candidate to the President of the Republic are adopted by the majority of votes of the total number of delegates of the Conference.

Decisions of the Conference of the Party, other than cases envisaged by this Law, are adopted by majority votes of delegates present (registered) at the Conference.

In the elections to the National Assembly, nomination of candidates in the party list is made by the decision of the permanently functioning management body of the party. Leaders of the separated subdivisions participate in that session in the procedure established by the Charter.

#### **Austria**

Non. La LPP ne contient pas de règles sur la démocratie interne au sein d'un parti politique. Elles sont déterminées seulement par les statuts.

#### **Azerbaijan**

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#### **Belgium**

Non.

#### **Bosnia-Herzegovina**

Same as 3.2.

#### **Bulgaria**

Ces questions sont réglées par ses Statuts.

#### **Canada**

Non. Chaque parti politique est responsable de sa régie interne.

#### **Croatia**

General guidance is given by Constitutional provision - "the internal organization of the parties has to be in compliance with the basic constitutional democratic principles".

#### **Cyprus**

No.

**Czech Republic**

When regulating their internal organization and operations, the individual parties must heed the requirements set out in the Constitution and Charter, as well as the Act on Political Parties that stipulates that political parties must have democratic statutes and democratically constituted bodies. Internal democracy in political parties is governed by their statutes.

The statutes of ODS (Civic Democratic Party) and ÈSSD (Czech Social Democratic Party) can be mentioned as an example. All bodies form a quorum if more than one half of all members are present. Resolutions are adopted by a simple majority of votes. According to ÈSSD's statutes, certain decisions require the consent of three fifths of all members; such decisions include for instance decisions on abolition of a local unit, abolition of the party, vote of no trust with respect to specific officers. Resolutions of individual bodies are binding on all members, and decisions of superior bodies are binding on subordinate bodies.

The law further stipulates that the statutes also need to regulate the rights and duties of the party members. According to the statutes:

- party members are entitled to take part in party meetings, vote and be elected to any office, freely express their views and positions, receive information, present proposals and draw attention to shortcomings, etc.

Members are obliged to comply with the statutes, to promote the programme and pursue the party's objectives, to respect resolutions and decisions of party bodies, pay members' dues, etc.

According to the Constitutional Court's case law (Pl. 26/94), parties may enforce with respect to their members only those obligations that were assumed in a manner and to the extent deemed to be legally binding by the state. Party obligations, or rather duties outside this sphere, are not legally enforceable.

**Estonia**

No. There are, however, some regulations which tend to promote internal democracy in political parties. For example, the resolution of the management board to deny membership or to exclude a member of a political party can be appealed to the general meeting of the political party (see 3.2., *supra*). Secondly, the Political Parties Act imposes a prohibition to operate as a political party or structural unit of a political party on organisations or alliances which possess weapons, are militarily organised or perform military exercises.

**Finland**

The registration of a party requires that the party secures through its statutes the observance of democratic principles in its decision-making and activities.

**Georgia**

These issues are not decided by the legislation .

## Germany

Article 21 (1) (3) *Grundgesetz* provides that the internal structure of political parties has to be in conformity with democratic principles. This means that the decision-making procedures of the party organs have to be democratic. The members must have the possibility to participate in these decisions. Article 21 (1) *Grundgesetz* requires that especially the regional structure of the party must be developed to a sufficient degree to enable individual members to participate to an appropriate extent in the forming of political opinions within the party (Section 7 (1) (3) *Political Parties Act*).

The internal structure of the party and its processes must be structured in a free, equal and co-determinative manner. There must be elections on a regular basis for the party's offices. The statutory implementation of these constitutional principles can be seen, for example, in Section 10 (2) (1) *Political Parties Act*. It states that members of the party and representatives in the party bodies have equal voting rights, but the statute may stipulate that the exercise of voting rights is dependant on a member paying membership dues (Section 10 (2) (2) *Political Parties Act*).

Section 9 (2) (1) *Political Parties Act* states that pursuant to the party statute, members of the executive committee and members of other bodies in a regional organization as well as other persons not elected to the delegates' assembly e.g. like members of parliament and other high-ranking persons in the party holding mandate as the result of elections, who were appointed by the executive committee (Section 11 (2) *Political Parties Act*), may participate in a delegates' assembly. However, voting rights can only be given on a scale corresponding to one fifth of the total number of members at the assembly who are entitled to vote (Section 9 (2) (2) *Political Parties Act*). Within the framework of the competencies of a regional organization in the party, the party convention decides on programmes, statute, membership dues, arbitration procedure, dissolution of the party and merging with others (Section 9 (3) *Political Parties Act*). The party convention elects the chairman of the regional organizations, his representatives and the other members of the executive committee, the members of any other bodies that may be established and representatives on the organs of higher-level regional organizations inasmuch as the present law does not permit any other procedure (Section 9 (4) *Political Parties Act*). The party convention must receive a progress report from the executive committee at least every two years and has to adopt resolutions in regard hereto (Section 9 (5) (1) *Political Parties Act*). The financial part of the report must be verified by auditors appointed by the party convention prior to its general dissemination (Section 9 (5) (2) *Parties Act*).

The proportionality of non-elected members of a general party committee (Section 12) or similar bodies may not exceed one - third of the total membership of the committee. It may be augmented by the election of non-voting members with advisory functions, but in this case it must still represent under half of the total number of members (Section 12 (2) *Political Parties Act*). The tenure of office of members elected to the general party committee or similar bodies is a maximum of two years (Section 12 (3) *Political Parties Act*). The composition of a delegates' assembly or that of any other body wholly or partly comprising representatives from regional organizations is laid down in the statute. The number of representatives from a regional organization is primarily calculated on the basis of the number of represented members. The parties' statute may provide that the composition of the rest of the representatives from the regional organization, at most one half of the total, shall be determined in accordance with the proportion of votes polled at regional organization level in previous parliamentary elections. The exercise of the right to vote may be made dependent on the payment of the regional organizations membership dues (Section 13 *Political Parties Act*). Section 14 (2) (1) *Political Parties Act* requires that the arbitration courts' members be elected to their posts and limits the holding of their offices. They can only be elected for a maximum period of four years.

Section 15 *Political Parties Act* regulates the decision-making-process in party organs. The party organs must adopt their resolutions on the basis of a simple majority vote insofar as a higher majority vote is not stipulated by law or by the parties' statute (Section 15 (1) (1) *Political Parties Act*). The ballots for members of the executive committee and representatives to delegates' assemblies as well as to the bodies of higher – level regional organizations are secret (Section 15 (2) (1) *Political Parties Act*). Voting at other elections is not secret unless voters object when asked to confirm such procedure (Section 15 (2) (2) *Political Parties Act*). The statutory provisions governing the submission of motions must be such as to ensure the democratic forming of opinions and in particular adequate discussion of the proposals put forward by minorities. At the delegates' assemblies of higher-level regional organizations, at least the representatives of the regional organization at the next two lower levels must be granted the right to introduce motions (Section 15 (3) (1) *Political Parties Act*). No commitment to the resolution of other bodies is permissible at elections and polls (Section 15 (3) (2) *Political Parties Act*). Candidates for election to parliament must be chosen by secret ballot (Section 17 *Political Parties Act*).

### **Greece**

There is no specific requirement, although the organization and the activities of the party must serve the free functioning of democratic government (Art.29 para. 1 of the Constitution).

### **Hungary**

There is only a very general rule: the definition of the association in the AA reads, that the association is a voluntary, self-governing body. (§ 3 (1) AA). § 6 (1) AA provides that the charter ensures democratic functioning of the association on the grounds of the principle of self-governance.

### **Ireland**

No

### **Italy**

No, there aren't.

### **Japan**

There are no provisions on this point either in the Constitution or above-mentioned laws.

### **Korea**

In order to preserve its democratic values, a party must conduct a general meeting of the National Assembly if the party has a representative group, an executor and a representative assemblyman who are able to address their party's opinions, and the aforementioned party's organization, rights etc. must be stipulated in their party constitution. (Article 29 of the Political Party Law) The decisions of the representative group or the documents and decisions of the representative assemblyman may not be provided by a substitute. (Article 29, clause 2 of the Political Party Law)

### **Latvia**

Yes. The higher decisive institution of a political organization (party) – a general meeting, congress or conference – must be convened no less often than once during a calendar year. On the general meeting, congress or conference of the political organization (party), its governing institution (prior to the registration – founders) must place a paid announcement in the newspaper "Latvijas Vestnesis" no later than 15 days prior to its assembly by stating the place (address), time (year, month, date and hour), a draft of the agenda as well as the name, surname and telephone number of the responsible person.

### **Liechtenstein**

Non

### **Lithuania**

1. Neither the Constitution, nor the Law on Political Parties and Political Organisations provide such requirements. These requirements could be included in the charter (statutes) of each political party or organisation.

### **Luxembourg**

Non.

### **Macedonia**

No. As a matter of fact, Statutes of the political parties contain provisions for democratic procedure for elections of its organs and officials, as well as for decision-making

### **Malta**

There are no legal requirements but all the parties active in politics provide for internal democracy. Party leaders are chosen democratically and are subject to confirmation after every election. The party executive and other organs, in the case of all parties are the result of internal voting. Elections for party leaders and deputy leaders are usually very well followed and publicly scrutinised.

### **The Netherlands**

Article 2:40 of the Civil Code provides that the general assembly of the association has all the powers which the by-laws or the law do not assign to another body. According to Article 2:41 a number of members that represents at least one tenth of the total votes may demand the convening of a general assembly. Article 2:42 provides that only the general assembly may change the by-laws of the association. Again, there are no specific regulations concerning political parties.

In fact, in all political parties the position of the party leader is a very powerful one, more so than that of the chair of the party whose function is rather of an organisational and administrative character. Once the members - and for that matter voters who are not members – have elected persons from the list of candidates as members of Parliament, members of the Provincial States or members of the Municipal Council, the group of elected persons within the party (caucus), and especially their chair, for the period of their mandate, have a much greater say in the policy of the

party than the general assembly. The measure of party discipline to which the elected persons are subject, differs from party to party, and indeed from session to session.

### **Poland**

A political party is not required to maintain national, regional or local branches or offices.

### **Romania**

Conformément à la Loi 14/2003 l'Assemblée générale des membres du parti ou des délégations de ceux-ci, à niveau national, est l'organe suprême de décision du parti. Les délégués à l'assemblée sont élus par les organisations territoriales par vote secret. Le nombre de ceux-ci s'établit par rapport au nombre de membres. Les procédures de désignation et délégation de ceux-ci doit être prévues dans le statut.

Pour la solution des différends entre les membres d'un parti politique ou entre ceux-ci et les directions des organisations du parti, on constitue des *commissions d'arbitrage au niveau du parti et de ses organisations territoriales*.

La commission d'arbitrage est organisée et fonctionne conformément à un règlement approuvé par l'organe statutaire, qui doit assurer aux parties le droit à l'opinion et le droit de se défendre, aussi bien que des procédures équitables de décision.

Les décisions du parti politique et de ses organisations territoriales sont adoptées avec le vote de la majorité prévue dans le statut.

Le statut doit prévoir le droit du chaque membre à l'initiative politique et la possibilité de l'examen de celle-ci dans un cadre organisé.

### **Russia**

Yes, there are. The highest leading body of a party is its congress, which shall be elected every four years. The congress shall adopt and change the statute and the program of the party, elect leading and review bodies, nominate candidates to bodies and posts of the state, of the federal units and of the local self-government, decide on reorganization or liquidation the party and its regional branches. The congress is valid provided that delegates of regional branches of more than half of the federal units attend.

The highest leading body of a regional branch is its conference or general assembly. The leading bodies of a regional branch shall be elected no more seldom, than every two years. Leading and review bodies shall be elected by the majority of attending delegates according to the statute of the party.

Elections of bodies and nominations of candidates are conducted by secret ballot.

### **Slovak Republic**

According to Article 4. of the Political Parties Act a political party or movement shall be prohibited if its statute is not democratic or if its bodies have not been established by the democratic way. (letter b). This deficiency of the statute prevents the registration of new political subject by the Ministry of Interior According to Article 8. para. of the Political Parties Act.

No condition for maintaining the national, regional or local branches of political party is required.



### **Slovenia**

Act on Political Parties requires the party to have at least two bodies – an executive body and a body containing the representatives of all the party members. The party statute has to include provisions regulating the candidate selection procedure, the system of assuring equal opportunities for male and female candidates in this procedure as well as the statute and program amendment procedure.<sup>37</sup>

### **Spain**

The Law on Parties (Art. 7) establishes a series of requirements concerning internal democracy. The structure of a party must be democratic. There must be a General Assembly, including all the members or representatives thereof. The main decisions of the party must be taken by the Assembly. The members of the governing bodies must be elected by direct and secret ballot. The bylaws must provide for a system of democratic control of the direction of the party. Decisions must be taken according to fair proceedings, and as a general rule, by a plurality of votes.

### **Sweden**

No.

### **Switzerland**

Cf. 3.2.

### **Turkey**

Under Article 69, para. 1 of the Constitution, the activities of parties shall conform to democratic principles. The LPP requires that all levels of party organisation, the chairpersons and executive committees are to be elected by party congresses composed of the delegates of party membership.

### **Ukraine**

According to Article 4 of the Law of Ukraine on political parties of Ukraine bodies of state authority and local self government and their officials shall be prohibited to discriminate against certain political parties or grant them privileges, and nor shall they assist political parties unless otherwise provided by law.

Bodies of state authority and local self government and their officials shall be prohibited to interfere in the formation and internal activities of political parties and their local offices, except in cases envisaged by the Law of Ukraine on political parties of Ukraine.

Article 8 of the Law of Ukraine on political parties of Ukraine envisages that every political party shall have a statute. Each such statute shall contain:

- (1) name of the political party;
- (2) a list of the statutory bodies of the political party, procedures of their formation, their respective powers, and term of office;

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<sup>37</sup> On the internal party organisation see art. 19 and art 20 of the Act on Political Parties.

- (3) procedures of admission to the political party, suspension and termination of membership, etc.;
- (4) rights and obligations of the membership, grounds on which membership is suspended or terminated;
- (5) procedures of the formation, general structure, and competence of regional, city, and district organisations and cells of the political party;
- (6) procedures of introducing changes in and amendments to the statute and programme of the political, party;
- (7) procedures of convening and holding party conventions, conferences, meetings, and other representative bodies of the political party;
- (8) finance sources and budget;
- (9) procedures of liquidation (self dissolution) and reorganisation of the political party, and. use of funds and property left after its liquidation (self-dissolution).

### **The United Kingdom**

No requirements of internal democracy are imposed by law on a political party. In practice, the major parties lay varying stress upon the extent of internal democracy. In broad terms, the party conference has had greater significance in the Labour and Liberal Democrat parties in determining party policy than it has done in the Conservative party, but this is a matter of each party's own traditions, and there is no general law applying to all parties.

### *3.6 Is a political party required to maintain national, regional or local branches or offices?*

#### **Albania**

La loi n'impose pas formellement la création de sections ou bureaux à l'échelon national, régional ou local, hormis la condition, mentionnée dans la réponse au point 3.5 que la structuration du parti doit s'étendre de la base jusqu'au sommet.

#### **Andorra**

Non

#### **Armenia**

According to Article 19 of the Law of the Republic of Armenia "On political parties", The party shall have not less than 200 members. The party shall have regional divisions in at least one-third of the regions (Marzes) of the Republic of Armenia, including Yerevan. The party has the right to form structural subdivisions, in conformity with the procedure established by this Law and its Charter. Party territorial and structural subdivisions shall be formed and operated solely by the territorial characteristic. The formation and the activity of structural subdivisions of parties in state and local self-governing bodies, armed forces of the Republic of Armenia, law enforcement bodies, pre-school, school, educational institutions and other organizations is prohibited.

The mentioned requirement does not restrict the right of a party to create more territorial subdivisions. The evidence if this fact is Paragraph 1 of Article 20 of the Law of the Republic of

Armenia "On political parties": in conformity with the procedure established by the legislation, the party has the right to create, as well as to liquidate, territorial and structural subdivisions, in accordance with its statutory objectives and tasks.

**Austria**

Non.

**Azerbaijan**

According to Article 13 of the Law of Azerbaijan Republic "On Political Parties" the State shall ensure observance of rights and legitimate interests of political parties, creation of equal legal frameworks for execution of the objects of the Statute of party by them and for spreading its documents by means of state's publishing bodies, protection and security of governing bodies of parties, creation of the state custodial service for these purposes as well as organization and equipping of such services.

Interference of the state bodies and authorities into activity of political parties shall be inadmissible except for the cases provided for by legislation.

**Belgium**

Non.

**Bosnia-Herzegovina**

Same as 3.2.

**Bulgaria**

La structure du parti est définie par ses Statuts. Il n'existe pas d'exigences juridiques.

**Canada**

Non.

**Croatia**

No. Only if they have any kind of branches of offices, they are obliged to inform the competent ministry, as it is said in the part 3.1. answers.

**Cyprus**

No.

**Czech Republic**

The Act on Political Parties stipulates in § 5 (3) that parties and movements may be organized on a strictly territorial principle. Nevertheless, it is inadmissible to organize the activities of political parties and movements in the workplace.

A detailed regulation is contained in the statutes of individual political parties. The statutes in essence conform to the territorial subdivision of the state.

The building stones of a political party are its local cells or associations. Local cells or associations form district or area organizations. Area or district organizations in each individual region form the regional organization. A party's supreme body is its congress or assembly.

**Estonia**

No.

**Finland**

No.

**Georgia**

These issues are not decided by the legislation .

**Germany**

Yes the requirement to maintain regional branches is laid down in Section 7 *Political Parties Act* (see for more details answers to question 3.1.).

**Greece**

In terms of legal obligation, no. This is a political requirement in order to serve the party's best organizational and political success.

**Hungary**

Not.

**Ireland**

A registered political party must have a headquarters. (See 2.4 above).

**Italy**

No, it is not.

**Japan**

In relation to the Political Funds Control Law, it is provided that the notification should contain the address of the headquarters, and thus presuppose such a headquarters (Article 5). Likewise, under the Law on Granting Legal Personality to Political Parties, etc., the notification should contain the address of the headquarters, and thus requires a headquarters.

### **Korea**

Similar to 1.4, a party is composed of the CEMC and the constituency chapter. (Article 3 of the Political Party Law) In addition, the number of the given party's constituency chapters must exceed 1/10 the entire National Assembly constituencies, the constituency chapter must be dispersed in more than 5 municipalities, megalopolis, or provinces (the given constituency chapter cannot exceed 1/4 the total number of the party's constituency chapters) and each constituency chapter must have more than 30 party members. (Articles 25, 26, 27 of the Political Party Law)

### **Latvia**

No. The law asks information of maintaining local offices, but that isn't the duty of the party.

### **Liechtenstein**

Non

### **Lithuania**

1. The Law on Political Parties and Political Organisations provides several general rules on the branches of a political party: governing institutions of the political party or political organisation must operate only in the territory of the Republic of Lithuania (article 2, fourth paragraph); the headquarters, territory of activities, structure of party or political organisation, the methods to form its divisions have to be included in the charter (statutes) of the political party or political organisation (article 3, third paragraph, points 1 and 4); the organisational structure of a political party or political organisation shall be based only on the principle of territorial divisions (article 10, first paragraph). Therefore the political party is required to maintain the headquarters only; a party could choose to establish its territorial divisions or not.

### **Luxembourg**

Non.

### **Macedonia**

Yes. It derives from the territorial principle mentioned above. The parties usually have local, municipal and national branch, as well as a branch of City of Skopje, the capital.

### **Malta**

There is no such requirement by law or regulation. The two major political parties do in fact have national headquarters in addition to offices and clubs in all towns and villages.

### **The Netherlands**

Article 2:27, fourth paragraph, of the Civil Code provides that the by-laws of an association must mention the municipality in the Netherlands where the association has its seat. There are no additional regulations for political parties. However, all nation-wide political parties have branches in the provinces and municipalities where they wish to participate in the elections for

the Provincial States and the Municipal Council, respectively. There are political parties or groups that only participate in the elections of one or more municipalities and/or one or more provinces.

### **Poland**

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### **Romania**

Conformément à la loi le statut de chaque parti *contient obligatoirement le siège central*.

Les partis politiques s'organisent et fonctionnent conformément au *critère administratif - territorial*, ayant comme sous-divisions des organisations territoriales, conformément à l'organisation administrative du pays, qui ont le nombre minimum de membres prévu par le statut.

### **Russia**

Yes, it is. See above.

### **Slovak Republic**

No condition for maintaining the national, regional or local branches of political party is required.

### **Slovenia**

The party is not required to maintain national, regional or local branches or offices.

### **Spain**

According to the Law on Political Parties, (Art. 3), political parties must notify the Register of Parties of their domicile. But no specific requirements are included in the Law or in the legislation on associations concerning the location or number of branches or offices of any political party.

### **Sweden**

No.

### **Switzerland**

Non.

### **Turkey**

Parties are required to maintain a national office in Ankara (LPP. Art.8). They are not required to maintain a local office in all localities (see, however, 1.4).

### **Ukraine**

According to Article 10 of the Law of Ukraine on political parties of Ukraine a political party shall be established as resolved by its constituent convention (conference, meeting). The resolution shall be supported by at least ten thousand signatures on the part of Ukrainian citizens with a right to vote during elections, collected in at least two-thirds of the districts of at least two-thirds of the administrative regions [oblasts] of Ukraine and in the cities of Kyiv and Sevastopol, and in at least two-thirds of the administrative districts of the Autonomous Republic of the Crimea.

According to Article 11 of the Law of Ukraine on political parties of Ukraine a political party, within six months from the date of registration, shall secure the formation and registration, in keeping with this Law, of its regional, city, and district organisations in most regions of Ukraine, in the cities of Kyiv and Sevastopol, and in the Autonomous Republic of the Crimea.

### **The United Kingdom**

Under PPERA, a party must state whether it intends to operate in the United Kingdom as a whole, in part of the United Kingdom or at a local level. However, this is no more than a statement of intention and PPERA does not appear to impose a legal obligation on the party to carry out this statement of intention.

## 4. Political activities

*4.1 Are there any constitutional, statutory or other legal provisions on the political activities of political parties?*

### **Albania**

Les activités des partis politiques sont prévues dans la Constitution, dans la loi sur les partis politiques et dans le Code Electoral.

### **Andorra**

Non

### **Armenia**

The Constitution of the Republic of Armenia contains the only provision on the activity of political parties concerning the suspension and prohibition of a political party by the Constitutional Court (Point 9 Article 100). The activity of a political party is regulated by the Law of the Republic of Armenia "On political parties", especially Article 20 enumerates the kinds of activity of a political party, e. g. to organize and hold meetings, demonstrations, rallies, processions and other public political actions; to participate in the elections of state and local self-governing bodies, as well as in preparation and conduct of referendums; to form alliances (unions) without establishing a legal entity with other parties; to establish and maintain international connections and contacts with foreign parties and unions, to join international unions and associations; to carry out other activity in compliance with its Charter.

### **Austria**

Selon l'art. premier, § 1 al. 2, de la LPP, la tâche principale des partis politiques est la participation à la « formation de la volonté politique » du pays. Les programmes politiques des partis politiques ne doivent pas être contraires à la LINS (interdiction de toute activité national-socialiste ou fasciste).

### **Azerbaijan**

According to Article 12 of the Law of Azerbaijan Republic "On Political Parties" the political parties shall not be entitled for interference into activity of the state bodies and authorities.

Political parties shall have the right, via procedures specified by legislation, to spread the information of their activity, propagandize the own ideas, objects of programme, establish the mass media, hold meetings, demonstrations, associations and other mass actions.

### **Belgium**

En principe, non.

Toutefois, le type admissible de propagande électorale est réglé par la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales, ainsi qu'au financement et à la comptabilité ouverte des partis politiques.

C'est ainsi que selon l'article 5 de cette loi, dans les trois mois précédents les élections,

« les partis politiques et les candidats ainsi que les tiers qui souhaitent faire de la propagande pour des partis politiques ou des candidats :

1° ne peuvent utiliser de panneaux ou affiches publicitaires commerciaux;

1°bis ne peuvent utiliser de panneaux ou d'affiches publicitaires non commerciaux d'une surface de plus de 4 m<sup>2</sup>;

2° ne peuvent distribuer de cadeaux ou de gadgets.

§ 2. Pour cette même période, le Roi fixe, par arrêté délibéré en Conseil des ministres, les règles générales régissant l'apposition d'affiches électorales et l'organisation de caravanes motorisées. »

### **Bosnia-Herzegovina**

No, save the case under 2.3.

### **Bulgaria**

La Constitution et la Loi des partis politiques contiennent des normes relatives aux activités politiques des partis politiques.

### **Canada**

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### **Croatia**

Already answered in previous questions.

### **Cyprus**



The only provisions are those provided by Article 21 of the Constitution.

### **Czech Republic**

See 1.1.

Article 5 of the Constitution is the fundamental provision of law providing for parties' participation in elections.

According to judgment II. ÚS 275/96 dated October 15, 1996, a free competition of political forces manifested in particular through elections is an essential prerequisite for the functioning of a democratic state and society. Therefore, the interpretation rule set out in Article 22 of the Charter of Fundamental Rights and Freedoms is applied in particular with respect to electoral laws.

### **Estonia**

The question is not regulated in detail. The Political Parties Act contains some quite general provisions concerning the political activities of political parties. For example, it is established in the section of the Act providing for the definition of a political party that the objective of a political party is to express the political interests of its members and supporters and to exercise state and local government authority (see 1.3., *supra*). The Political Parties Act also stipulates that the means for achieving the objectives of a political party are presentation of candidates and conduct of election campaigns of the political party in elections and participation of the political party in the activities of the elected bodies (the parliament, European Parliament, local government councils) through members of the political party elected to the corresponding body. Further, the Political Parties Act mentions participation in the election of the President of the Republic, the formation of the Government of the Republic and the executive body of local governments through members of the political party elected to the parliament and to the local government council, respectively; and in international co-operation with political parties of foreign states as means for achieving the objectives of a political party.

### **Finland**

The electoral law contains provisions on the decision-making concerning the nomination of candidates.

### **Georgia**

According to the Article 26<sup>th</sup> of the Constitution of Georgia:

”The creation and activities of such public and political entities whose goal is to overthrow or change the Constitutional order of Georgia by force, violate the independence of the country or violate the Country’s territorial integrity or advocate war and violence, or attempt to induce ethnic, racial, social and national unrest is impermissible.

The Creation of paramilitary forces by public or political organizations is prohibited.”

**Germany**

Here the general principle set out in Article 21 (2) (1) *Grundgesetz* applies. That means that political activities of political parties, which seek to impair or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany, are unconstitutional. The protection of the free – democratic - order and the existence of the Federal Republic of Germany primarily prohibits such *activities*. There are no other substantive limitations on the political activities of political parties. (See for more details, above, question 2.3.)

**Greece**

The constitutional provision of Art.29, which restricts the political activities to the service of the free functioning of democracy.

**Hungary**

See the constitutional definition of the function of parties in Art 3 (2) of the Constitution (above 1.1.) and its limits in Art 2 (3) and in Art 3 (3). (above 2.3 and 1.1.)

**Ireland**

No special laws exist concerning the political activities of political parties.

**Italy**

Leaving aside the already mentioned very general provision of Article 49 of the Constitution, there are no legal provisions on the political activities of political parties as such.

**Japan**

There are no provisions in the Political Funds Control Law. The Law for Government Subsidies provides in Article 4.2 that political parties shall organise and manage the party in a democratic and fair manner while expending the subsidy in an appropriate manner in order to live up to the trust of the people. The Public Offices Election Law provides for certain regulations and restrictions of activities of the political parties mainly during the period of an election campaign (Chapter 14-3, Articles 201-5 to 201-15.).

**Korea**

Article 8 of the Constitution stipulates political parties must be democratic in their objectives, organization, and activities, and have the necessary organizational arrangements for the people to participate in the formation of the political will,(clause 2) and “if the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring action against it in the Constitutional Court for its dissolution, and, the political party is dissolved in accordance with the decision of the Constitutional Court. Article 30 of the Political Party Law similarly stipulates ”under the constitution and the law, political parties are provided freedom of action.”

### **Latvia**

There are no special legal provisions about political activities of political parties as such. However there are many provisions in several laws, what concerns activities of political parties as well. For example, the law "On Meetings, Processions and Pickets" contains the regulations about these activities. The Law "On Pre-election Campaigns before the Elections to the Saeima" regulates activities of political parties in this sector. The Law on Social Organizations and Their Associations prescribes, that social organizations (political parties as well) are prohibited to arm their members, to organize military trainings for them and create military units.

The most essential provisions for activities of every person, as well for members of political parties are laid down in the Criminal Code. For example, the criminal responsibility is envisaged for a person who commits public incitement to violently overthrow the government of the Republic of Latvia, or to violently change the political system, or commits the distribution of materials containing such incitement for the same purpose, for a person who commits publicly inciting disintegration of the territorial integrity of the Republic of Latvia, that is, secession of a part of the territory of the Republic of Latvia in a manner not provided for by the Constitution of the Republic of Latvia, etc.

### **Liechtenstein**

Non. Mais il s'applique les règles générales de prohibition. Selon le droit civil liechtensteinois relatif aux personnes physiques et morales (Personen- und Gesellschaftsrecht [PGR]) ne peuvent pas acquérir la personnalité juridique des entités a but immoral ou illégal (art. 107 par. 5 PGR). Des personnes morales dont l'objet est illégal ou immoral ou qui, dans leurs objectifs ou moyens, mettent en danger l'ordre de l'Etat ("staatsgefährlich") sont dissoutes sur demande de l'avocat général par le tribunal administratif ou les tribunaux ordinaires, éventuellement après avoir eu recours à des mesures provisoires (art. 124 par. 1 et 6 PGR).

Droit pénal: Chacun qui crée un groupement dont l'objet unique ou partiel vise à ébranler ("erschüttern") de manière illégale l'indépendance de la Principauté, la forme d'Etat constitutionnelle ou une institution constitutionnelle commet un crime (§ 246 du code pénal).

### **Lithuania**

1. Article 14 of the Law on Political Parties and Political Organisations provides that "all political parties and political organisations shall be equally entitled to participate in the election of government institutions. During elections, all candidates to the post of deputy shall be provided with equal opportunities to use the mass media, free of charge, in accordance with procedures established by the laws on elections of the Republic of Lithuania".

The same law also provides that the political parties and political organisations are entitled to form coalitions, unions, and electoral blocks (article 15); to freely disseminate the information on their activities, to propagate their ideas, goals, and programs (article 16); political parties and political organisations have the right to establish media of mass information, with the exception of radio and television; in conformity with the established regulations, to make use of the state press and other mass media (article 16); in accordance with procedures established by laws of the Republic of Lithuania, political parties and political organisations have the right to hold rallies, demonstrations, meetings, and other mass events (article 17); they have the right to maintain relations with political parties and political organisations of other countries, as well as international and other organisations (article 19).

Article 9 provides the freedom of activities of political parties and political organisations: "all political parties and political organisation in the territory of the Republic shall function freely and independently. State bodies, enterprises, institutions, and organisations, as well as public organisations and individual officials shall be prohibited from interfering in the internal affairs of a political party or political organisation. Persons interfering with the activities of a political party or political organisation shall be held responsible under the laws of the Republic of Lithuania. State bodies, enterprises, institutions, and organisations, as well as public organisations, other political parties, political organisations and also private persons must compensate a political party or political organisation for any material or moral damage inflicted on it by illegal action".

**Luxembourg**

Non.

**Macedonia**

See 1.1, 2.3 and 2.4

**Malta**

None except for what has been referred to above under the General Elections Act (Act XXI of 1991), the Local Councils Act (Act XV of 1993), concerning the scrutiny of the electoral process.

**The Netherlands**

As said before, Article 8 of the Constitution provides that the right to association may be limited by law in the interest of public order, while Article 2:20 of the Civil Code stipulates that a legal person – including political parties – whose activities or goal are contrary to public order, may be declared forbidden and dissolved by the civil court. Such a court decision constitutes a ground for refusal of registration of the name of a political group that wishes to present a list of candidates for an election.

There are no specific legal provisions on the political activities of political parties. Of course, they are subject to the law, and to prosecution if they violate the law, for instance if they commit a crime against the royal dignity (Titel III of the Criminal Code); the crime of insult against the Head of State or a member of government of a friendly nation (Article 118 of the Criminal Code); the crime of bribery or fraud in relation to elections (Articles 126-129 of the criminal Code); the crimes of discriminatory public statements and of inducement to, diffusion of and support of discrimination (Articles 137c-137f of the Criminal Code); and the crimes of defamation, slander and insult (Title XVI of the Criminal Code).

**Poland**

The political activity of the political parties is not specified by constitution or law. There are only very general provisions in art. 11 and 13 of the Constitution (I wrote in p. 2.2, 2.3) concerning the basic principles or frameworks of the activity of political parties. This provision however creates a base for the control of the political activity of the parties by the Constitutional Tribunal. The LPP clearly states that cases of non-conformity with the Constitution of activities of political parties are the subject to the jurisdiction of the Constitutional Tribunal. In the case that Constitutional Tribunal finds that the activities of political party do not conform to the

Constitution, the Court (Warsaw Regional Court) immediately issues a decision to delete the party from the register. A decision of the Court, shall not be subject to appeal.

The LPP regulates also that a political party cannot conduct any economic activity.

### **Romania**

Conformément à la Loi 14/2003 le statut du parti politique contient obligatoirement le moyen d'administration du patrimoine et les sources de financement, établies dans les conditions de la loi. Loi no. 43/2003 régleme le financement de l'activité des partis politiques et des campagnes électorales.

Conformément à la loi l'assurance des moyens de financement de l'activité des partis politiques doit être l'expression du caractère libre, égal et sincère de la compétition politique.

Les partis politiques peuvent détenir des biens mobiles et immobiliers qui sont nécessaires à la réalisation de l'activité spécifique.

### **Russia**

There are some, especially in electoral campaigns. There are a lot of statutory provisions about participating of parties in nominating of candidates, in pre-election agitation, about financing parties' electoral campaign and so on.

### **Slovak Republic**

Political activity of each political party or movement must respect its main goals specified in its statute as well as to observe the constitutional and statutory values of public interest specified in Article 29 para.3 of the Constitution (national security, public order, prevention of crime and the protection of rights and freedoms of other persons) and Article 4. of the Political Parties Act (sovereignty and territorial integrity of Slovak Republic, morality, public order, right and freedoms of others, political pluralism, equality of citizens etc.) Violations of these values through the political activity of concrete political party or movement may be sanctioned by its prohibition carrying out through the judicial decision of its dissolution (Article 13 para.6 of the Act) or by the judicial suspension of its activity (Article 14. para.3 of the Act). Supreme court of the Slovak Republic is a judicial body competent to decide of the dissolution or suspension of activity of political party and such cases may be brought before court by the general prosecutor of Slovak Republic (Article 15. para.1 of the Political Parties Act).

### **Slovenia**

There are no constitutional provisions on the political activities. There are also no specific provisions on the political activities. However, party is not allowed to establish its bodies in companies, private or public institutions. Party is allowed to establish commercial companies and own shares in companies, but only if these companies perform cultural or publishing activity.

There are no limitations on the type of political activities of the parties. However, special rules are in force during the 29-day election campaign period. In addition to the rules regarding advertizing, pre-election silence and similar, during the campaign activities are limited also by their financial value.<sup>38</sup>

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<sup>38</sup> Election Campaign Act sets limit on total value of campaign. See Election Campaign Act.

**Spain**

Concerning party activity, the Constitution only provides (Article 6) that "the internal functioning of the parties must be democratic". Article 22.2 of the Constitution provides that "associations which pursue ends or use means classified as criminal offences are illegal" On the other hand, the Law on Political Parties, which declares that "political parties will carry out their activities freely" (Art. 9.1) contains extensive regulations concerning those political activities of political parties which, although not being classified as crimes, may lead to their consideration as illegal, and as a consequence, to their dissolution. These activities include promoting or justifying violence, politically supporting the activities of terrorist groups, or including in their governing bodies persons who have been convicted of terrorist offenses, among many others.

The performance of such activities may lead to the party being declared illegal by a Court, although those activities may not be legally classified as crimes. In the case of the activities of a party which are defined as crimes in the Criminal Code, the court with jurisdiction to declare the party illegal will be determined by the usual rules governing the jurisdiction of judicial bodies.

But in the case of those political activities forbidden by the Law on Political Parties, which are not defined as crimes, the Law establishes a special procedure for declaring a party illegal, which must be issued by a Special Panel of the Supreme Court, after a procedure which must be initiated by the Government or the Public Prosecutor.

**Sweden**

No.

**Switzerland**

Non.

**Turkey**

Please see 3.5 above.

**Ukraine**

According to Article 3 of the Law of Ukraine on political parties of Ukraine political parties shall conduct their activities in accordance with the Constitution of Ukraine, this Law, and other laws of Ukraine, as well in accordance with their statutes enacted in keeping with the procedures established by the Law of Ukraine on political parties of Ukraine.

According to Article 12 of the Law of Ukraine on political parties of Ukraine political parties shall have a right to freely operate within the limits set by the Constitution of Ukraine, Law of Ukraine on political parties of Ukraine and other laws of Ukraine; participate in the elections of the President, Verkhovna Rada of Ukraine, and other bodies of state authority and local self-government and of their officials in keeping with procedures established by the laws of Ukraine.

### **The United Kingdom**

The meaning of this question is not clear. If the question is interpreted in the manner indicated by question 4.2, the answer is no.

*4.2 Is it mandatory for political parties, e.g. as a prerequisite for maintaining registration or for access to public financing,*

*– to present individual candidates or lists of candidates for general elections on the local, regional or national level?*

*– to participate in local, regional or national election campaigns?*

*– to get a minimum percentage of votes or a certain number of candidates elected in local, regional and national elections?*

*– to conduct other political activities specified by law?*

### **Albania**

Selon la loi, l'Etat dès leurs enrégistrement donne aux partis politiques une aide financière de 100.000 lek (à peu près 714 euro, selon le cours actuel). Pour cette aide il n'y a aucune condition préalable.

Pur les partis qui ont participé à une compétition électorale, dans le budget annuel de l'Etat est prévue une aide financière pour leur activité annuelle.

70 pour cent de cette aide est répartie selon les voix conquis dans les dernières élections parlementaires, mais il n'existe pas la condition d'avoir au moins un député au Parlement.

20 pour cent de l'aide financière est répartie également entre les partis qui ont un groupe parlementaire.

10 pour cent est répartie également entre les partis qui ont participé aux deux dernières élections parlementaires.

En outre, le Code Electoral statue que, en dehors des fonds accordés aux partis selon la loi sur les partis politiques, les partis enrégistrés dans la Commission Centrale Electorale pour participer aux élections reçoivent un financement prévu dans le budget de l'Etat. 10 pour cent de la somme totale est répartie également pour tous les partis politiques enrégistrés comme participants aux élections.

### **Andorra**

Non

### **Armenia**

To present individual candidates or lists of candidates for general elections on the local, regional or national level is a right but no obligation of a political party, and more it is the exclusive right: the party is the sole public union, which is entitled to nominate candidates in the elections of the deputies to the National Assembly, elections of the President of the Republic and heads and council members of local self-governing bodies.

During the elections to the National Assembly the nomination of the party candidates shall be performed by the decision issued at the session of the permanently functioning management body of the party. The leaders of the territorial and structural subdivisions of the party shall participate

in that session, in conformity with the procedure established by the Charter of the party. But it should be taken into account that the party is subject to liquidation, if:

- 1) it has not participated in any two sequential elections to the National Assembly by proportional system;
- 2) in each of any two sequential elections to the National Assembly it has received less than one percent of votes of the sum of the total number of votes in favor of voting lists of all parties and the number of inaccuracies;
- 3) it has not participated in one election to the National Assembly by proportional system, and in the elections preceding or following such election, had received less than one percent of votes of the sum of the total number of votes in favor of voting lists of all parties and the number of inaccuracies.

### **Austria**

Les partis politiques ne sont pas obligés de participer aux élections générales, mais seuls les partis qui sont représentés au Conseil National autrichien ou ceux qui ont obtenu au moins 1% des votes valables bénéficient du financement public des partis politiques (art. II de la LPP).

### **Azerbaijan**

a) According to Article 14 of the Law of Azerbaijan Republic "On Political Parties" the political party shall pass the registration by relevant body of the Executive.

b) According to Article 17 of this Law activity of political parties shall be financed at the expense of funds of these parties without allotment of appropriations from the state budget except the financing of election campaign based on the Law "On Elections of People's Deputies".

Financing of political parties by foreign states as well as legal and physical persons of foreign states shall be prohibited.

c) According to Article 5 the parties shall realize their political activity by means of nomination of citizens for elected state bodies.

d) The political parties by democratic way shall take part (independently, in coalition or union with other parties and organizations) in presidential elections, elections to the Parliament and other elective state bodies of Azerbaijan Republic, as well as shall participate in establishment of the Executive bodies of Azerbaijan Republic

e) In accordance with Article 11 the political parties can enter the international public (non-governmental) unions, promote direct international relations and conclude international agreements.

In accordance with Article 12 the political parties shall have the right, via procedures specified by legislation, to spread the information of their activity, propagandize the own ideas, objects of programme, establish the mass media, hold meetings, demonstrations, associations and other mass actions.

### **Belgium**

Rappelons que selon l'article 1<sup>er</sup> de la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales, ainsi qu'au financement et à la comptabilité ouverte des partis politiques,



« Pour l'application de la présente loi, il a lieu d'entendre par :

1° parti politique : l'association de personnes physiques, dotée ou non de la personnalité juridique, qui participe aux élections prévues par la Constitution et par la loi, qui, conformément à l'article 117 du Code électoral, **présente des candidats aux mandats de représentant et de sénateur dans chaque circonscription électorale d'une Communauté ou d'une Région** et qui, dans les limites de la Constitution, de la loi, du décret et de l'ordonnance, tente d'influencer l'expression de la volonté populaire de la manière définie dans ses statuts ou son programme.

Par ailleurs, selon l'article 15 de la loi du 4 juillet 1989 relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des Chambres fédérales, ainsi qu'au financement et à la comptabilité ouverte des partis politiques

« La Chambre des représentants et le Sénat, chacun en ce qui le concerne, accordent, **pour chaque parti politique qui est représenté dans les deux Assemblées par au moins un parlementaire élu directement**, une dotation à l'institution définie à l'article 22. Cette dotation est fixée et allouée conformément aux articles suivants. »

Le montant du financement est en partie lié au nombre de voix obtenues : à côté d'un montant forfaitaire (actuellement 125.000 euros), les partis reçoivent un montant par vote valable (actuellement 1,25 euros).

### **Bosnia-Herzegovina**

According to Art. 10 of the BH Law on Financing the Political Parties, the parliamentary groups of representatives shall be financially supported by the entities budget. 30 % of these budget shall be equally divided to all groups and 70% shall be divided according to the percentage of their representation. Therefore, it can be concluded that the successful participation in election is a precondition for access to public financing. Nevertheless, 30% does not depend on an individual success and 70% directly depends on the individual success of a party.

### **Bulgaria**

Oui

- oui

- oui

- oui

- oui

### **Canada**

*De présenter des candidats individuels ou des listes de candidats aux élections générales à l'échelon local, régional ou national?*

Oui, 50 candidats aux élections nationales.

*De participer aux campagnes électorales, locales, régionales ou nationales?*

Oui, aux élections nationales.

*D'avoir un pourcentage minimal de voix ou de faire élire un certain nombre de candidats lors des élections locales, régionales ou nationales?*

Actuellement, il n'y a pas de limite : un individu ou un syndicat peut verser de l'argent à un parti politique, au montant de son choix. Le projet de loi C-24 change radicalement ce principe. Ainsi, les contributions annuelles totales versées par des particuliers aux partis enregistrés et à leurs associations de circonscription, candidats et aspirants à l'investiture sont plafonnées à 10 000 \$. Le projet de loi C-24 interdit aux sociétés, aux syndicats et aux associations de verser des contributions à un parti politique enregistré ou à un candidat à la direction. Ces donateurs pourront toutefois verser une contribution maximum totale de 1 000 \$ aux candidats, aspirants à l'investiture et aux associations de circonscription d'un parti.

Le pourcentage des dépenses électorales remboursables aux partis passera de 22,5 % à 50 %. Le taux de remboursement des dépenses électorales des candidats reste à 50 %, mais le seuil d'admissibilité pour le remboursement de ces dépenses sera réduit de 15 % à 10 % du nombre de voix valides exprimées dans la circonscription.

Le projet de loi C-24 prévoit une allocation annuelle aux partis enregistrés de 1,50 \$ par vote reçu aux élections générales antérieures, à condition que le parti ait reçu 2 % des votes valides à l'échelle nationale ou 5 % des votes dans les circonscriptions où le parti a présenté un candidat.

Pour bénéficier du statut de parti politique reconnu, un parti politique doit faire élire au moins 12 candidats à l'occasion d'une élection fédérale.

*D'avoir d'autres activités politiques précisées par la loi?*

Non.

### **Croatia**

Generally said, by the Law on Political Parties it is foreseen that political parties can acquire the income, among others, from the state budget as well as from the budget of the local and regional self-governing bodies.

The part of the money for the work of the political parties, secured within the state budget for the next year, makes 0.056% of the means of the current costs of the budget for the past year.

Those means are disposed among the parties which have at least one deputy in the Croatian Parliament.

The Committee on Constitution, Rules of Procedure and political system of the Croatian Parliament brings in decision on disposing of those means for every year.

That decision sets the equal amount of money for each deputy in Croatian Parliament, so that the means belong to the political party proportionally to number of its deputies.

Also, for each elected deputy, belonging to female sex, there is the right to acquire compensation in the amount of 10% which is foreseen for each deputy according to the above mentioned paragraph.

All said above, refers the same to the election of the members of the representative bodies in the local and regional self-government.

### **Cyprus**

*– to present individual candidates or lists of candidates for general elections on the local, regional or national level?*

On national level only for access to public financing.

*– to participate in local, regional or national election campaigns?*

No.

*– to get a minimum percentage of votes or a certain number of candidades elected in local, regional and national elections?*

No.

*– to conduct other political activities specified by law?*

No.

### **Czech Republic**

The Act on Political Parties lays down conditions governing access to public funding. Pursuant to the law, a state contribution is not conditioned on the submission of a ballot, participation in any election campaign on any level or the conduct of any other political activity; rather, parties and movements are only entitled to a state contribution if they submit, within the stipulated term, their annual financial statement to the Assembly of Deputies. Only parties with over 3% of votes in the Assembly of Deputies are entitled to a permanent contribution. If at least on MP or senator was elected from a particular party, such party is entitled to a contribution towards a mandate. The contribution to a party who won 3% in the last elections is CZK 6,000,000 per year. The contribution is increased by CZK 200,000 for every 0.1% of votes, but only up to 5% of votes.

The contribution towards a MP or senator's mandate is CZK 900,000 per year, or CZK 250,000 towards a mandate of member of a regional council or the council of the capital city of Prague. As regards coalitions, the parties need to agree, and where they fail to reach agreement, the electoral result is shared equally.

The Ministry of Finance shall suspend the payment of the contribution if the annual financial statement is submitted, or if such statement is incomplete or a petition for dissolution of the party was filed with the Supreme Administrative Court.

The president filed a petition to annul a part of one of the provisions of the Act on Association in Political Parties and Political Movements. The Constitutional Court granted the petition and ruled in Pl. ÚS 53/00 dated February 27, 2001 that the provision on the amount of the contribution be annulled. The Parliament subsequently enacted an amendment providing for a virtually identical contribution for an MP and senator's mandate.

### **Estonia**

A political party must submit the list of its members to the registration department of the court of its location every year, and additionally, before elections. One of the reasons for this requirement is to ensure that the party has at least 1000 members. If the number of members falls below 1000, the political party must be dissolved voluntarily or it will be dissolved compulsorily.

There is no requirement to present candidates or to acquire seats in order to maintain registration.

The political parties represented in the parliament receive allocations from the state budget. The amount of the allocation is proportional to the number of seats obtained in the elections of the parliament.

### **Finland**

If no candidate of a party has been elected in two successive parliamentary elections, the party is removed from the party register. It may, however, continue its activities as an association under the general law on associations.

### **Georgia**

a) For the registration of the party is not necessary participation in election.

b) The budget of the state annually provides sum of money for the organizational costs and other activities of the parties. The sum will be distributed between the parties and electoral blocs, proportionally according to the votes received at the last elections, the following parties should have more then 5% of the votes at the last elections.

### **Germany**

The criteria for public financing are made dependent to the parties' performance in elections to the European, Federal or State Parliament (Section 18 (1) *Political Parties Act*). There does exist a maximum annual amount of public financing which may be granted to all parties together. According to Section 18 (3) *Political Parties Act* the parties shall receive each year:

1. 0,70 Euro for each valid vote cast for the party list or
2. 0,70 Euro for each vote cast for the party in a constituency, where in the state concerned a list for that party was not permissible, and
3. 0,38 Euro for each received Euro received from other sources (members' subscriptions or lawful donations); only amounts up to 6,00 Euro per person are taken into account.

Section 18 (4) *Political Parties Act* sets out that:

Parties who according to the final result of the most recent European or Federal Parliament election have polled at least 0,5 % or, in a state election, 1 % of the valid votes cast for the party lists shall be entitled to public funds in accordance with Para. 3, Nos. 1 and 3; in order to qualify for payments under Para. 3, Sentence 1 No. 1 and Sentence 2, a party must meet these requirements in the election concerned. Parties who according to the final election results have obtained 10 % of the valid votes cast in a constituency have a right to public financing under Para. 3, No. 2. The first and second Sentences do not apply to parties of national minorities.

### **Greece**

No prerequisite exists in order to maintain registration.

a) Beneficiaries of regular public financing, may be:

i) Political parties or coalitions, represented in Parliament by members elected in general elections from the list of such parties or coalitions.

ii) Political parties or coalitions, having representatives elected from their lists in the European Parliament.

iii) Political parties or coalitions which at the last national elections presented complete lists of candidates covering 70% of the country's constituencies and which received votes equal at least to 1, 5% of the total of valid ballots.

b) During the electoral campaign, access to public financing is permitted to:

i) Political parties or coalitions, represented in Parliament by members elected in general elections from the lists of such parties or coalitions. This condition has to exist during the last parliamentary term.

ii) Political parties or coalitions, having representatives elected from their lists in the European Parliament. This condition has to exist during the last parliamentary term.

iii) Political parties or coalitions which at the last national elections presented complete lists of candidates covering 70% of the country's constituencies and which received votes equal at least to 1, 5% of the total of valid ballots

### **Hungary**

- For maintaining registration as a political party the party shall present at least one individual candidate in two subsequent parliamentary elections. If it fails to do so, the court – on the motion of the public prosecutor – declares that the party does not exist. The former party may continue functioning as an association. (§ 3 (3) PA)

Participation in electoral campaign is not formally required, but it is preconditioned by the duty to present candidates, furthermore by the detailed rules on the role of parties in presenting candidates and party lists for election.

- Only those parties have a right to public finances, which obtained minimum 1 % of the votes in the national (parliamentary) elections. 25% of the financial support from the State budget is to be distributed in equal parts among parties, which have got seats in the Parliament. 75% will be distributed according the proportion of votes gained among parties, which passed the 1% threshold.

- Besides electoral law parliamentary parties delegate representatives into the supervisory bodies of public radio and television. The role of factions **within** the Parliament is regulated in detail in the Constitution and in the Standing Order of the House.

**Ireland**

As a prerequisite for maintaining registration it is mandatory for a political party to be organised within the State or in part of the State for the purpose of contesting a Dáil, European or local election.

**Italy**

As it was already said, parties are not registered. Even access to public financing is not directly granted to parties, but only to parliamentary groups, and this because a decision taken by the people through referendum on 1993 struck down a regulation contained in law n. 195 of 1974 providing direct public funds to parties as such. Since after 1993 a provision of that sort would be very unpopular (although legally permissible from 1998 onwards), the only way to grant public funds to political parties is to finance their own parliamentary groups which are allowed to transfer funds to the parties organisations. Therefore, requirements for acceding to public financing concern only those groups, thus presupposing that a party is represented in Parliament. But it should be added that such requirements are not very strict. Law n. 1 of 1997 provided even a rule (which has been abolished from law n. 157 of 1999) greatly encouraging the constitution of parliamentary groups with the only aim of obtaining public funds, without any formal or substantial connection with a political party.

In any case, the Chairmen of the two Chambers, that is independent parliamentary authorities are entrusted with the task of distributing the funds between the groups concerned.

A recent new legislation allows free funding to the political parties by private subjects who can concur to the party expenses with contributions (no more than euro 25000,-) which can be detracted from taxes. The citizens may also provide for the assignment of 0,4% of their personal income tax to the preferred political party.

**Japan**

*- to present individual candidates or lists of candidates for general elections on the local, regional or national level?*

While it is not a prerequisite for access to public financing to present candidates for general elections, it is required for a political party in order to be entitled to government subsidy either (1) to have at least 5 Diet members therein or (2) to have at least one Diet member who does not belong to an association that falls under (1) and to have obtained votes that amount to at least 2 percent of valid votes at one of the following elections: (i) an election conducted in the small constituency system or in the proportional representation system in the latest general election of members of the House of Representatives or (ii) an election conducted in the proportional representation system or in the constituency system in the most recent two ordinary elections of members of the House of Councillors (the Law for Government Subsidies Article 3). The same conditions are required for a political party to be confirmed as such and to register as a legal person under the Law on Granting Legal Personality to Political Parties, etc (Article 3).

*- to participate in local, regional or national election campaigns?*

There are no provisions that require participation in election campaigns for maintaining registration, etc.

*– to get a minimum percentage of votes or a certain number of candidates elected in local, regional and national elections?*

Regarding the requirements of obtaining minimum votes in Parliamentary elections in order for entitlement to government subsidy, see the answer above. In addition to this, under the Public Offices Election Law, a political party can make a candidature for elections of the House of Representatives and of proportional representation of the House of Councillors only when it meets the set conditions on the number of its Diet members or on rates of obtained votes in national elections (Articles 86 bis, 86 ter).

*– to conduct other political activities specified by law?*

There are no provisions that require other specific political activities to be conducted for maintaining registration, etc.

### **Korea**

A party may be revoked its registration by the Election Management Committee should it fall under the following criteria.

- The political party does not have the legally required number of constituency chapters or the number of constituency chapter members, or the constituency chapters are not properly dispersed as stated in 2.2.
- The party has not participated in any elections concerning either the National Assembly elections, the term expiration of a leading member of a local self-governing body, or city and provincial assemblymen in the last four years.
- The party was unable to win a seat at the National Assembly Elections and could not obtain more than 2/100 the entire number of validated votes.

Also, the law stipulates that 30/100 of nationwide National Assembly electoral candidates, representative constituencies and provincial election candidates for any given party must consist of female members. (Article 31, clause 2 of the Political Party Law) It is also stipulated that a party that has established a negotiation body based assemblymen from the same political party may evenly divide and distribute half of the State subsidy (according to the National Assembly Law, any given group exceeding 20 assemblymen is considered a negotiation body), and the remaining subsidy may be divided and distributed based on factors such as the percentage of votes a party received at the National Assembly elections. (Article 18 of the Political Party Finances Law)

### **Latvia**

No (to all parts of the question).

### **Liechtenstein**

Si un parti désire obtenir des contributions de l'Etat (Gesetz über die Ausrichtung von Beiträgen an die politischen Parteien, LGBI. 1984/31, et amendements), il doit s'organiser en association de droit civil et déclarer de se conformer aux principes de la constitution et faire preuve d'activités dans les domaines de l'éducation politique, des relations publiques et de leur participation au processus de la formation de volonté politique. Dans tel cas les partis qui ont gagné des mandats parlementaires ou ont, lors des dernières élections, reçu au moins 3 % des suffrages à l'échelon

national reçoivent en principe des contributions de l'Etat. Le gouvernement peut subordonner le paiement des contributions à la production des statuts, des comptes annuels et de documents concernant les buts et les activités des partis politiques (art. 1-4 de la loi mentionnée).

### **Lithuania**

1. There are no rules concerning prerequisites for maintaining registration of political party provided in the Constitution or laws, except general requirement to execute the activities in accordance with the Constitution and laws.

2. Article 12 of the Law on Political Parties and Political Organisations provides that "political parties and political organisations represented in the Parliament of the Republic of Lithuania shall be entitled to subsidies from the State Budget of the Republic of Lithuania in accordance with the procedure established by law".

3. Articles 13 and 14 of the Law on Financing of Political Parties and Political Organisations provide the procedure of calculation of the volume of subsidies from the State Budget and the procedure of distribution of these subsidies. Subsidies from the State Budget are provided only for these political parties and political organisations, which get not less than 3 percent of all votes which were given for candidates or lists of candidates of the political parties and political organisations during the elections to the Parliament and Municipal councils. Subsidies are distributed proportionally to the number of votes, given to the political parties and political organisations during elections.

Total amount of State subsidies can not be higher than 0,1 percent of total expenses of the State Budget.

Therefore in order to get subsidy from the State Budget, the political party or political organisation have to participate in national and/or local elections (that is, in the elections to the Parliament and Municipal Councils) and to get at least 3 percents of all the votes.

### **Luxembourg**

La loi du 7 janvier 1999 (précitée sub 1.1) pose deux conditions en son article 3, à savoir :

« La dotation (*remboursement partiel des frais de campagne*) est allouée à condition, d'une part que le parti ou groupement politique présente, pour les élections législatives, des listes complètes de candidats dans toutes les circonscriptions électorales et pour les élections au Parlement européen une liste complète de candidats dans la circonscription électorale unique. D'autre part, la dotation n'est allouée que si le parti ou groupement politique obtient aux élections à la Chambre des Députés au moins un siège et aux élections au Parlement européen au moins 5% des suffrages exprimés. »

### **Macedonia**

- *to present individual candidates or lists of candidates for general elections on the local, regional or national level?*

No.

- *to participate in local, regional or national election campaigns?*

No.



– to get a minimum percentage of votes or a certain number of candidates elected in local, regional and national elections?

Yes, for public financing (3% of votes)

– to conduct other political activities specified by law?

No.

### **Malta**

As has been said above there is no need of registration and no public funding for political parties in Malta. However allocation of time for political broadcasts on the State Television and radio networks, monitored by the Broadcasting Authority, follows proportionally the numerical representation in the House of Representatives, in between elections, and in the pre-electoral period reflects not only the strength in the outgoing parliament but also the challenges from parties not previously represented. The two major political parties have each their own radio and television station, but the programmes on State media are very widely followed.

### **The Netherlands**

If a political party does not intend to participate in elections, no other registration than that by the chamber of commerce for an association with full legal personality is required.

On the other hand, if a political party wishes to participate in national, regional and/or local elections, the name under which it will participate has to be registered by the central polling station and it has to present a list of candidates (see under 2.4. and 2.5.).

In order to qualify for public subsidies, a political party has to prove that it has at least 1.000 members who pay a certain amount of contribution. It, therefore, has to provide data concerning its membership when it applies for a subsidy. (see under 3.3.).

There is no requirement for political parties to participate in any campaign.

A list of candidates presented by a political party needs the support of at least 30 persons who have the right to vote. For local elections this number may be 20 or 10, depending on the number of seats open for election. However, the list of supporting persons nor the deposit is required, if the party obtained at least one seat in the representative body concerned at the most recent elections. (see under 2.4.). Moreover, a political party qualifies for a public subsidy only if it has obtained at least one seat in the Second Chamber or First Chamber of Parliament at the most recent national elections (Article 2, paragraph 1, of the Law concerning Subsidising Political Parties).

In addition, a political party qualifies for free broadcast time only, if it obtained one or more seats in the Second or First Chamber of Parliament at the most recent national elections, or if it participates in the elections for the Second Chamber of Parliament in all electoral districts, or participates in the elections in the Netherlands for the European Parliament (Article 39g of the Law on the Media).

There is no general requirement for political parties to conduct certain political activities. However, public subsidies may be used for certain activities only: political training and education, information to members, contacts with sister parties in other countries and support for their training and education programs, political-scientific activities and activities to promote the

political participation of the youth (Article 5 of the Law concerning Subsidising Political Parties).

### **Poland**

As I wrote above it is mandatory for political parties as a prerequisite for maintaining registration to conduct political activity in the framework of general principles specified by Constitution. It is however not mandatory for maintaining registration to present candidates or lists of candidates for general election or to get a minimum percentage of votes in the elections. This condition, however, e.i. to get a minimum percentage of votes is a prerequisite for access to public financing. The LPP regulates that: a political party which: a) in elections to the Sejm creating its own electoral committee received at least 3% of votes validly cast for constituency lists of candidates for deputies from the party throughout the entire country, or b) in elections to the Sejm belonged to an election coalition, whose constituency lists of candidates received at least 6% throughout the entire country, have the right to a subsidy from the State Budget. (art. 28, LPP) Political parties shall draw up, on an annual basis, financial information on the subsidy received from the State Budget and on their expenditures. The informations are submitted to the National Electoral Commission and are published in Official Gazette of the Republic of Poland "Monitor Polski".

### **Romania**

Chapitre 3 de la Loi 43/2003 contient des prévisions relatives au financement public (gouvernemental).

Les partis politiques reçoivent annuellement des subventions du budget d'état, qui se transfèrent chaque mois dans le compte de chaque parti politique par le budget du Secrétariat Général du Gouvernement et se reflète distinctivement dans l'évidence comptable.

Les partis politiques qui au début de la législature ont des représentants dans des groupes parlementaires, au moins dans une Chambre, reçoivent une subvention de base. Le total des subventions de base représente un tiers des subventions budgétaires accordées aux partis politiques.

Les partis politiques représentés dans le Parlement reçoivent aussi une subvention proportionnelle au nombre de mandats obtenu. La somme due pour un mandat est établie par la division du reste de deux tiers des subventions du budget d'état pour les partis politiques au nombre total des parlementaires.

Les parties politiques qui n'ont pas des mandats parlementaires, mais ont obtenu avec maximum 1% sous le seuil électoral, reçoivent de subventions égales, qui sont établies par la division de la somme qui n'est pas utilisée, conformément aux dispositions de l'alinéa (5), au nombre des partis politiques respectifs. La somme totale accordée aux partis politiques non-parlementaires ne peut pas être plus grande qu'une subvention de base.

Les sommes qui ne sont pas utilisées après redistribution sont divisées aux partis politiques parlementaires proportionnellement au nombre des mandats.

Par loi spéciale tous les partis qui participent à la campagne électorale peuvent recevoir une subvention du budget d'état. Les catégories de dépenses pour la campagne électorale qui peuvent être financées de cette subvention sont établies par la loi d'accord de cette subvention.

Les partis qui n'ont pas obtenu le seuil électoral pour l'élection de la Chambre des Députés et du Sénat ou, aux élections locales, n'ont pas obtenu le seuil électoral vont restituer la subvention.

Dans la situation des partis qui se présente aux élections faisant parties d'une alliance politique, la subvention s'accorde à l'alliance.

La Cour de Comptes est la seule autorité publique habilitée à contrôler le respect des prévisions légales concernant le financement des partis politiques.

Les contraventions se constatent par les contrôleurs financiers de la Cour de Comptes, et les sanctions se jugent et s'établissent par le Collège juridictionnel de la Cour de Comptes.

### **Russia**

The prerequisites mentioned in the question 4.2 are not mandatory, except the participation in national or regional elections. If a party doesn't participate in such elections five years running, it shall be liquidated by judgement of the Supreme Court of the Russian Federation on application by the Ministry of Justice. The liquidation of any party or its regional branch during an electoral campaign is inadmissible, except in the case of its extremist activity.

As far as state financing is concerned, a party receives it, if:

- the federal list of candidates to the State Duma of the party or of the bloc in which the party takes part has got no less then 3 per cent of votes in the federal constituency;
- no less then 12 candidates of the party or bloc in individual constituencies were elected, if the federal list of the party or bloc has got less then 3 per cent of votes;
- the candidate of the party or bloc to the post of the President of the Russian Federation has got no less then 3 per cent of votes.

### **Slovak Republic**

The duly registered political party or movement is not obliged to be active (participate) in any of the fields listed under 4.2. of the Questionnaire for the maintaining its registration. With respect of the public financing of political party it is important to stress that according to Article 17. para. 7 letter h) of the Political Parties Act one of its incomes represents „financial subsidies from the state's budget” and according para. 8 letters a)-c) of the same article these subsidies include: subsidy for the acquired percentage of votes in the parliamentary election determined by special statute (letter a), subsidy on activity of political party and/or movement (letter b) and subsidy on the acquired mandate of the deputy (ies) in the National Council of Slovak Republic (letter c). The right of political party to receive these subsidies from state's budget therefore depends on its active participation in parliamentary election and its electoral result (minimum percentage of votes and a mandate (s) in National Council of Slovak Republic). The subsidy for votes acquired in parliamentary election is regulated by the Act No. 80/1990 Coll. on the elections into National Council of Slovak Republic and according to Article 53 para. 3: *„If political party or movement has acquired more than 3% of total number of valid votes in parliamentary election each vote in its favour shall be compensated by 60 slovak crowns from state's budget”*.<sup>1</sup> Provided that political party and/or movement met this statutory requirement it is entitled to receive state's subsidy on its activity. The conditions of its remuneration and other procedural requirements are embodied in Article 20 of Political Parties Act and according to its para. 2: *„State's subsidy shall be remunerated to political parties and movements entitled to receive the subsidy for the acquired percentage of votes”* and *„Each year during electoral period (4 years-J.K.) political party or movement shall receive quarter of the total amount of subsidy granted for acquired percentage of votes”* (para. 4). Last state's subsidy on the mandate shall be granted to political party and/or movement provided that the acquired percentage of votes in parliamentary election them allowed

to become a parliamentary political subject. According to Article 20a of the Political Parties Act: „Subsidy on the mandate in the amount of 500.000 Slovak Crowns shall be enumerated each year to the political party or movement on the list of candidates has been individual candidate registered”. It should be precised however that it is not necessary to have certain number of mandate in National Council of Slovak Republic and each mandate shall be renumerated through this kind of state’s subsidy.

### **Slovenia**

For political party in order to maintain registration:

- it is mandatory to present candidates at least on every other parliamentary or local elections. If the party does not present candidates at two subsequent parliamentary or local elections, the Ministry of Interior can start the procedure of erasure of the party from the registry.<sup>39</sup>
- it is not mandatory to participate in election campaign.
- it is not mandatory to get a minimum percentage of votes or a certain number of candidates elected.
- it is not mandatory to conduct any other political activities.

For political party in order to receive public financing:

- it is mandatory to receive at least 1% of the votes in last parliamentary elections (for funding from national budget)<sup>40</sup>
- it is mandatory to receive minimum percentage of votes at the local elections (for funding from local budget)<sup>41</sup>
- there are no other prerequisites for public funding.

### **Spain**

In general, once registered, political parties do not have to perform any specific activity, keep a legally defined number of members, or participate in elections, in order to maintain their legal personality and existence. However, to receive support (economic or otherwise) from public authorities, they must have complied with several requisites, which are different according to each case. For instance:

To receive public financing to compensate for electoral activities, according to Organic Law 5/1985 on the General Electoral System, parties must have presented candidates to the elections and have obtained parliamentary representation, or in the case of local elections, have obtained representation in the bodies of local government.

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<sup>39</sup> See art. 17 of the Act on Political Parties.

<sup>40</sup> See art. 23 of the Act on Political Parties. These funding is meant for regular party activities. Refund of lection campaign costs is regulated separately. See Election Campaign Act (Zakon o volilni kampanji), Ur. l. RS 62/94, 17/97.

<sup>41</sup> Local communities are not required to finance parties. They can finance them if they decide to do so. The percentage of votes required to be won varies from 1% up to more than 7%, depending on the size of the community council. See art. 26 of the Act on Political Parties.

To receive public subsidies for parliamentary activities (regulated in the Standing Rules of national and regional parliaments), political parties must have a parliamentary group, or have members included in a parliamentary group.

To receive public subsidies for current expenditures, political parties must be represented in the Lower House (Congreso de los Diputados) according to Art. 3.1 of the Law on the Financing of Parties.

In general, public support for parties depends on their representation in public entities, whether national, autonomous or local, and (also in general terms) is proportional to the quantitative importance of that representation.

### **Sweden**

Only a party which obtains at least four per cent of the national vote is entitled to participate in the distribution of seats in parliament and of full public financing. On the national level, however, public financing is available to all political parties with not negligible support of voters in general elections. Funds are therefore counted on the basis of both votes and seats in parliament gained in the latest election, and a party which loses its seats in parliament and loses voter support will receive gradually reduced funds. Deliberately there are neither restrictions on the use of funds, which a political party receives within the framework of the legislation on public financing of political parties, nor mechanisms of public control of the use of these funds.

### **Switzerland**

Non.

### **Turkey**

It is not mandatory for political parties to present candidates for general elections on the national or local level. However, if a party does not participate in two consecutive general elections for the national parliament, this is considered a cause for the prohibition of the party (LPP. Art. 105). (The constitutionality of this provision is in doubt). There is no requirement to get a minimum percentage of votes in local or national elections.

### **Ukraine**

See 4.1.

### **The United Kingdom**

1) There are currently over 300 'political parties' in the Electoral Commission's register of political parties maintained under PPERA. This is a misleadingly large figure as many of these parties represent local groups and/or single issue organisations (e.g. 'Berkshire Stop the War Party', registered at the height of public opposition to British involvement in Iraq). Inclusion on the register does not entitle these bodies to receive public funding and imposes no obligation to undertake political activities. At the general election in 2001, when there were 179 registered parties, 75 parties put forward candidates, and of these 35 put forward candidates in only one constituency. In the event, the three largest parties had a total of 630 of the 659 seats in the House of Commons. The remaining seats were shared between six parties and two independent members. If a registered party becomes moribund, it will probably cease to comply with the

obligation to submit regular accounts to the Electoral Commission and presumably could eventually be removed from the register (although PPERA does not provide a specific mechanism for doing this).

2) It must be emphasised that in general public funding is not available for political parties. However, a candidate at a parliamentary election is entitled to a free postal delivery of an election address and to the use of school halls for election meetings.<sup>42</sup> The opposition parties in Parliament receive funds to assist them with their parliamentary work, for purposes such as research, and the amount of these funds depends on the number of seats held by a party.

3) A party's eligibility for party political broadcasts at a general election depends on a number of factors, but at the general election in 2001 some broadcasts were allocated to parties that were contesting at least one-sixth of the constituencies in the relevant area, even if they had no existing seats in Parliament.<sup>43</sup>

## 5. SUPERVISION AND CONTROL

*Are there any mechanisms to control or supervise the activities of political parties outside the financial field not mentioned in the replies to the earlier questions?*

### **Albania**

En dehors du contrôle financier exercé par la Commission de Contrôle de l'Etat, il n'existent pas des mécanismes de contrôle ou de supervision des activités des partis politiques.

### **Andorra**

En cas de violation de la loi ou des statuts, un membre du parti ou une personne dont l'adhésion aurait été refusée, peut saisir l'autorité judiciaire; l'article 26 de la Constitution peut être interprété comme permettant au gouvernement de demander à l'autorité judiciaire la suspension ou la dissolution d'un parti qui ne respecte pas le principe démocratique ou exerce une activité contraire à la loi. Mais une telle mesure n'aurait pratiquement pas d'effet puisqu'il n'est pas nécessaire d'être membre d'un parti pour se présenter à une élection.

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<sup>42</sup> Representation of the People Act 1983, ss 91, 95.

<sup>43</sup> And see Bradley and Ewing, (note 6 above), p 161.

**Armenia**

Other mechanisms to control or supervise the activities of political parties are possible if they are prescribed by the Charter of the political party.

**Austria**

Bien que ni le MFI ni la Cour Constitutionnelle autrichienne n'aient la compétence pour refuser l'enregistrement d'un parti politique ou pour l'interdire, toutes les autorités administratives et judiciaires sont tenues à examiner comme question incidente l'infraction de la LINS dans des affaires pendantes (contrôle incident).

**Azerbaijan**

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**Belgium**

Le seul mécanisme de contrôle ressortit au domaine financier.

**Bosnia-Herzegovina**

Outside the financial field, the laws on political organizations in their Art. 34 provide that competent authorities have right to control activities of the political organizations according to the competences established by relevant laws. F. Ex, the court, by which a party was registered, ex officio or a public prosecutor have a right to initiate proceedings against the party under certain conditions, as not following a political goals presented in the party's program (see also 2.3.).

**Bulgaria**

Non.

**Canada**

Non.

**Croatia**

No.

**Cyprus**

No.

**Czech Republic**

Are there any mechanisms to control or supervise the activities of political parties outside the financial field not mentioned in the replies to the earlier questions?

Financial auditing of political parties is (a) the same as that of other legal entities, whereby political parties file tax returns with tax authorities, b) specific, in that political parties are subject

to a special duty to submit an annual financial report which includes annual accounts, auditor's report confirming that there are no qualified accounts, statement of donations and gifts and statement of inherited assets. The annual financial report of the party and movement is public.

The state does not check other activities of political parties.

Financing of political parties and movements and their financial activities was addressed in the Constitutional Court's judgment, ÚS Pl. ÚS 26/94. Political parties and movements are not public power institutions but perform certain tasks in the public interest in accordance with the Constitution. The state is thus to enable and support the performance of such necessary tasks. The provision of law governing the funding of political parties by the state reflects this fact in that it is motivated by an effort to contribute towards the costs of activities conducted in public interest. The Constitutional Court, however, rejected the idea that state contributions ought to become a principal source of political parties' income. The financial support afforded to political parties by the state must not exceed the limit set in Article 20 (4) of the Charter of Fundamental Rights and Freedoms protecting autonomy and parties' independency on the state.

The law attempted to subject financial management of parties to extensive supervision by a state body – the Supreme Comptroller's Office. The audit of political parties' financial management, assessment of "economy" and "appropriateness" of funds outlaid is not to be conducted by bodies of state administration in charge of state property auditing. It is formally constitutionally inadmissible for property of political parties and movements to be deemed to be state property for the purposes of the Act on the Supreme Comptroller's Office. Such approach circumvents the Constitution.

Flaws in the annual financial report cannot be qualified as a violation of the principles set out in Articles 5 and 9 of the Constitution.

There is currently an ongoing debate on the model of financing of political parties.

### **Estonia**

The registration department of a court has the right to demand that the management board of a political party submit the list of the members of the party as at the date designated by the registration department if there is reason to believe that the actual number of members of the political party has fallen below 1000.

Otherwise, the control over the activities of political parties outside the financial field resembles the control over non-profit associations, and it is regulated by the Non-profit Associations Act. The control consists most notably of the possibility of a member of a non-profit association (including political parties) to challenge a resolution of the association with a court (see 3.2., *supra*).

### **Finland**

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### **Georgia**

Does not exist.



### **Germany**

The Federal Constitutional Court decides according to Article 21 (2) (2) *Grundgesetz*, The Federal Constitutional Courts' Procedural Act and Sections 32 seqq. *Political Parties Act* whether a political party is to be considered as unconstitutional and the prohibition of a political party. A special executive branch, the "Office for the Protection of the Constitution" can supervise the activities of political parties under special circumstances. The Federal constitution, Federal laws and the constitutions of the *Länder* (states) and their laws lay down in detail the protection of the constitution by this intelligence office.

### **Greece**

No other mechanism to control or supervise the activities of political parties exists. As far as the financial field is concerned, the Greek Parliament is entitled to control the finances of political parties according to Art. 21 of law 3023/2002

### **Hungary**

While the public prosecutor qua legality of their activities supervises associations, the parties are exempt from such supervision. The AA provides however that in case of violation of law by the party the public prosecutor files a suit against the party. (§ 14 (2) AA)

There is no special regulation on prohibition of parties (comparable to Art 21. of the German *Grundgesetz*). It means however that the general rules on dissolution of associations apply to the dissolution by the court of a party. Accordingly, the court, on the motion of the public prosecutor, dissolves the association if the activity of it is contrary to § 2 (2) of the AA. (It violates Art. 2 (3) of the Constitution (acquisition or exercise by force of public power or its exclusive possession); it realises a crime or calls for committing a crime, or it violates rights or freedoms of others.) I think, such vague conditions of dissolution of political parties raise constitutional concerns.

### **Ireland**

No

### **Italy**

No other mechanism of supervision or control is provided for by the national or regional legislation.

### **Japan**

There are no provisions in the above-mentioned laws on the mechanisms to control or supervise the activities of political parties except for the ones mentioned above.

### **Korea**

Election Management Committees are established for the purpose of fair management of elections and national referenda, and dealing with administrative affairs concerning political parties, and the Central Election Management Committee may establish, within the limit of laws and decrees, regulations relating to the management of elections, national referenda, and administrative matters concerning political parties and may also establish regulations relating to internal discipline that are compatible with law. (Article 114 of the Constitution) Based on these

articles, the Election Management Committee may establish, within the limit of laws and decrees, regulations relating to the management of elections, national referenda, and administrative matters concerning political parties and may also establish regulations relating to internal discipline that are compatible with law. (Articles 26, 27 of the Political Party Law) In addition, the Election Management Committee may establish, within the limit of laws and decrees, regulations relating to the management of elections, national referenda, and administrative matters concerning political parties and may also establish regulations relating to internal discipline that are compatible with law.

### **Latvia**

Within the jurisdiction set in legislative acts, state institutions supervise and control the activities of political organizations (parties). Within their authority, the officials of these state institutions shall control whether political party observes the rules and other normative acts and whether their activities comply with their statutes. The officials have the right to participate in the meetings of organizations and to have access to the documents of organization.

If state institutions ascertain that the organization has not observed the laws or other normative acts, the institutions submit a written notice to the permanently functioning governing body or leader of the organization and request the termination of the illegal activity.

Complaints on the illegal foundation, liquidation or re-organization of political organization (party), as well as on activities considered illegal or not complying with the organization statutes, are reviewed by court upon request from the respective organization members or upon an official complaint from the Minister of Justice. If upon reviewing the complaint, the court ascertains violations of the law or the organization statutes, the court may: revoke the resolutions which are adopted by the organization's governing bodies or officials and which are considered illegal or do not comply with the statutes; 2) dismiss officials and governing bodies the election of which does not comply with the statutes; or 3) assign organization to eliminate and further prevent other illegal activities or violations of the statutes.

### **Liechtenstein**

Non. Il n'y a pas de contrôle spécifique concernant les partis politiques.

### **Lithuania**

1. Article 5 of the Law on Financing of Political Parties and Political Organisations provides that "the Ministry of Justice of the Republic of Lithuania shall suspend activities of a political party or political organisation if it violates the Constitution of the Republic of Lithuania or this law. State and local government institutions, as well as other political parties or political organisations may apply for the suspension of activities of political parties or political organisations. The application for the suspension of activities of a political party or political organisation must be examined not later than within a month from the receipt thereof. The Ministry of Justice shall also have the right to suspend the activities of a political party or political organisation on its own initiative.

The Ministry of Justice, after getting a notice about a violation of the law, shall inform, in writing, the leading institutions of a political party or political organisation, indicating what provisions of the law have been violated and setting the time for the elimination of the violation. If the violation is not eliminated by the set time, the activities of the political party or political organisation shall be suspended. When deciding whether or not the political party or political

organisation has violated the Constitution of the Republic of Lithuania or this law, the Ministry of Justice shall have the right to address other state institutions and obtain their findings.

During an election campaign, the activities of a political party or political organisation may only be suspended by the County Administrative Court whose decision shall come into effect from the moment of its pronouncement.

After the suspension of activities of a political party or political organisation, the party shall be forbidden to use any and all media of mass information, conduct campaigning or propaganda activity, or participate in elections.

The activities of a political party or political organisation may not be suspended for a period longer than six months. If a political party or political organisation does not eliminate legal violations after its activities have been suspended or if, within a year after the date its activities were suspended, it violates the laws of the Republic of Lithuania again, its activities shall be suspended for one year.

After eliminating legal violations, a political party or political organisation shall notify the Ministry of Justice of the Republic of Lithuania of this fact, and the Ministry, within five days of the receipt of such notification, shall permit the political party or political organisation to resume its activities”.

Article 7 of the above-mentioned law provides that on the proposal of the Ministry of Justice, the County Administrative Court may terminate the activities of a political party or political organisation if after a repeated suspension of its activities within a year the party or the organisation violates the Constitution or this law.

Following the provisions of article 8, the suspension of party’s activities may be appealed against to the County Administrative Court within one month after the day of receiving the note on suspension.

Article 8 defines the responsibility of political party or political organisation: ”a political party or political organisation which by illegal actions inflicts material or moral damage on the state, its enterprises, institutions, organisations, other political parties or political organisations or public organisations, must compensate for such damage from its resources in accordance with procedures established by the laws of the Republic of Lithuania”.

Political parties and political organisations also have to establish the system of internal control: article 3 of the Law on Political Parties and Political Organisations provides that in the party’s or organisation’s charter (statutes) *inter alia* have to be included provisions on the execution of the control on the activities of the institutions of party or political organisation.

## **Luxembourg**

Non.

## **Macedonia**

The Constitutional Court is competent to decide on conformity of the programmes and statutes of political parties with the Constitution. Once a programme or statute is repealed, the political party cease to exist and it is automatically removed from the court’s register.

However, the Constitutional Court is not competent do decide on the activities of a political party as against the Constitution or a law. This is decided by the ordinary courts upon proposal of the

public prosecutor. The court can either ban the activities of the party or refuse the proposal. Right to appeal is guaranteed.

### **Malta**

None.

### **The Netherlands**

As associations political parties are subject to the provisions in the Civil Code concerning internal functioning . Thus, Articles 2:33-2:36 deal with membership, Article 2:38 with voting rights of members, Article 2:37 with membership of the board, Articles 2:44-2:45 with functions and powers of the board, *et cetera*.

As said before, the civil court will declare a political party prohibited and dissolved at the request of the public prosecutor, if its activities or goals are contrary to public order (Article 2:20 of the Civil Code).

Moreover, the public prosecutor and any interested person may request the court to dissolve a political party if its establishment has certain legal shortcomings, its by-laws are not in conformity with the applicable legal requirements, its legal form does not meet the legal description of that form, it does not act in conformity with its legal form, or it seriously violates its by-laws (Article 2:21 of the Civil Code).

### **Poland**

See. P. 4.1.

### **Romania**

Conformément à l'art. 144 de la Constitution la Cour Constitutionnelle décide sur les contestations qui ont comme objet la constitutionnalité d'un parti politique.

### **Russia**

Authorized state bodies (the Ministry of Justice, eventually public prosecutors) shall supervise whether political parties, their regional branches and other structures follow the legislation of the Russian Federation, as well as whether their activity is in conformity with provisions, aims and tasks fixed in their statutes. The agencies of that Ministry may:

- no more often than once a year check party documents to confirm the existence of regional branches and the number of members;
- delegate their representatives to attend parties' public meetings, where statutes and programs are adopted or changed, leading and review bodies are elected, candidates are nominated, and so on;
- warn in a written and motivated form a party, its regional branch or other structure, if its activity contradicts the statute. An appeal to a court may be brought against such warning;
- bring an application to a court requesting to suspend the activity or liquidate a party, its regional branch or other registered structure, if it violates the law.

In case its activity has been suspended, a party involved or its registered structure may not, during this period, establish mass media, use national and municipal mass media, organize meetings, demonstrations and so on, participate in elections and referenda, use bank deposits, but for economical aims. If violations have not stopped, the Ministry of Justice or its territorial branch shall apply to a court requesting the liquidation of the party, its branch or structure.

### **Slovak Republic**

There is no such mechanism of control or supervision of political parties in Slovak Republic.

### **Slovenia**

The law requires the parties to operate publicly.<sup>44</sup> It states that the publicity is assured by informing the public about the activities of the party. It also states that the financial activities of the parties must be public. It contains detailed provisions on the supervision of the party funding. However, outside the financial field there are not many mechanisms to control or supervise the activities of political parties. The law specifically requires only the data in the registry at the Ministry of Interior to be open to public. These data include the party statute, the program and the information on the responsible person of the party. Therefore, in practice even the number of party members is often not public.

### **Spain**

The only mechanism for the external control of political parties is the one mentioned in paragraph 3.3, carried out by the Court of Accounting (Tribunal de Cuentas).

### **Sweden**

No.

### **Switzerland**

Non.

### **Turkey**

Parties that fail to conform to Article 68 of the Constitution (see 2.2 above) by their programs or constitutions or have become a focus of such activities can be prohibited by the Constitutional Court. Financial supervision of parties is also conducted by the Constitutional Court.

### **Ukraine**

Chapter V of the Law of Ukraine on political parties of Ukraine provides for the mechanisms to control the activities of political parties.

State control over political parties shall be exercised by:

(1) the Ministry of Justice of Ukraine, in terms of observance of the Constitution, laws of Ukraine, and party statute;

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<sup>44</sup> Art. 2 of the Act on Political Parties.

(2) the Central Election Committee and district election committees, in terms of observance, by a given political party, of the election procedures.

Political parties shall provide any such documents and explanations as may be required by the controlling authorities.

Decisions made by controlling authorities may be contested in keeping with legally established procedures.

The following measures can be taken with regard to political parties transgressing the Constitution, the Law of Ukraine on political parties of Ukraine and other laws of Ukraine:

- (1) warning of unlawful activity;
- (2) banning the political party at fault.

If the leadership of a political party publicly announces its intention to commit acts punishable under the law, the controlling authority shall issue a notice warning against such unlawful activity.

If an act committed by a political party does not entail other kinds of answerability, the controlling authority shall instruct this party to correct the transgression.

The leadership of a political party shall promptly correct any such transgressions as may have caused such warning, and shall within five days notify the authority that issued the warning of the measures taken to correct the transgressions.

A court of law may rule to ban a political party, as submitted by the Ministry of Justice or General Prosecutor of Ukraine, in case it transgresses of] the requirements to the formation and operation of political parties set forth in the Constitution, this and other laws of Ukraine.

A ban on a political party shall entail termination of that party's activities, dissolution of its executive bodies, regional, city, and district organisations, party cells, and other structural subdivisions envisaged by the statute of that party, and termination of its membership.

Officials and citizens found to have transgressed this Law, namely:

- (1) by forming, organising, and participating in unregistered political parties;
- (2) restricting the rights of or persecuting citizens due to political party affiliation or non-affiliation;
- (3) refusing registration to a political parties for no valid reasons;
- (4) granting a political party any advantages or restricting the lawful rights of a party and its membership;
- (5) transgressing the law when using party symbols;
- (6) inflicting material or moral damage on a political party;
- (7) organising paramilitary units;
- (8) participating in a banned political party or committing other acts punishable under the law,

shall, be meted out disciplinary and administrative punishments, made liable or criminally prosecuted in accordance with the laws of Ukraine.

A political party shall be terminated by reorganisation or liquidation (self-dissolution), or when banned or stripped of the registration certificate in keeping with procedures set forth in this and other laws of Ukraine.

A political party shall be reorganised or self-dissolved as resolved by that party's convention (conference) in accordance with its status. Simultaneously, the convention (conference) shall resolve to use the party property and funds for statutory or charitable purposes.

If a political party fails to comply with Section 6 of Article 11, hereof, if within three years from the date of registration this party is found to have submitted corrupt information when applying for registration, if this party fails to nominate Ukrainian presidential and parliamentary candidates within ten years, the registration authority shall turn to the Supreme Court of Ukraine, requesting cancellation of the registration certificate. The latter shall not be revoked for any other reasons.

The Supreme Court ruling revoking the registration certificate shall entail termination of a given political party, dissolution of its executive bodies, regional, city, and district organisations, party cells, and other statutory subdivisions, and shall terminate party membership.

### **The United Kingdom**

1) As already stated, the Electoral Commission has the duty of maintaining the register of political parties in Great Britain and Northern Ireland and related registers relating to political donations, campaign expenditure etc. The Commission, an independent statutory body, has power to investigate complaints that a party is failing to comply with its financial obligations under PPERA.

2) In 1997, following allegations of financial abuse on the part of both Labour and Conservative parties, the remit of the non-statutory Committee on Standards in Public Life was extended to enable it to investigate party funding. The recommendations of this Committee<sup>45</sup> were largely implemented by the enactment of PPERA in 2000. The Committee remains in existence and, if it were necessary, could at any time re-visit the subject of public standards in the political parties.

3) Except as already mentioned, no other mechanisms for controlling or supervising the political parties outside party financing exist. For instance, the functions of the Parliamentary Ombudsman and the Local Government Ombudsman do not extend to the activities of the national or local political parties. Nor does the system of public audit, whether at central or local government level. However, where action by a party group might have materially affected the handling of a particular matter by a public authority, and it is alleged that political action of this kind amounted to maladministration, the Local Government Ombudsman and possibly the public auditor would be able to review the matter.<sup>46</sup>

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<sup>45</sup> See Cm 4057, 1998.

<sup>46</sup> For an extreme example of a local political party abusing its control of a public authority for improper purposes, see *Porter v Magill* [2002] 1 All ER 465.

## ANNEX

### Kyrgyzstan

#### **The express-analysis “the Modern condition of political parties in Kyrgyzstan ”. (Kalybekov Kanat, Itibaev Kairat)**

The express - analysis has for an object to generalize the information on activity of political parties in Kyrgyzstan. The information received at direct dialogue with their leaders or coordinators and consequently reflects the common estimation of activity of a party from within.

Adhering above-stated purposes, researchers did not aspire to the deep scientific analysis, and had before themselves more modest task - revealing of a real, current state of affairs in political parties with use of the information on their activity for last period of development.

Now on the official data of the Ministry of Justice for February 3, 2003, it is registered 41 political parties. The research group has carried out interrogation of 23 political parties. Others 18 political parties have remained beyond the framework of our interrogation for the following reasons:

First, the part of parties does not have offices;

Second, headquarters of some political parties registered in areas (Osh and Jalal-Abad regions);

In the third, recently registered political parties (2002-2003) Are at a stage of organizational becoming and yet do not represent a party as such;

In the fourth, the short period of time allocated on researches.

But before to start realization of our basic plan, we shall make small deviation which is necessary for more fully understanding of essence of a question examined by us. As is known, the term "party is translated from latin as "part" of something of the whole. In last scientific works political party is understood as the voluntary association of the citizens expressing interests of certain social layers and groups, incorporated on principles of a generality, ideological installations and wishing to seize authority or to influence it for achievement of definite purposes.

The present express - research is carried out by group of young researchers at support of Fund of political researches " the Project of the future ". Research is carried out in the form of questioning, questions - answers. During our research, on the basis of such scientific approaches as: organizational, functional and social-class, we have revealed below-mentioned attributes to try on them, to working political parties of Kyrgyzstan. Therefore we have tried to define and analyze a level of development and political influence of this or that party in a society.

Criteria (attributes) of political parties:

1. The carrier of ideology and the program.  
2. Social (mass) support. (attraction more and more citizens by means of "vigorous activity" through PR).

3. Presence of the formalized organizational structure, and also initial, steady cells.

4. Aspiration to the government by participation in elections

First attribute " a party - the carrier of ideology and the program " during our conversations with leaders and coordinators it was found out, that the majority of parties carry itself to an ideological attribute - to centrists.

On the basis of biographical particulars we have made differentiation of political parties on ideological directions or political platforms, having applied division "lefts – centrists - rights". It is necessary to note, that the below-mentioned differentiation is made on the basis of the data received from representatives of parties whom we met.

Researchers have covered 22 political parties in Kyrgyzstan.



LEFT	LEFT-CENTRISTS	CENTRISTS	RIGHT-CENTRISTS	RIGHT
The party of communists of Kyrgyzstan (Masaliev A. M.)	Ata-Meken (Tekebaev O. Ch.)	Adilet (Kasymov T.K.)	The Voice of people (Maripov A.P.)	My country (Otorbaev J.K.)
Communitistic party of Kyrgyzstan (Ajybekova A. K.)	Social – Democratic party (Atambaev A. Sh)	The Democratic movement of Kyrgyzstan (Chernomorec V.)	Republican party of Kyrgyzstan(Токо мбаев Г. А)	Ar-Namys (Aliev E. T. )
New Kyrgyzstan (Dosbol Nur uluu)	Erkin Kyrgyzstan (Asanov B. A.)	Party of unity of Kyrgyzstan (Muraliev A. M.)		Women’s democratic party of Kyrgyzstan (Shailieva T.A..)
		Kairan-El (Sadyrbaev D.)		Erkindik (Turgunaliyev M.)
		Party of Veterans of Afghanistan and other local conflicts (Tashtanbekov A.D..)		
		Agricultural party		
		El Muras (Boronbaeva T. J.)		
		Republican People’s Party (Tentiev J. A.)		
		Elet (Kasiev N. K..)		

**The note: Party "Asaba" does not carry itself to one of the above-stated division. A platform of the party have defined as " National - reformist ".**

The second attribute or criterion - " social support " is one of the important parameters of development of a party, that is, number of the members representing the given party. Differently, what **social force** do have a party, in what scales it is represented, at what level (regional, national or mononational).

It is covered 18 political parties in the country with researchers.

**The dynamics of quantity of political members today and at the moment of registration**  
[Statistics are available from the Secretariat]

It is necessary to note, that the social base also is an important attribute of political parties. " The social base " is reflects connection with the certain class, a social layer, group or their set. In this question many parties do not have appropriate clearness.

The structure of members of a party to 11 Kyrgyzstans working parties on sexual structure is submitted by the following table:

[Statistics are available from the Secretariat]

The Analysis of structure of members of a party to an age attribute is carried out in 11 working parties and submitted in the following table:

[Statistics are available from the Secretariat]

Third attribute " presence formalized organizational structure and initial cells on places ". The active of political parties is rather narrow and in most cases includes only a management. Quite often it happens and so, what even directing bodies of a party do not show due activity. To a fourth attribute " aspiration to the government by participation in elections ", we would like to display activity of political parties of Kyrgyzstan at last elections in Jogorku Kenesh. In 2000 during elections to Legislative assembly ZHK on 15 places on proportional system the five-percentage barrier was overcome with 6 parties. On the first place the Party of communists of Kyrgyzstan 27,64% Voices of 5 deputy mandates. On the second – "the block "the Union of democratic forces" 18,64% - 4 mandates. On the third - Democratic party of women of Kyrgyzstan with 12,69% - 2 mandates. Further followed the Party of veterans of war of Afghanistan and participants of other local fighting conflicts - 8,03% - 2 mandates, "Ата-Мекен" - 6,47% - 1 mandate.

[Statistics are available from the Secretariat]

As it is evidently visible, results of struggle of political parties for 15 places in parliament under party lists in 2000, have shown positive results of activity of political parties in conditions functioning in the country of a proportional electoral system. After acceptance by a national referendum of new edition of the Constitution, the new reality appears: on forthcoming parliamentary elections political parties will put forward only separate persons (on majority system) In this connection it is necessary to note, that practice creation of political parties " under leaders " especially in our conditions, initially deforms all parties of party construction. To this elections past December 14, 2001 chapters of local self-management of villages, settlements and cities of regional submission when in Batken, Jalal-Abd, Osh and Talas areas from parties it was not put forward any candidate testify.

#### **About the legislation.**

The law "About political parties " from June 12, 1999. The item 5, chapter 2 says: "Political parties are created under the initiative not less than 10 citizens ". Ten people in Kyrgyzstan is one big family, means, each family can receive on a party. In contrast to kyrgyz, to the "liberal" law, in new laws "About political parties" of Russia, Kazakhstan, Armenia, Byelorussia and Lithuania the parties accepted in 2002-year are regulated more strictly. In the accepted laws it is possible to allocate the following moments: First, requirements about the minimal number of parties is necessary for registration from 5000 fixed members; Second, compulsion presence of branches of a party in regions of the country. In laws of Armenia and Russia, the administrative lever - dissolution of a party if it does not take part in two last elections to parliament is stipulated.

#### **The resume**

Political parties play the vital role in our country. The stable, effectively functioning party system is extremely necessary for forward development of democratic process in Kyrgyzstan. However, if as a whole to try to characterize modern party system of Kyrgyzstan it is necessary to

recognize its multi-party, from the point of view of maturity it should be characterized as **atomated**. If to start with the functional approach, determining efficiency of activity of parties(sets) we shall see, that Kyrgyz parties become more active only when the question is activity of the president, the governments or on what - or to large events, and that to an application form and references (manipulations). In the end, it is necessary to emphasize that without the advanced party system is impossible constructions of the democratic republic, stably functioning civil society and a lawful state.