

European Elections Act

Election of Members of the European Parliament from the Federal Republic of Germany Act

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Table of Contents

Part I

Election of the Members of the European Parliament from the Federal Republic of Germany

- Section 1 General Legal Principles governing the Election
- Section 2 Electoral System, Distribution of Seats
- Section 3 Organization of the Electoral Area
- Section 4 Application of the Federal Elections Act
- Section 5 Electoral Bodies
- Section 6 Franchise, Exercising the Right to Vote
- Section 6a Disqualification from Voting
- Section 6b Eligibility for Election
- Section 6c Prohibition of Multiple Candidacies
- Section 7 Election Day
- Section 8 Right to Submit Nominations
- Section 9 Content and Form of Nominations
- Section 10 Establishment of Nominations
- Section 11 Submission of Nominations, Declaration concerning the Combination
of Land Lists
- Section 12 Alteration and Withdrawal of Nominations
- Section 13 Rectifying of Faults
- Section 14 Approval of Nominations, Decision to Combine Lists for specific Laender

- Section 15 Ballot Papers
- Section 16 Casting of Votes
- Section 17 Voting Machines
- Section 18 Establishment of the Election Result
- Section 19 Notification of Elected Candidates
- Section 20 Notification of the Election Result

Part II

Attainment and Loss of Membership of the European Parliament

- Section 21 Attainment of Membership of the European Parliament
- Section 22 End and Loss of Membership of the European Parliament
- Section 23 Decision on Loss of Membership
- Section 24 Appointment of Successors from the Lists

Part III

Final Provisions

- Section 25 Election Costs, Electoral Regulations
- Section 26 Scrutiny and Contestation of Elections
- Section 27 (Amendment of the Penal Code)
- Section 28 State Funds for Other Political Associations
- Section 29 Transitional Provision
- Section 30 (Entry into Force)

Part I

Election of the Members of the European Parliament from the Federal Republic of Germany

Section 1

General Legal Principles governing the Election

The Federal Republic of Germany is allowed to elect 96 members to the European Parliament. They shall be elected for five years in general, direct, free, equal and secret ballots.

Section 2

Electoral System, Distribution of Seats

(1) The election shall be held according to the principles of proportional representation with list nominations. List nominations may be established for Laender (federal states) or as combined Land lists. Each person entitled to vote shall have one vote.

(2) The votes cast for each nomination shall be added together to establish the distribution of seats. Lists for individual Laender of the same party entitled to nominate a candidate shall be considered combined unless a declaration is made that one or more of the lists concerned are to be excluded from the combined list. As far as the distribution of seats is concerned, combined lists shall be considered a single nomination in relation to the other nominations.

(3) The seats to be occupied shall be distributed among the nominations as follows. The number of seats a nomination receives shall be determined by dividing all votes cast for that nomination in the electoral area by a divisor used for the allocation of seats. Decimal fractions under 0.5 shall be rounded down to the nearest whole number; decimal fractions above 0.5 shall be rounded up to the nearest whole number. Decimal fractions equal to 0.5 shall be rounded up or down so as to ensure that the total number of seats to be distributed is adhered to; in case there are several possible allocations of seats, the Federal Returning Officer shall decide by drawing lots. The divisor for the allocation of

seats shall be determined in such a way that the total number of seats falling to the nominations is equal to the number of seats to be distributed. To this end, the total number of votes cast for all nominations to be considered is first divided by the total number of seats. If more seats fall to the nominations than there are seats to be distributed, the divisor shall be increased so that the calculation yields the number of seats to be allocated; if too few seats fall to the nominations, the divisor shall be lowered accordingly.

(4) If in the distribution process laid down in subsection (3) a nomination having obtained more than half of the total votes of all nominations to be considered does not receive more than half of the seats to be distributed, it shall, notwithstanding subsection (3), second to seventh sentences, be allocated additional seats until it has one seat more than half of the seats to be distributed. Any seats then remaining shall be distributed among the other nominations in accordance with subsection (3), second to seventh sentences.

(5) The seats allocated to the nominations shall be occupied in the order established in the nominations. Candidates who have been elected on two lists for individual Laender (Section 9 subsection (3), third sentence) shall not be considered on the list on which they were named further down; if they are named in the same place on both lists, the Federal Returning Officer shall decide on which list they are to be elected by drawing lots. If there are more seats for a nomination than candidates, the seats in question shall remain unoccupied.

(6) The seats allocated to a combined list shall be distributed among the lists involved for the individual Laender in accordance with subsection (3), second to seventh sentences. Subsection (5) shall apply as appropriate.

(7) *In the distribution of seats to the nominations, only such nominations that have received at least 3% of the valid votes cast in the electoral area shall be considered.*¹

¹ Section 2 subsection (7) is incompatible with Article 3 paragraph (1) and Article 21 paragraph (1) of the Basic Law and invalid pursuant to the Federal Constitutional Court's decision of 26 February 2014 – 2 BvE 2/13 u.a., 2 BvR 2220/13 u.a. –

Section 3
Organization of the Electoral Area

- (1) The electoral area shall be the territory of the Federal Republic of Germany.
- (2) The electoral area shall be divided into polling districts for the casting of votes.

Section 4
Application of the Federal Elections Act

Unless stipulated otherwise by this act, the election of the members shall be in accordance with the provisions of parts 2 to 7 of the Federal Elections Act concerning the electoral bodies, the franchise voting right, the preparations for the election, the poll, the establishment of the election result, the by-elections and repeat elections as well as the provisions of Section 49a of the Federal Elections Act on Regulatory Offenses and the provisions of Section 54 of the Federal Elections Act on Time Limits and Dates, each in the current version.

Section 5
Electoral Bodies

- (1) Electoral bodies are the Federal Returning Officer and the Federal Electoral Committee for the electoral area, a Land Returning Officer and a Land Electoral Committee for each Land, a District Returning Officer and a District Electoral Committee for each district, and for each urban district a Town Returning Officer and a Town Electoral Committee, an Electoral Officer and an Electoral Board for each polling district, and at least one Electoral Officer and one Electoral Board for each district and each urban district to establish the result of the postal ballot. The District Returning Officer or Town Returning Officer shall determine how many Electoral Boards are to be appointed so that the result of the postal ballot can be established on election day itself.

(2) To establish the results of the postal ballot, Electoral Officers and Electoral Boards need not be appointed for every district but for one or more communes within the district; the order shall be made by the Land government or the agency designated by it.

(3) The Electoral Boards shall be composed of the Electoral Officer as the chairperson, his or her deputy and another three to seven persons entitled to vote appointed as Board members by the Electoral Officer; the Land government or agency designated by it may order the members of the Electoral Board to be appointed by the local authority of the commune, the District Returning Officer or the Town Returning Officer, and in the event of an order being issued pursuant to subsection (2) may order the members of the Electoral Board responsible for the establishment of the postal ballot result to be appointed by the local authority of the commune alone or in consultation with the Electoral Officer. The greatest possible account shall be taken of the political parties represented in the polling district concerned in the appointment of the Board members.

(4) Section 49a subsection (3) of the Federal Elections Act shall apply as appropriate, provided that the administrative authority within the meaning of Section 36 subsection (1) number 1 of the Law on Regulatory Offenses is the Town Returning Officer if a person entitled to vote unjustifiably refuses to accept the office of Electoral Officer, deputy Electoral Officer or member of the Electoral Board or Town Electoral Committee of an urban district or evades the responsibilities of such office for no sufficient reason.

Section 6

Franchise, Exercising the Right to Vote

(1) All Germans within the meaning of Article 116 paragraph (1) of the Basic Law shall be entitled to vote, provided that on the day of the election they

1. have reached the age of sixteen years,
2. have had an abode or have otherwise been permanently resident for at least three months
 - a) in the Federal Republic of Germany or
 - b) in the other member states of the European Union,
3. are not disqualified from voting under Section 6a subsection (1).

The conditions specified in the first sentence, number 2 shall also be met if a person has been permanently resident in the territories specified in the first sentence, number 2 letters (a) and (b) for at least three months.

(2) Germans who are entitled to vote in elections to the German Bundestag under Section 12 subsection (2) of the Federal Elections Act shall also be entitled to vote.

(3) All nationals of the other member states of the European Union (Union citizens) who have an abode or are otherwise permanently resident in the Federal Republic of Germany shall also be entitled to vote, provided that on the day of the election they

1. have reached the age of sixteen years,
2. have had an abode or have otherwise been permanently resident for at least three months
 - a) in the Federal Republic of Germany or
 - b) in another member state of the European Union,
3. are not disqualified from voting under Section 6a subsection (2).

The conditions specified in the first sentence, number 2 shall also be met if a person has been permanently resident in the territories specified in the first sentence, number 2 letters (a) and (b) for at least three months.

(4) The right to vote may only be exercised once and must be exercised personally. This also applies to persons entitled to vote who at the same time are entitled to vote in elections to the European Parliament in another member state of the European Union. Persons eligible to vote must not exercise their right to vote by proxy.

(4a) Persons eligible to vote who are illiterate or prevented by a disability from casting their vote may avail themselves of another person's assistance for that purpose. Such support shall be limited to practical assistance in communicating an electoral decision which has been taken and expressed by the person eligible to vote. Such assistance must not be granted in cases where an abusive influence is exercised while it is rendered, where it replaces or alters the self-determined opinion forming or decision taken by the person eligible to vote or where there is a conflict of interests for the person rendering assistance.

(5) A person possessing a polling card may vote in the district or the urban district in which the polling card was issued

- a) by casting his or her vote in any polling district, or
- b) by postal ballot.

Section 6 a **Disqualification from Voting**

(1) A German shall be disqualified from voting if he or she is not eligible to vote owing to a judicial decision.

(2) A Union citizen shall be disqualified from voting if

1. he or she is not eligible to vote owing to a judicial decision, or
2. he or she is not entitled to vote in elections to the European Parliament in the member state of the European Union of which he or she is a citizen (home member state) owing to a decision in an individual civil or criminal law case.

Section 6 b **Eligibility for Election**

(1) Such persons shall be eligible for election who on the day of the election

1. are Germans within the meaning of Article 116 paragraph (1) of the Basic Law, and
2. have reached the age of eighteen years.

(2) Union citizens are also eligible for election who have had an abode or have otherwise been permanently resident in the Federal Republic of Germany, provided that on the day of the election they

1. are nationals of a member state of the European Union, and
2. have reached the age of eighteen years.

(3) A German citizen shall not be eligible for election if

1. he or she is disqualified from voting under Section 6a subsection (1), or
2. he or she has been deprived of the eligibility for election or the qualification to hold a public office owing to a judicial decision.

(4) A Union citizen shall not be eligible for election if

1. he or she is disqualified from voting in the Federal Republic of Germany under Section 6a subsection (2) number 1,
2. he or she is disqualified from voting in his or her home member state under Section 6a subsection (2) number 2,
3. he or she has been deprived of the eligibility for election or the qualification to hold a public office owing to a judicial decision in the Federal Republic of Germany, or
4. he or she is not eligible for election in his or her home member state owing to a decision in an individual case as provided for in Article 6 paragraph 1 of Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (OJ L 329 of 30 December 1993, p. 34), last amended by Directive 2013/1/EU (OJ L 26 of 26 January 2013, p. 27).

Section 6 c

Prohibition of Multiple Candidacies

No-one may stand as a candidate in the Federal Republic of Germany and in another member state of the European Union at the same election.

Section 7

Election Day

The Federal government shall specify the day on which the main election is to take place (election day), in accordance with the date fixed for the election by the Council of the European Union and within the scope of the period of time set under Articles 10 and 11 of the Act on the Introduction of General and Direct Elections of Members of the European Parliament (Federal Law Gazette 1977 II, p. 733), last amended by the decision of the Council of the European Communities of 25 June 2002 and 23 September 2002 (Federal Law Gazette 2003 II, p. 810). The election day must be announced in the Federal Law Gazette.

Section 8

Right to Submit Nominations

(1) Nominations may be submitted in accordance with Section 9 subsection (5) by parties and other associations with organized memberships whose aim is to participate in the forming of the political will and in the representation of the people and whose seat, management, activity and members are in the territories of the member states of the European Union (other political associations).

(2) A party or other political association may either submit one list for each Land or a combined list for all the Laender. The decision to submit a combined list for all the Laender or single lists for each Land shall be made by the executive committee of the national party organization or, where such an organization does not exist, jointly by the executive committees of the next lowest regional organizations in the electoral area or by another body as specified in the statutes of the party entitled to submit nominations.

Section 9

Content and Form of Nominations

(1) Party nominations must contain the name of the party submitting them as well as any shortened form of its name it may use. Nominations by other political associations must contain their names as well as any code word they may use. A party may add the name and shortened form of its European organization and other political associations may add the name and shortened form of their member associations in the electoral area to the designation of the nomination.

(2) The nomination must contain the names of the candidates in a discernible order. A substitute candidate may be listed beside each candidate.

(3) A German may only be named as a candidate or substitute candidate in a nomination if he or she is not named as a candidate in another member state of the European Union at the same time. A candidate or substitute candidate on a combined list of all Laender may only be named in one nomination; a candidate may be simultaneously named as a substitute candidate. A candidate on a list for one Land may also be named on a list of the

same party entitled to nominate a candidate for another Land; if he or she is only named in one nomination he or she may also be named as substitute candidate in the same list. A substitute candidate may not be named several times in a nomination. Candidates and substitute candidates may only be nominated if they have given their consent in writing; such consent shall be irrevocable.

(4) Individual Laender lists from parties must be signed by the executive committees of the Land party organizations or, where such Land party organizations do not exist, by the executive committees of the next lowest regional organizations in the Laender. Combined lists for all Laender must be signed by the executive committees of the national party organizations or, where such national party organizations do not exist, by the executive committees of the next lowest regional organizations in the electoral area. The first and second sentences shall apply as appropriate for nominations from other political associations.

(5) Individual Laender lists from parties and other political associations not continuously represented by at least five representatives in the European Parliament, in the German Bundestag or in a Landtag (state parliament) since the last election on the basis of nominations submitted in the electoral area by themselves must also bear the personal and handwritten signatures of one per thousand of the persons entitled to vote in the Land concerned at the last election to the European Parliament, but by no more than 2,000 persons entitled to vote. Combined Laender lists from parties entitled to nominate a candidate within the meaning of the first sentence must also bear the personal and handwritten signatures of 4,000 persons entitled to vote. Persons must be entitled to vote at the time they sign the list and proof of this entitlement must be furnished when the Land lists are submitted.

(6) A spokesperson and a deputy spokesperson should be designated in every nomination. In the absence of such a designation, the first signatory shall be considered to be the spokesperson and the second to be his or her deputy.

Section 10

Establishment of Nominations

(1) A person may only be named as a candidate or a substitute candidate in a nomination if he or she is not a member of another party and has been elected for this purpose at a special or general representatives' assembly or at an assembly of party members.

(2) A special representatives' assembly is an assembly of party representatives elected to establish the candidates. A general representatives' assembly is an assembly of party representatives elected in general for the forthcoming elections in accordance with the statutes of the party concerned. The representatives at the special or general representatives' assembly must be elected directly from amongst one or several party members' assemblies or from amongst representatives' assemblies which in turn have evolved either from amongst one or several party members' assemblies or from amongst one or several intermediary representatives' assemblies. A party members' assembly convened for the purpose of electing candidates for a combined Laender list and representatives for a representatives' assembly is an assembly of party members who at the time of their meeting are entitled to vote in European Parliament elections. A party members' assembly convened for the purpose of electing candidates for a Land list and the representatives for a representatives' assembly is an assembly of party members who at the time of their meeting are entitled to vote in European Parliament elections in the Land concerned, regardless of later changes in Laender boundaries.

(3) The representatives for the representatives' assemblies and the candidates shall be elected by secret ballot; this shall also apply to the specification of the order in which the candidates are listed in the nomination. Each participant in the assembly who is entitled to vote shall also have the right to submit a nomination. The candidates shall be given an opportunity to present themselves and their program to the assembly within appropriate time. The elections of the representatives for the representatives' assemblies may be held no earlier than twelve months before the beginning of the year in which the European Parliament election is scheduled to take place, the elections of the candidates no earlier than nine months.

(4) The executive committee of the national party organization or, where such a national organization does not exist, the executive committees of the next lowest regional organizations in the electoral area jointly or another body provided for this purpose in the party's statutes may object to the decision of a members' or representatives' assembly concerning the candidates for a combined list for all Laender. The executive committee of a Land party organization or, where such Land organizations do not exist, the executive committees of the next lowest regional organizations in the Land jointly or another body provided for this purpose in the party's statutes may object to the decision of a members' or representatives' assembly concerning the candidates for a Land list. If such an objection is raised, the voting procedure shall be repeated. Its result shall be final.

(5) The parties shall stipulate further details regarding the election of representatives for the representatives' assembly, the convening and the quorum of the members' or representatives' assemblies, as well as the procedure for the election of the candidates.

(6) A record must be made of the assembly convened for the establishment of a nomination, containing details of the venue and time of the assembly, the form of the invitation, the number of members or representatives present and the result of the vote; it must be signed by the chairperson of the assembly and two participants designated by it.

(7) Subsections (1) to (6) shall apply for other political associations as appropriate.

Section 11

Submission of Nominations, Declaration concerning the Combination of Land Lists

(1) Lists for one Land and combined lists for all Laender shall be submitted in writing to the Federal Returning Officer by no later than 6 p.m. on the eighty-third day before the election.

(2) Together with the nomination, the following shall be submitted to the Federal Returning Officer:

1. the declarations of consent of the candidates and substitute candidates listed in the nominations (Section 9 subsection (3), fourth sentence);

- 1a. for Germans, an attestation from the cognizant local authorities stating the eligibility of the candidates or substitute candidates nominated to stand for election;
- 1b. for Union citizens, an attestation from the cognizant German local authorities stating that they have an abode or are otherwise permanently resident and have not been disqualified from standing for election pursuant to Section 6b subsection (4) number 1 or 3;
- 1c. for Union citizens, affirmations in lieu of an oath concerning their nationality, date of birth and place of birth, their last address in the home member state, their address in the Federal Republic of Germany, the local authority or constituency in their home member state with which they were last registered as well as a declaration that they are not standing for election in another member state of the European Union at the same election and that they have not been disqualified from standing for election in their home member state (Section 6b subsection (4) numbers 2 and 4);
2. a copy of the record on the establishment of nominations (Section 10 subsection (6)), with the chairperson of the assembly and two participants designated by it giving the Returning Officer an affirmation in lieu of an oath that the requirements specified in Section 10 subsection (3), first to third sentences have been met;
3. in the cases specified in Section 9 subsection (5) the necessary valid signatures together with proof that the signatories are entitled to vote;
4. the written statutes, the program, the names and addresses of the members of the executive committee (Section 9 subsection (4)) as well as proof that the members of the executive committee have been elected democratically if the party or other political association has not been continuously represented in the European Parliament, the Germany Bundestag or in a Landtag since the last election to the one or the other by at least five representatives nominated by the party or association itself.

The Federal Returning Officer shall have competence to administer such an affirmation in lieu of an oath; he or she shall be deemed to constitute an authority within the meaning of Section 156 of the Penal Code. Section 27 of the Administrative Proceeding Law shall apply to the taking down of the affirmations in lieu of an oath.

(3) If one list or more lists for individual Laender are to be excluded from the combined list (Section 2 subsection (2), second sentence), the spokesperson for the nomination and the

deputy spokesperson must notify the Federal Returning Officer of this in a joint written statement by no later than 6 p.m. on the eighty-third day before the election.

Section 12

Alteration and Withdrawal of Nominations

(1) A nomination may be altered after the expiration of the submission period only by means of a joint written statement by the spokesperson and his or her deputy and only if the candidate or substitute candidate has died or has become ineligible to stand for election. The procedure laid down in Section 10 need not be adhered to; the signatures specified in Section 9 subsection (5) shall not be required. No alteration can be made after the decision has been made on the approval of a nomination (Section 14).

(2) A nomination may be withdrawn by means of a joint written statement by the spokesperson and his or her deputy until the decision has been made on its approval (Section 14). In the cases specified in Section 9 subsection (5), the majority of the signatories may also withdraw a nomination by means of a statement bearing their personal and handwritten signatures.

(3) If a candidate dies after his or her nomination has been approved, but before the election, the substitute candidate shall take his or her place if a substitute has been named.

Section 13

Rectifying of Faults

(1) The Federal Returning Officer shall examine the nominations as soon as they are received. Should he or she discover faults in a nomination, he or she shall immediately notify the spokesperson and ask him or her to rectify whatever faults can be rectified in due time.

(2) After the expiration of the submission period, faults may only be rectified in nominations which are otherwise valid. A nomination shall not be valid if

1. the designation of the party entitled to make the nominations pursuant to Section 9

- subsection (1) is missing;
2. the valid signatures required under Section 9 subsections (4) and (5), together with proof that the signatories are entitled to vote pursuant to subsection (5) of these regulations, are missing, unless such proof cannot be furnished in due time owing to circumstances beyond the control of the party entitled to submit the nomination;
 3. the form and period required under Section 11 subsection (1) have not been adhered to,
 4. the statements, records, affirmations or documents required under Section 11 subsection (2) numbers 1, 1a, 1b, 1c, 2 and 4 have not been submitted or handed in.

(3) After the decision has been made on the approval of a nomination (Section 14), no faults may be rectified.

(4) The spokesperson may appeal to the Federal Electoral Committee against instructions given by the Federal Returning Officer in proceedings concerning the rectification of faults.

Section 14

Approval of Nominations, Decision to Combine Lists for specific Laender

(1) The Federal Electoral Committee shall decide on the approval of the lists for individual Länder and the combined lists for all Laender on the seventy-second day before the election, which shall be binding for all electoral bodies. The spokespersons of the nominations shall be invited to the meetings of the committee.

(2) The Federal Electoral Committee shall reject nominations if they

1. are submitted too late, or
2. do not meet the requirements established by this Law and by the respective Electoral Regulations, unless laid down otherwise in these provisions.

If merely the requirements regarding individual candidates or substitute candidates have not been met, their names shall be deleted from the nomination. If another member state informs the European Union that a German citizen will stand for election in that member state or that one of its nationals does not have the right to vote (Section 6b subsection (4)

number 2) or is not eligible for election (Section 6b subsection (4) number 4) in that member state, his or her name shall be deleted from the nomination. The substitute candidate shall take the place of the candidate whose name has been deleted, if such a substitute has been named. The spokespersons for the respective nominations who are present at the meetings must be heard before the decision is made.

(3) The decision on the approval of nominations shall be announced at the meeting of the Electoral Committee.

(4) If the Federal Electoral Committee rejects a nomination wholly or in part, an appeal may be made to the Federal Electoral Committee within four days of the announcement of the decision. The spokesperson for the nomination and the Federal Returning Officer shall be entitled to appeal. The Federal Returning Officer may also appeal against a decision by which a nomination is approved. The parties present at the appeal proceedings must be heard. The decision on the appeal must be made no later than the fifty-second day before the election.

(4a) Where the Federal Electoral Committee rejects a nomination in the absence of the right to submit such nominations pursuant to Section 8 subsection (1), a party or association may lodge an objection with the Federal Constitutional Court within four days of the announcement of the decision. The provisions of Sections 96a to 96d of the Law on the Federal Constitutional Court shall apply as appropriate with the exception of Section § 96a subsection (1). When an objection has been lodged with the Federal Constitutional Court, the decision of the Federal Electoral Committee shall be suspended until the Federal Constitutional Court has taken its decision, but only until the end of the fifty-second day before the election; the Federal Electoral Committee shall be entitled to rectify the objection by changing its decision.

(5) The Federal Returning Officer shall publicly announce the nominations approved (lists for the individual Laender or combined lists) no later than the forty-eighth day before the election.

(6) The Federal Electoral Committee shall decide on declarations made under Section 11 subsection (3) on the seventy-second day before the election. Subsection (2), first

sentence, shall apply as appropriate. The decision shall be announced at the meeting of the Federal Electoral Committee. Subsection (4) shall apply as appropriate. The Federal Returning Officer shall publicly announce the combined and the individual lists for which a statement has been made pursuant to Section 11 subsection (3), in the announcement he or she is required to make under subsection (5).

Section 15

Ballot Papers

(1) The ballot papers and their respective envelopes for the postal ballot shall be produced by government order for each Land.

(2) The ballot paper shall contain

1. the title "Election of the Members of the European Parliament",
2. the names of the parties as well as any shortened form of their names they may use and, in the case of other political associations, their names and any distinctive code names they may use,
3. the designation of the nominations as a Land list or combined Laender lists and in the case of Land lists the Land for which the nomination has been made,
4. the forenames and surnames of the first ten candidates in the approved nominations, their occupations, their places of abode (main abode) and, in the case of candidates for combined lists, also the abbreviation of the Land in which they are residents.

Section 9 subsection (1), third sentence, shall apply as appropriate.

(3) The order of the nominations on the ballot papers shall be determined in the individual Laender by the number of votes which the parties and other political associations received at the last election to the European Parliament with their nominations in the Land concerned. The other nominations shall follow in the alphabetical order of the names of the parties entitled to nominate a candidate.

Section 16
Casting of Votes

- (1) Votes shall be cast by using official ballot papers.

- (2) The voter shall cast his or her vote in such a way that he or she clearly indicates which nomination his or her vote is intended for by entering a cross on the ballot paper or in some other way. The voter shall then fold his or her ballot paper in such a way that his or her vote is not recognizable and shall throw the ballot paper into the ballot box.

Section 17
Voting Machines

In order to facilitate the casting and counting of votes, voting machines whose design and use is permitted pursuant to the Federal Voting-Machine Ordinance issued by the Federal Ministry of the Interior, Building and Community may be used instead of ballot papers and ballot boxes.

Section 18
Establishment of the Election Result

- (1) After the closing of the poll, the Electoral Board shall establish how many votes have been cast in the polling district for the individual nominations. The Electoral Board appointed for the postal ballot shall establish how many postal votes have been cast for the individual nominations.

- (2) The District and Town Electoral Committees shall establish how many votes have been cast in the districts and urban districts for the individual nominations. They shall have the right to verify the election results established by Electoral Committees.

- (3) The Land Electoral Committees shall establish how many votes have been cast in the Laender for the individual nominations.

(4) The Federal Electoral Committee shall establish the total number of votes that have been cast for the individual nominations, how many seats have been won by the individual nominations and which candidates have been elected.

Section 19

Notification of Elected Candidates

The Federal Returning Officer shall notify the candidates who have been elected and advise them that after the final establishment of the election result for the electoral area by the Federal Electoral Committee (Section 18 subsection (4)), they shall attain membership of the European Parliament with the opening of the first session following the election.

Section 20

Notification of the Election Result

After expiration of the period prescribed by law (Section 19), the Federal Returning Officer shall immediately notify the President of the German Bundestag of the names of the candidates elected to the European Parliament and the names of the candidates and substitute candidates left on the nominations. The President of the German Bundestag shall immediately notify the President of the European Parliament of the complete election result.

Part II

Attainment and Loss of Membership of the European Parliament

Section 21

Attainment of Membership of the European Parliament

(1) An elected candidate shall attain membership of the European Parliament after the final establishment of the election result for the electoral area by the Federal Electoral Committee (Section 18 subsection (4)) with the opening of the first session of the

European Parliament following the election. A refusal of membership must be declared in written form to the Federal Returning Officer before the first session. An acceptance with reservations shall be considered a refusal. Statements of acceptance and refusal shall be irrevocable.

(2) In the case of succession from the list (Section 24) or a repeat election (Section 4 in connection with Section 44 of the Federal Elections Act), membership of the European Parliament shall be attained once the Federal Returning Officer has received the letter of acceptance subsequent to notification within the prescribed period and form but not before the member elected as a result of the original election has vacated his or her seat. If the successor from the list or the candidate elected in a repeat election fails to make a statement or fails to make it in due form before the expiration of the legally prescribed period, the succession or election shall be considered accepted at the time of expiration. Subsection (1), third and fourth sentences, shall apply accordingly.

Section 22

End and Loss of Membership of the European Parliament

(1) The membership of the European Parliament shall end with the opening of the first session of the newly elected Parliament.

(2) A member shall lose his or her membership of the European Parliament

1. if the membership was attained on invalid grounds,
 - 1a. if a Union citizen was not eligible for election in his or her home member state on election day on account of a decision in an individual case as provided for in Article 6 paragraph 1 of Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (OJ L 329 of 30 December 1993, p. 34), last amended by Directive 2013/1/EU (OJ L 26 of 26 January 2013, p. 27),
2. if the election result is re-established,
3. if he or she loses or fails to meet one of the prerequisites for permanent eligibility to stand for election,
4. by resignation,

5. if the Federal Constitutional Court finds that under Article 21 paragraph (2), second sentence, of the Basic Law, the political party or sub-organization of a party to which the member belongs is unconstitutional,
6. if the political association to which he or she belongs has been banned by law in the electoral area,
7. if he or she accepts election to Federal President,
8. if he or she is appointed a judge at the Federal Constitutional Court,
9. if he or she is appointed a parliamentary state secretary,
10. if he or she is appointed Defense Commissioner of the German Bundestag,
11. if he or she is appointed Federal Commissioner for Data Protection,
- 11a. (repealed),
12. if he or she accepts election or an appointment as a member of a Land government,
13. if he or she is appointed to a function specified in Article 7 paragraph (1) or (2) of the Act on the Introduction of General and Direct Elections of Members of the European Parliament (Federal Law Gazette 1977 II p. 733), last amended by the decision of the Council of the European Communities of 25 June 2002 and 23 September 2002 (Federal Law Gazette 2003 II p. 810),
14. if he or she is appointed to a function that due to other statutory provisions is incompatible with membership of the European Parliament,
15. if he or she assumes the office of head of state, of a judge at the Constitutional Court, of a member of a government that is comparable with a German Land Government or an office in another member state of the European Union that is comparable with that of a parliamentary state secretary in the Federal Republic of Germany.

(3) Resignation shall only be effective if it is declared in writing to the President of the European Parliament, to a notary having his or her seat in the Federal Republic of Germany or to a member of a German mission abroad who is authorized to authenticate documents. The member must transmit to the President of the European Parliament the declaration of resignation attested by a notary or presented to a mission abroad. The resignation shall be irrevocable. The person resigning shall inform the Federal Returning Officer by submitting to him or her a copy of the declaration of resignation.

(4) If a party or sub-organization of a party is declared unconstitutional by the Federal Constitutional Court under Article 21 paragraph (2), second sentence, of the Basic Law,

the members shall lose their membership of the European Parliament and their successors on the list shall lose their candidacy if they have been members of the party or sub-organization during the period between the filing of the application (Article 43 of the Law on the Federal Constitutional Court) and the pronouncement of the decision (Article 46 of the Law on the Federal Constitutional Court). The seats of these members shall remain vacant.

(5) Subsection (4) shall apply as appropriate if another political association has been banned by law in the electoral area under the law on associations.

Section 23

Decision on Loss of Membership

(1) A decision on the loss of membership under Section 22 subsection (2) shall be made

1. in the case of number 1 under the scrutiny procedure,
2. in the case of numbers 1a, 2, 5, 6, 14 and 15 by the Council of Elders of the German Bundestag,
3. in the case of number 3, if the loss of eligibility for election is due to a binding judicial decision, by the Council of Elders of the German Bundestag, otherwise under the scrutiny procedure,
4. in the case of numbers 7 to 12 by the President of the German Bundestag,
5. in the case of numbers 4 and 13 by the European Parliament by determining that the seat has become vacant.

(2) If a decision on the loss of membership is made under the scrutiny procedure, the member concerned shall withdraw from the European Parliament as soon as the decision becomes legally effective.

(3) If the Council of Elders or the President of the German Bundestag decides on the loss of membership, the member concerned shall withdraw from the European Parliament as soon as the decision has been served upon him. The decision shall be taken ex officio without delay. Within two weeks of the decision being served upon him or her, the member concerned may apply for a decision on the loss of membership to be taken by the German Bundestag under the scrutiny procedure. Such decisions shall be served upon the

applicant in accordance with the provisions of the Law on the Serving of Documents in Administrative Procedure.

(4) If the European Parliament decides on the loss of membership, the member concerned shall withdraw from the European Parliament as soon as the decision that the seat has become vacant is announced.

(5) The President of the German Bundestag shall notify the President of the European Parliament of the reason for and date of loss of membership as soon as the decision has been taken under the scrutiny procedure or by the Council of Elders or the President of the German Bundestag.

Section 24

Appointment of Successors from the Lists

(1) If an elected candidate dies or informs the Federal Returning Officer in writing that he refuses to accept election or if a member dies or otherwise later withdraws from the European Parliament, the vacant seat shall be filled by a substitute candidate. If no substitute candidate has been named or if he or she has already withdrawn or withdraws later, the seat shall go to the next candidate who was not declared elected on the nomination for which the retiring member stood at the election. In the selection of the successor, those candidates and substitute candidates who have resigned from the party or political association concerned or have become members of another party or political association since the drawing up of the nomination shall not be taken into consideration. Substitute candidates who as elected candidates refused to accept election or as members of the European Parliament declared their resignation shall also be disregarded. If the list is exhausted, the seat shall remain vacant.

(2) A candidate or substitute candidate who has not yet been declared elected shall lose his or her candidacy as successor if he or she declares his or her refusal in writing to the Federal Returning Officer. The refusal shall be irrevocable.

(3) The decision as to who is to be the successor from the list shall be taken by the Federal Returning Officer. Sections 20 and 21 shall apply as appropriate. He shall notify

the successor from the list and invite him or her to state in writing within a week whether he or she accepts his or her election.

Part III

Final Provisions

Section 25

Election Costs, Electoral Regulations

- (1) Section 50 of the Federal Elections Act shall apply as appropriate.

- (2) To implement this law, the Federal Ministry of the Interior, Building and Community shall issue Electoral Regulations by means of a statutory ordinance that does not require the approval of the Bundesrat. It shall be authorized to declare the Federal Electoral Regulations and the Federal Voting-Machine Ordinance applicable as appropriate and to make special provisions in the Electoral Regulations, in particular concerning
 1. the electoral bodies,
 2. the preparations for the election, including the content and form of nominations and attendant documents, their submission, their examination, the rectifying of faults, their approval as well as the form and content of the ballot paper and the voting envelope,
 3. the participation of persons entitled to vote who are resident in the other member states of the European Union,
 - 3a. the preparations for the election for Union citizens,
 4. the postal ballot,
 5. to make and take down affirmations in lieu of an oath,
 6. polling hours,
 7. the establishment of the election result,
 8. the notification of the candidates elected,
 9. the scrutiny of the election,
 10. the appointment of successors from the lists of candidates,
 11. the conduct of by-elections and repeat elections.

Section 26
Scrutiny and Contestation of Elections

(1) The validity of an election and any violation of rights in preparing and conducting the election shall be determined by the scrutiny procedure.

(2) The provisions of the Law on the Scrutiny of Elections shall apply as appropriate to the scrutiny procedure with the exception of Section 6 subsection (3) letter (e), Section 14, second sentence, and Section 16 subsections (2) and (3) in the version applicable at the time.

(3) An objection to the decision made by the German Bundestag in the scrutiny procedure may be lodged with the Federal Constitutional Court. The objection may be lodged with the Federal Constitutional Court by the member of parliament whose membership is objected to, by a person entitled to vote or a group of persons entitled to vote whose objection has been rejected by the German Bundestag or by a group of at least eight members of the European Parliament from the Federal Republic of Germany within two months after the decision has been made by the German Bundestag; the objection shall be substantiated within this time limit. The provisions of the Law on the Federal Constitutional Court shall apply as appropriate for the objection lodged with the Federal Constitutional Court.

(4) Otherwise, any decisions and measures directly affecting the electoral procedure may only be contested by means of the legal remedies provided for by this Law and the Electoral Regulations.

Section 27
(Amendment of the Penal Code)

Section 28
State Funds for Other Political Associations

(1) Other political associations which participate in the election of the members of the European Parliament in the electoral area by submitting nominations of their own and

which according to the final election result have obtained at least 0.5% of the valid votes cast in the electoral area shall be granted the amount quoted in Section 18 subsection (3), first sentence, number 1 of the Political Parties Act as increased in accordance with Section 18 subsection (3), third sentence, of the Political Parties Act per year for every valid vote obtained. Notwithstanding the first sentence, they shall receive the amount quoted in Section 18 subsection (3), second sentence, of the Political Parties Act as increased in accordance with Section 18 subsection (3), third sentence, of the Political Parties Act per vote for up to four million votes. The funds shall be provided for in the federal budget plan.

(2) The provisions of the Political Parties Act concerning the obligation to publicly render and audit accounts shall apply as appropriate. The obligation to publicly render and audit accounts shall start in the year in which the election takes place and end in the year in which the last candidate elected from the nomination of the other political association leaves the European Parliament.

(3) The provisions of the Political Parties Act concerning the absolute upper limit shall not apply; the provisions concerning the relative upper limit shall apply as appropriate.

(4) The provisions of the Political Parties Act concerning the disbursement procedure and partial payments shall apply as appropriate.

Section 29

Transitional Provision

Any disqualification from voting or ineligibility to stand for election which is not due to a judicial decision within the meaning of Section 6a subsection (1) of the version applying from 1 July 2019 or Section 6a subsection (2) number 1 of the version applying from 1 July 2019 or Section 6a subsection (2) number 2 or Section 6b subsection (3) number 2 or Section 6b subsection (4) number 3 or number 4 shall not be stored in the population register pursuant to Section 3 subsection (2) number 1a of the Federal Act on Registration.

Section 30
(Entry into Force)