

German Bundestag

Members of the European Parliament Act
(Europaabgeordnetengesetz)

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(*Europaabgeordnetengesetz*)

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Members of the European Parliament Act
(Europaabgeordnetengesetz)

Act on the Legal Status of Members of the European Parliament from the Federal Republic of Germany of 6 April 1979 (Federal Law Gazette I, p. 413), as amended by Article 2 of the Act of 23 October 2008 (Federal Law Gazette I, p. 2020)

PART ONE

Candidature and exercise of the mandate

Section 1

Scope

This Act shall apply to candidates for a mandate for the European Parliament in the Federal Republic of Germany and to Members of the European Parliament elected in the Federal Republic of Germany, in so far as the Statute for Members of the European Parliament does not apply.

Section 2

Free exercise of the mandate

The Members of the European Parliament shall not be bound by orders and instructions and shall be subject only to their conscience.

Section 3

Protection of candidates and of the exercise of an electoral mandate

(1) No one may be prevented from standing as a candidate for a mandate to serve in the European Parliament or from acquiring, accepting or holding such a mandate.

(2) Discrimination at work on the grounds of candidature for or acquisition, acceptance and exercise of a mandate shall be inadmissible.

(3) Termination of an employment contract or dismissal on grounds of the acquisition, acceptance or exercise of a mandate shall be inadmissible. In all other respects, termination of an employment contract shall only be permitted for a compelling reason. Protection against termination or dismissal shall take effect on the selection of the candidate by the relevant organ of the body entitled to submit nominations. It shall continue to apply for one year after the end of the Member's term of office.

Section 4

Election leave; seniority and length of service

(1) During the two months immediately prior to polling day, a candidate for a seat in the European Parliament shall be granted leave of up to two months on request for the purpose of preparing for the election. There shall be no entitlement to continued payment of emoluments during the period of leave.

(2) Section 4 of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*.

Section 5
Indemnity and immunity

The indemnity and immunity of Members of the European Parliament shall be governed by Articles 9 and 10 of the Protocol on the Privileges and Immunities of the European Communities, annexed to the Treaty of 8 April 1965 establishing a Single Council and a Single Commission of the European Communities (Federal Law Gazette (*Bundesgesetzblatt*) II, pp. 1453 and 1482). The scope of the indemnity shall be governed by the provisions of the Basic Law (*Grundgesetz*).

Section 6
Right of refusal to testify

Members of the European Parliament may refuse to give evidence concerning persons who have confided facts to them in their capacity as Members or to whom they have confided facts in such capacity, and concerning these facts themselves. To the extent that this right of refusal to testify exists, no seizure of documents shall be permissible.

PART TWO
Incompatibility; public servants

Section 7

Incompatibility of public offices, functions and mandates with membership of the European Parliament

Tenure of the public offices and exercise of the functions and mandates listed in section 22(2)(7) to (15) of the European Elections Act (*Europawahlgesetz*) are incompatible with membership of the European Parliament. The holder of such an office, function or mandate shall acquire membership of the European Parliament only if, after having been elected, he or she relinquishes the said office, function or mandate no later than the opening of the first sitting of the European Parliament after the election or, in the cases described in section 21(2) of the European Elections Act, before making his or her declaration of acceptance to the Federal Returning Officer (*Bundeswahlleiter*).

Section 8

Public servants

(1) Subsections (2) and (3) below shall apply to public servants employed by the Federal Republic, its constituent states (*Länder*), local authorities and other bodies, institutions or foundations established under public law or associations thereof, with the exception of public religious societies and associations thereof.

(2) If a civil servant, judge, career member or fixed-term volunteer member of the armed forces or employee agrees to be nominated as a candidate for election to the European Parliament, he or she shall be granted, within the last two months before election day, unpaid leave of up to two months on request for the purpose of preparing for the election.

(3) Sections 5 to 9 and 36(1) and (2) of the Members of the Bundestag Act (*Abgeordnetengesetz*), section 36(2) of the German Judiciary Act (*Deutsches Richtergesetz*), section 25 of the Military Personnel Act, in so far as it relates to elections to the German Bundestag, and the laws enacted on the basis of section 10 of the Members of the Bundestag Act shall be applied, *mutatis mutandis*.

PART THREE

**Benefits for Members of the European Parliament and for
former Members and their surviving dependants**

Section 9
Members' remuneration

A Member of the European Parliament who opts for the application of this Act under Article 25(1) of the Statute for Members of the European Parliament shall receive monthly remuneration in accordance with section 11(1) and (3) of the Members of the Bundestag Act (*Abgeordnetengesetz*).

Section 10
Right to free use of public transport and reimbursement of travel costs

A Member of the European Parliament shall have the right to free use of all transport facilities of the rail operator Deutsche Bahn AG. If, in the exercise of his or her mandate in the Federal Republic of Germany, a Member uses internal flights, sleeping-cars or other forms of rail transport beyond the scope of local public transport networks, the cost shall be reimbursed up to the highest class on production of receipts. The foregoing provision shall not apply in cases where an entitlement exists to reimbursement of travel expenses by the European Parliament. Section 16(2) of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*.

Section 10a
Use of German Bundestag facilities and services

A Member of the European Parliament shall receive a monthly expense allowance to defray expenditure incurred through the exercise of his or her mandate. It shall comprise the shared use of an office at the seat of the Bundestag, the use of the public transport referred to in section 10 of this Act, the use of the official vehicles and telecommunication facilities of the Bundestag and other facilities and services of the Bundestag in accordance with the implementing provisions enacted by the Council of Elders (*Ältestenrat*).

Section 10b
**Benefits for former Members of the European Parliament
and their surviving dependants**

The provisions of Part Five and of sections 32(4) to (8), 35, 35a, 35b, 37 and 38(1) of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply to former Members of the European Parliament whose membership ended before the entry into force of the Statute for Members of the European Parliament, to Members of the European Parliament who opt for the application of this Act under Article 25(1) of the Statute for Members of the European Parliament and to their surviving dependants, subject to the following conditions:

1. where benefits are received from the accident-insurance scheme of the European Parliament, entitlement to a pension under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the insurance benefits;
2. the pension entitlement shall remain suspended until the cumulative value of the suspended benefits reaches that of the benefits from the life-assurance scheme or other comparable benefits of the European Parliament;
3. section 22(2)(3) of the European Elections Act (*Europawahlgesetz*) shall take the place of section 15(2)(2) of the Federal Electoral Act (*Bundeswahlgesetz*).

Periods of membership of the European Parliament shall be treated as periods of membership of the Bundestag. Where there is a concurrent entitlement to Members' remuneration under section 11 of the Members of the Bundestag Act, entitlement to pension benefits under the present Act shall be suspended. Section 29(3) to (9) of the Members of the Bundestag Act shall apply, *mutatis mutandis*.

Section 11
**Subsidisation of costs in the event of illness, nursing care
and births; assistance**

The provisions of Part Six of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply to former Members of the European Parliament whose membership ended before the entry into force of the Statute for Members of the European Parliament and to their surviving dependants. The provisions of section 28 of the Members of the Bundestag Act shall apply, *mutatis mutandis*, to Members of the European Parliament who have not opted, under Article 25(1) of the Statute for Members of the European Parliament, for continued application of the benefits system for which this Act provides.

Section 12

Commencement and expiry of entitlements; payment provisions

(1) The entitlements established by sections 9 and 10 of the present Act shall take effect from the date on which the Federal Electoral Committee establishes the election result or from the date on which the Member accepts his or her mandate.

(2) The Members' remuneration payable under section 9 shall be paid monthly in advance. If it is only payable in part, one thirtieth shall be paid for each calendar day.

(3) Outgoing Members shall receive the Members' remuneration payable under section 9 of this Act until the end of the month of severance. Entitlements under section 10 shall expire fourteen days after the date of severance from the European Parliament.

(4) The provisions of sections 31 and 33 of the Members of the Bundestag Act (*Abgeordnetengesetz*) shall apply, *mutatis mutandis*, to the benefits payable under the present Act.

PART FOUR
**Reckonability of concurrent benefits
from public funds**

Section 13
Reckonability

(1) Unless otherwise provided by the Members of the Bundestag Act (*Abgeordnetengesetz*) of the Federal Republic or by the act of a *Land* on the legal status of Members of its Parliament,

1. where there is a concurrent entitlement to Members' remuneration under the act of a *Land* on the legal status of Members of its Parliament, entitlement to Members' remuneration under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the remuneration from the *Land* Parliament;
2. where there is a concurrent entitlement to a pension under the Members of the Bundestag Act of the Federal Republic or under the act of a *Land* on the legal status of Members of its Parliament, entitlement to Members' remuneration under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the pension;
3. where there is a concurrent entitlement to a pension awarded under the relevant legislation of the other Member States of the European Union, entitlement to Members' remuneration under the present Act shall be wholly or partially suspended; the suspended entitlement shall not exceed the amount of the pension.

(2) Section 29(1), (2), (6), (7) and (9) of the Members of the Bundestag Act shall apply, *mutatis mutandis*, subject to the proviso that benefits, including pension benefits, arising from the tenure of public office or employment in the public service shall include benefits awarded by another Member State in connection with the tenure of a comparable public office or corresponding employment in the public service.

(3) If there are concurrent entitlements to salary, transitional allowance and old-age and survivors' pensions payable under the Statute for Members of the European Parliament and to benefits payable from public funds under federal legislation, the reckonability and suspension provisions of section 29 of the Members of the Bundestag Act shall apply, *mutatis mutandis*. Instead of any suspension or reduction of benefits payable under the Statute for Members of the European Parliament, the benefits payable from other public funds shall be suspended or reduced, each by the corresponding amount. This shall not apply in the case of concurrent entitlements to benefits payable under the Statute for Members of the European Parliament and benefits payable under the present Act.