

INFORMATION NOTE

Supplementary Information on the Regulatory Framework of Political Parties in Germany, the United Kingdom, New Zealand and Singapore: Non-Financial Assistance to Political Parties and Voluntary Registration System of Political Parties

1. Background

1.1 The Panel on Constitutional Affairs of the Legislative Council, at its meeting on 21 February 2005, requested the Research and Library Services Division to provide supplementary information regarding the research report entitled "The Regulatory Framework of Political Parties in Germany, the United Kingdom, New Zealand and Singapore".

1.2 This note provides information regarding non-financial assistance provided by the governments of Germany, the United Kingdom (UK), New Zealand and Singapore to encourage political party development, as well as overseas places which have in place a voluntary registration system of political parties.

2. Non-financial assistance provided by government to encourage political party development

2.1 In Germany, the UK, New Zealand and Singapore, measures that can be classified as non-financial assistance to encourage political party development include the recognition of political parties through legal means and parliamentary rules as well as broadcasting assistance during election campaign periods.

Germany

2.2 In Germany, political parties are formally recognized in the constitution and the Law on Political Parties (LPP). Political parties are given a constitutional mandate: they "*shall participate in the forming of the political will of the people*"¹. Political parties are also allowed to defend their institutional rights as constitutional organs before the Federal Constitutional Court.²

¹ Article 21, the Basic Law of the Federal Republic of Germany.

² Ipsen (1995) p. 201.

2.3 LPP further specifies that political parties "*shall participate in the formation of the political will of the people in all fields of public life, in particular by exerting influence on the shaping of public opinion; inspiring and furthering political education; promoting active public participation in political life; training capable people to assume public responsibilities; participating in federal, state and local government elections by nominating candidates; exerting influence on political developments in parliament and government; incorporating their defined political aims into the national decision-making process; and ensuring continuous, vital links between the people and the instruments of state*".³

2.4 Article 21 of the constitution and Article 1(2) of LPP suggest that political parties should help define public opinion rather than simply carry out the wishes of the electorate. Various foundations are set up to help political parties fulfil this role. Although these foundations are technically independent of major political parties, they are closely affiliated with them. These foundations offer public education programmes, conduct social and political research, and facilitate international exchanges for political parties. Over 90 percent of the funding of these foundations comes from public sources. Government support to these foundations can be seen as a means to facilitate the development of political parties.

2.5 The Rules of Procedure of the Bundestag⁴ give formal recognition to political parties. The Rules of Procedure confer certain rights exclusively on parliamentary groups.⁵ Each parliamentary group comprises at least five percent of Members of the Bundestag of the same party or of parties that have similar political views.

2.6 By convention, the number of committee members and the allocation of committee chairs are in proportion to the representation of political parties in the Bundestag.

2.7 In Germany, party patronage dominates key appointments to major institutions that receive public funding. It is quite common to appoint party members to the supervisory boards of these institutions.⁶

2.8 In Germany, political parties are provided with free public radio and television time during election campaigns. Political parties are also allowed to buy air time in private TV channels. Private TV channels are obliged by law to offer appropriate air time at reduced tariffs to all political parties.

³ Article 1(2), LPP.

⁴ The Bundestag is the popularly elected federal legislature.

⁵ Only parliamentary groups have the right to introduce bills and table motions; to move amendments to bills on third reading; to request postponement of items of business or of a sitting; to question whether the plenary has a quorum; and to demand a recorded vote, a debate on a matter of topical interest, or the setting up of study commissions or committees of inquiry.

⁶ Allen (ed.) (1999) p. 82.

United Kingdom

2.9 Under the Political Parties, Elections and Referendums Act 2000, only candidates standing on behalf of a registered political party are allowed to use a description of the party on a ballot paper at relevant elections, such as general elections, the European Parliament elections, elections for devolved assemblies and most local government elections.

2.10 Registration of political parties is not compulsory. There is no legal definition of political party in the UK. Registration is open to any party that declares its intention of contesting in one or more relevant elections. The requirement to register as a political party to use a description of the party on a ballot paper has prompted numerous groups (mostly groups participating in local elections) to register with the Electoral Commission.

2.11 In the UK, the legitimacy of opposition parties is confirmed by law, convention and political culture. The largest party which does not form the Government becomes the Official Opposition, which is also known as Her Majesty's Opposition. Apart from receiving public money for their parliamentary work, opposition parties have certain rights under the standing orders and by convention.⁷ By convention, both the Public Accounts Committee and the Joint Committee on Statutory Instruments are chaired by a Member of the Opposition.

2.12 The Prime Minister normally consults the Leader of the Opposition in the event of a national emergency. There may be discussions between the Leader of the Opposition and the Prime Minister on important policies or security matters as well. In addition, the Opposition may be asked by the Prime Minister to provide possible names to be appointed as members of investigative bodies such as Royal Commissions or committees of Privy Counsellors.

2.13 The Communications Act 2003 requires those broadcasters with public service obligations to include party political broadcasts (political broadcasts provided to parties during election campaigns) in their programming in accordance with rules determined by the Office of Communications. This applies to companies holding the commercial television licences of channels three, four, and five and those holding commercial radio licences.⁸

2.14 There are certain rules⁹ in the UK's Ministerial Code which require the media to provide opposition parties the right to reply to Ministerial broadcasts (broadcasts by the Prime Minister or a senior Cabinet Minister to the nation to explain events of national or international importance).

⁷ For details, see Legislative Council Secretariat (2002) Chapter 2.

⁸ See *The Electoral Commission Factsheet: Party Political Broadcasts*.

⁹ Section 102(c), *Ministerial Code: A Code of Conduct and Guidance on Procedures for Ministers*.

New Zealand

2.15 Part IV of the Electoral Act 1993 provides for the Electoral Commission to register political parties and party logos on ballot papers. Political parties are required to register in order to be eligible for participating in the party vote¹⁰. A party must be registered by the Electoral Commission before a general election in order to be entitled to submit a party list at the election and thus appear on the party vote. Nonetheless, a party does not have to be registered in order to contest electorate seats at a general election or by-election.

2.16 The Standing Orders of the House of Representatives give formal recognition to political parties. A party is entitled to be recognized as a parliamentary political party if one of its members was elected at the preceding general election or at any subsequent by-elections.¹¹ There may be one or more parties represented in the House of Representatives which are not in the Government. The largest non-Government party is known as the Opposition party.¹²

2.17 In New Zealand, the Leader of the Opposition is entitled to gain access to some confidential security and intelligence information. By convention, a Member of the Opposition party is elected to be the Chairman of the Regulations Review Committee.

2.18 In New Zealand, registered parties can apply to the Electoral Commission for consideration for an allocation of funds to buy broadcast advertising and for free time for campaign addresses provided by Television New Zealand and Radio New Zealand. The Minister of Justice advises the Commission of the amount of money available for such an allocation.¹³ However, there is no such allocation for by-elections, nor directly to electorate candidates. In 2005, both broadcasters have offered 72 minutes for opening addresses and 30 minutes for closing addresses.

Singapore

2.19 In Singapore, the People Action Party has held power continuously and overwhelmingly for over three decades. To ensure that Parliament is represented by some Members from political parties not forming the government, an act was passed in 1984 providing for the appointment of three (or up to a maximum of six) Non-Constituency Members of Parliament (NCMPs). The number of NCMPs is reduced by one for each opposition party candidate returned in the general election. At the last general election in 2001, as two Members from the opposition political parties were returned, one NCMP was declared elected.

¹⁰ In New Zealand, each voter has two votes — one for a Member to represent an electorate and the other for a party which the voter prefers.

¹¹ Standing Order 34(1).

¹² According to Standing Order 36, its leader is entitled to be recognized as the Leader of the Opposition.

¹³ The amount is NZ\$3,212,000 (HK\$73,222,554) for the 2005 general election.

2.20 NCMPs can speak in Parliament and can take part in debates. They can also vote except on non-confidence motions, constitutional amendments, budgets and financial bills.

2.21 In Singapore Parliament, the Standing Orders require that each of the various select committees to compose *"in such manner as shall ensure that, so far as is possible, the balance between the Government benches and the Opposition benches in Parliament is reflected in the Committee"*.¹⁴

2.22 In Singapore, the Media Development Authority makes available through local broadcasters free air time on radio and television for party political broadcasts in the days leading up to the parliamentary elections. Eligibility for these broadcasts is determined by the number of candidates fielded by a registered political party. Independents and political parties fielding less than six candidates are not eligible for air time allocation.

3. Voluntary registration system of political parties

3.1 The registration of political parties may have two different meanings: one is whether the establishment of political parties requires special registration; another is whether political parties are required to register before they can field candidates in elections. In some places, political parties are like other social organizations; their establishments are not subject to special registration requirements. These places include the UK, New Zealand, Canada, Australia, Sweden, Germany and India.

3.2 In many places, political parties are required to register with electoral authorities before they can field candidates and compete in elections. Registration usually brings certain benefits, e.g. candidates endorsed by a registered party can have the party logo printed on the ballot paper, and registered parties are eligible for reimbursement of their election expenses. In places mentioned in paragraph 3.1, registration of political parties is a prerequisite for participating in certain elections. Nevertheless, if political parties choose not to participate in these elections, they can still operate without registration.

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15 June 2005
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¹⁴ Standing Order 96(1)(b).

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