

# EXTERNAL PUBLIC SECTOR AUDIT OF THE FEDERATED STATES IN THE REPUBLIC OF AUSTRIA

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## Introduction

Within the scope of their relative constitutional autonomy, the Austrian federated states (*Bundesländer*) have the authority to set up independent regional courts of audit for their area and vest them with auditing powers. Independent *Land* courts of audit have been established in the nine Austrian federated states. Due to its special status as a federated state and municipality, since 2014 in the federal capital of Vienna the audit office has been established as a court of audit of the city.

The Austrian (Federal) Court of Audit has a long tradition and history. The regional courts of audit are young in comparison. The first was established in 1982, with the rest following in the years after. This wave of setting up such courts reflects a positive political climate with regard to control activities and was the start of a dynamic development in public sector auditing in Austria.

## Legal position of the regional courts of audit

In the main, the regional courts of audit of the individual federated states meet the international standards of the Lima Declaration. They are set up as organs of the legislature and are protected institutionally by the respective constitutions of the *Länder*. Their task is to support the regional parliaments (*Landtage*) in their control duties.

The relationship of the regional courts of audit to the legislative power is reflected by the following regulations:

- the election of the head of the regional courts of audit by the respective parliament with qualified majority;
- the obligation of the courts to report to the parliaments;
- direct parliamentary approval of the budgets and
- entitlement to grant legally determined audit requests.

The position of the regional courts of audit as an organ of the legislature is underlined by the constitutional clarification that they are independent from the regional governments (*Landesregierungen*) and are subject only to legal provisions. This is aimed at preventing those being audited or government policy from influencing the audit process.

For the most part, the essential organisational and financial principles and the regulatory framework of the regional courts of audit have constitutional status and thus enjoy increased preservation of the status quo.

## **Remit of the regional courts of audit**

The remit of the regional courts of audit is, without exception, laid down in the regional constitutions, the specific provisions of which vary from state to state.

Standard core tasks of all the Austrian *Land* courts of audit laid down by the regional constitutions include auditing the financial management of the respective federated state, its administration, the foundations, funds and institutions as well as companies in which the *Land* participates as majority shareholder or over which it can exercise influence. Six out of eight regional courts of audit also audit the financial management of municipalities with less than 10,000 inhabitants in their respective *Land* (in the case of the federate state of Vienna this power is not necessary since as federal capital the city has also the status of a municipality)

Other tasks which are similarly laid down in all Austrian court of audit acts include examining the proper use of grants and subsidies awarded by the federated states and the municipalities.

Most Austrian courts of audit are also involved in the audit of funds received from the European Union, under Community law.

In addition to these tasks, which are in principal identical for all federated states, the individual regional courts of audit are sometimes entrusted with various miscellaneous tasks, such as involvement in the assessment of the financial impact of planned legislation or participation in parliamentary investigation committees. Individual regional courts of audit are also legally obliged to perform a continuous examination of major construction projects or carry out so-called project implementation audits.

The Austrian legal system tends to follow the basic principle of comprehensive management auditing when establishing the competencies of the regional courts. According to this principle, there should be no audit-free areas in which the public sector is financially active but not controlled. In principle, all federal, regional and local administrative activities, irrespective of the legal form in which they take place (sovereign administration or administration delegated to the private sector) and irrespective of whether they are performed by government bodies themselves or have been outsourced, are thus subject to court of audit control.

## **Audit process and audit powers**

An essential principle and a manifestation of the independence of the regional courts of audit is the right to audit on their own initiative, thus independently of external auditing mandates. This principle is put into practice universally in all federated states and is supplemented by the use of analysis methods which aim to ensure that audits are selected in an impact- and risk-oriented manner.

In addition, the regional parliaments are entitled to request the regional courts of audit to carry out an audit. Audits can be requested both through a resolution of the parliament and the parliamentary committee entrusted with management auditing and – effectively as a parliamentary minority right – at the request of a smaller number of members of

parliament. Furthermore, most of the regional governments are entitled to request an audit. In some *Länder*, individual political fractions represented in the regional parliament, which otherwise would not be able to do so due to the low number of their members in parliament, are also entitled to request an audit to a limited extent.

The courts of audit have legally defined powers that are aimed at ensuring that they are able to examine all documentation and obtain all information relevant to the audit. They communicate directly with all the bodies that come under their auditing competence.

They have the authority, among other things,

- to obtain all information that appears to be required from all audited bodies at any time in writing or in a convenient form,
- to request the forwarding of files, accounts books, receipts, other records and documents,
- to have their auditors inspect in situ accounts, invoices and other materials including electronic data processing systems related to financial management and to carry out local investigations themselves.

However, the regional courts of audit are not entitled to exert influence directly – that is by virtue of unilateral orders (*imperium*) – on the administrations and organisations audited. The regional courts of audit are certainly required to make suggestions for improvements and propose measures for making savings or increasing income, but the implementation of these is the responsibility of the competent bodies of the audited entities which, in turn, come under legal and political responsibility (regional government, executive bodies at municipal level).

In almost all federated states, the Constitutional Court of the Republic of Austria shall rule on any differences in opinion regarding the interpretation of legal provisions relating to the authority of the regional courts of audit.

### **Auditing standards**

Audits performed by the regional courts of audit must regularly look at the accuracy of figures and compliance with current regulations (legality), and ensure that financial management is carried out economically, efficiently and effectively in accordance with constitutional provisions and the regulations of the various acts governing regional courts of audit, which are by and large identical.

Court of audit controls are now focusing more and more on performance audits, with the effectiveness and efficiency of government operations increasingly coming under the spotlight as a benchmark for action and success.

The determining elements for evaluating performance and assessing efficiency are the predetermined objectives, the resources employed and the result achieved. Courts of audit increasingly seek to examine whether the objectives specified, and thus the interests of taxpayers, have been met with the public money used. In addition, they are pushing for the reduction of bureaucracy and the modernisation of administration in accordance with the principals of New Public Management and Good Governance.

Court of audit controls are established in Austria's federated states principally as an ex-post control<sup>1</sup>. This does not, however, mean that auditing can only be performed once a large project, for example, has been completed. The realisation of projects often consists of a succession of different individual administrative activities, each of which can be the subject of a subsequent audit performed by the court of audit (e.g. planning, cost assessments, etc.). This way, the audits performed by the regional courts of audit can concern individual already completed process stages and can be carried out at the same time in a sufficiently timely manner so that corrective measures can be put in place in good time.

### **Composition, organisation and personnel and financial resources**

The Austrian regional courts of audit are set up monocratically. The heads of these courts are elected by the regional parliaments for a specific period of time. They represent the regional court of audit externally, and are senior to and authorised to issue instructions to all other staff. The heads of the courts of audit are on a level with the members of the respective government in terms of their responsibility (responsibility under constitutional law). In most federated states they have complete control over staff in matters of personnel management and performance of duties.

The legal position of the heads of regional courts of audit is specifically regulated. There are, for example, strict conditions relating to incompatibility that stipulate that they may not belong to a parliament or local council and that they had not been a member of a federal or regional government in the last few years prior to their election. In addition, no member of a regional court of audit may be involved in the management and administration of commercial undertakings or undertakings subject to audit by the regional court of audit.

As far as the internal organisation of the individual courts of audit is concerned, this is entirely the responsibility of the respective courts. They range from classical hierarchical structures to matrix models and strongly project-oriented forms of organisation, depending on the court's size, historical development and the "management philosophy" of its head.

The regional courts of audit are financed exclusively by the federated state for which they have responsibility. The head of the respective court of audit informs the regional parliament of his/her financial, personnel and material requirements. After examination and consultation the parliament recommends the regional government to consider these requirements in the budget.

### **Cooperation between Austrian courts of audit**

Despite the creation of the regional courts of audit, the auditing competence of the Austrian Court of Audit in the federated states has not been restricted or amended. It is all the more important to coordinate auditing activities in order to avoid potential

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<sup>1</sup> Some regional courts of audit are legally mandated to perform continuous project controls.

duplication of work. Coordination meetings therefore regularly take place, providing opportunities for mutual exchange of information and implementation of ideas.

This coexistence not only calls for a coordination input, but also offers benefits as each audit institution can play out its individual strengths. So, for example, only the Austrian Federal Court of Audit is able to undertake extensive cross-audits of several federated states and make comparisons across states.

The regional courts of audit, on the other hand, are closer to the action and as a rule have a better insight into the structures of the audited bodies. They can thus detect any irregularities more quickly than would have been possible by the Austrian Court of Audit in Vienna.

By working together in a targeted manner, it is therefore possible for the Austrian courts of audit to optimise the benefit to taxpayers.

### **List of the external public sector audit institutions in the federated states**

#### **Burgenländischer Landes-Rechnungshof**

##### *Court of Audit of Burgenland*

Europaplatz 1

7000 Eisenstadt

E-mail: [post.lrh@bgl.d.gv.at](mailto:post.lrh@bgl.d.gv.at)

<http://www.blrh.at/>

#### **Kärntner Landesrechnungshof**

##### *Court of Audit of Carinthia*

Kaufmannngasse 13 H

9010 Klagenfurt

E-mail: [post.lrh@ktn.gv.at](mailto:post.lrh@ktn.gv.at)

<http://www.landesrechnungshof.ktn.gv.at/>

#### **Oberösterreichischer Landesrechnungshof**

##### *Court of Audit of Upper Austria*

Promenade 31

4020 Linz

E-mail: [post.lrh@lrh-ooe.at](mailto:post.lrh@lrh-ooe.at)

<http://www.lrh-ooe.at/>

#### **Niederösterreichischer Landesrechnungshof**

##### *Court of Audit of Lower Austria*

Wiener Straße 54

3109 St. Pölten

E-mail: [post.lrh@noel.gv.at](mailto:post.lrh@noel.gv.at)

<http://www.lrh-noe.at/>

**Salzburger Landesrechnungshof**  
*Court of Audit of the Land Salzburg*  
Fanny-von-Lehnert-Straße 1  
PO Box 527  
5010 Salzburg  
E-mail: [landesrechnungshof@salzburg.gv.at](mailto:landesrechnungshof@salzburg.gv.at)  
<http://www.salzburg.gv.at/pol/lt-rechnungshof/>

**Steiermärkischer Landesrechnungshof**  
*Court of Audit of Styria*  
Palais Trauttmansdorff  
Trauttmansdorffgasse 2  
8010 Graz  
E-mail: [lrh@stmk.gv.at](mailto:lrh@stmk.gv.at)  
<http://www.lrh.steiermark.at/>

**Landesrechnungshof Tirol**  
*Court of Audit of Tyrol*  
Eduard-Wallnöfer-Platz 3  
6020 Innsbruck  
E-mail: [landesrechnungshof@tirol.gv.at](mailto:landesrechnungshof@tirol.gv.at)  
<http://www.tirol.gv.at/landtag/lrh>

**Landesrechnungshof Vorarlberg**  
*Court of Audit of Vorarlberg*  
Römerstraße 32  
6901 Bregenz  
E-mail: [postoffice@lrh-v.at](mailto:postoffice@lrh-v.at)  
<http://www.lrh-v.at/>

**Stadtrechnungshof Wien**  
*Court of Audit of the City of Vienna*  
Landgerichtsstraße 9  
1082 Wien  
E-mail: [post@stadtrechnungshof.wien.at](mailto:post@stadtrechnungshof.wien.at)  
<http://www.stadtrechnungshof.wien.at/>