

§ 3 Non-judicial external control of public administration

I. Parliamentary control

1) Classical parliamentary control

- right to require government members to be present and answer questions, committees of inquiry, decisions on petitions etc.

2) Parliamentary control via auxiliary institutions

a) Ombudsmen [Bürgerbeauftragte]

- only in the Länder Rhineland-Palatinate, Mecklenburg-Vorpommern, Thuringia and Baden-Wuerttemberg
- mission: to safeguard the rights of the citizens against public authorities (not against judicial power)
- independent (not submitted to instruction or supervision)
- instruments: negotiations, recommendations, reports, participation in the dealing with petitions (→ no own binding decisions)

b) Specialised commissioners

- e.g. the Parliamentary Commissioner for the Armed Forces of the Bundestag (→ with website in English)
 - mission: in particular to safeguard the fundamental rights of the soldiers and to inspect the armed forces
 - every soldier has the right to submit a case
 - submitted to general guidelines of the Bundestag but not to individual instructions
- e.g. the Ombudsman for Social Affairs and the Commissioner for Refugee, Asylum and Immigration Affairs in the Land Schleswig-Holstein

II. Financial control by the courts of auditors

1) The Federal Court of Auditors [Bundesrechnungshof]

- first German predecessor in the 17th century in Prussia
- supreme federal authority and *independent body of government auditing*
 - nine audit divisions, 51 audit units, 7 regional audit offices (ca. 1.150 employees)
 - not a court of justice but its members enjoy judicial independence
 - decisions are usually taken as panel decisions
- the mission: *financial audit* (regularity and compliance) and *performance audit* (economy, efficiency, effectiveness) of the federal financial management
 - reports on its findings in *management letters* [Prüfungsmittelungen] that are sent to the audited bodies for comment
 - delivers recommendations in its management letters and in annual and special reports
 - provides advice to the executive and legislative branch
- cooperates with the European Court of Auditors (of the EU) and the Supreme Audit Institutions of other EU member states

2) The courts of auditors of the Länder [Landesrechnungshöfe]

- not subordinated but cooperating with the Federal Court of Auditors

III. Soft control by independent federal or Land commissioners [Beauftragte]

1) Data protection commissioners

a) Federal Commissioner for Data Protection and Freedom of Information

- elected by the Bundestag
- supervises and enforces the implementation of the EU General Data Protection Regulation and the Federal Data Protection Act in federal administration
- may give orders and lodge complaints, delivers recommendations, reports and opinions
- has an important role in the public discourse

b) **The commissioners for data protection of the Länder**

- elected by the Landtag (Land parliament)
- supervise and enforce the implementation of data protection law in Land administration
- also act in most Länder as supervisory authority to enforce data protection in the private sector

2) Others

- e.g. the Bremen Central Office for the Realisation of Equal Rights for Men and Women