



# SUBSIDY RISKS OF COMMERCIAL ACTIVITIES BY UNIVERSITIES



## Bavarian Court of Audit



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- Supreme independent judicial state authority
- Auditing the budget and financial management of the Free State of Bavaria
- Free State's budget volume: around €65 billion
- Personnel: around 260



## Duties of universities

### Research – Teaching – Knowledge transfer

#### Knowledge transfer to industry through

- Research on behalf of companies/industry
- Teaching in the form of student-financed training (for example sandwich masters courses)
- Other scientific services (for example measurements and material tests)



## Principles in European law

### **Principle:**

Ban on state subsidies to companies (Art. 107 Paragraph 1 of the TFEU)

Applicable to the commercial activities of universities

### **Consequence:**

(EU) separate invoicing of commercial and non-commercial activities required

### **Exceptions:**

De minimis and block exemption regulation



## Possible risks for universities

- Return of the (complete) state funds in the following cases:
  - Inaccurate classification of university activities for commercial and non-commercial work and/or
  - No (EU) separate invoicing
- Poorer competition situation for the university



## Assessment approach

Within what limits is collaboration between universities and industry compatible with the subsidy practice of the European Commission?

Possible roles of the university:

- ↳ Subsidy recipient
- ↳ Subsidy provider



## Main points of the assessment

- ↳ Contract research
- ↳ Research collaboration
- ↳ Income from other orders
- ↳ Student-financed education



## Type and subject of the assessment

Cross-section assessment at 3 of 32 state universities

The following were assessed in particular:

- ↪ Correct classification of commercial and non-commercial activities
- ↪ Correct separation of activities
- ↪ Adequate control systems





## Aim of the assessment

Reduce legal risks relating to subsidies by:

- ↳ Subsidy-compliant implementation of the (EU) separate invoicing system
- ↳ Better risk management



## Results of the assessment and recommendations (I)

### **Result**

Some commercial activities have not been classified as such.

### **Recommendation**

Commercial and non-commercial activities and their costs, finance and proceeds must be clearly separated.



## Results of the assessment and recommendations (II)

### **Result**

In some cases, there is no documentation of the correct separation of costs, proceeds and finance.

### **Recommendation**

The accounting system must be implemented correctly and promptly.



## Results of the assessment and recommendations (III)

### **Result**

Universities have inadequate internal control systems; risks were frequently not identifiable.

### **Recommendation**

Supervise and monitor compliance with EU subsidy regulations at universities using an internal control system.



*Universities must comply  
with the European ban  
on subsidies.  
In view of this, the clear  
separation of commercial  
and non-commercial  
activities is essential  
to avoid financial risks.*