

Misuse of subsidies

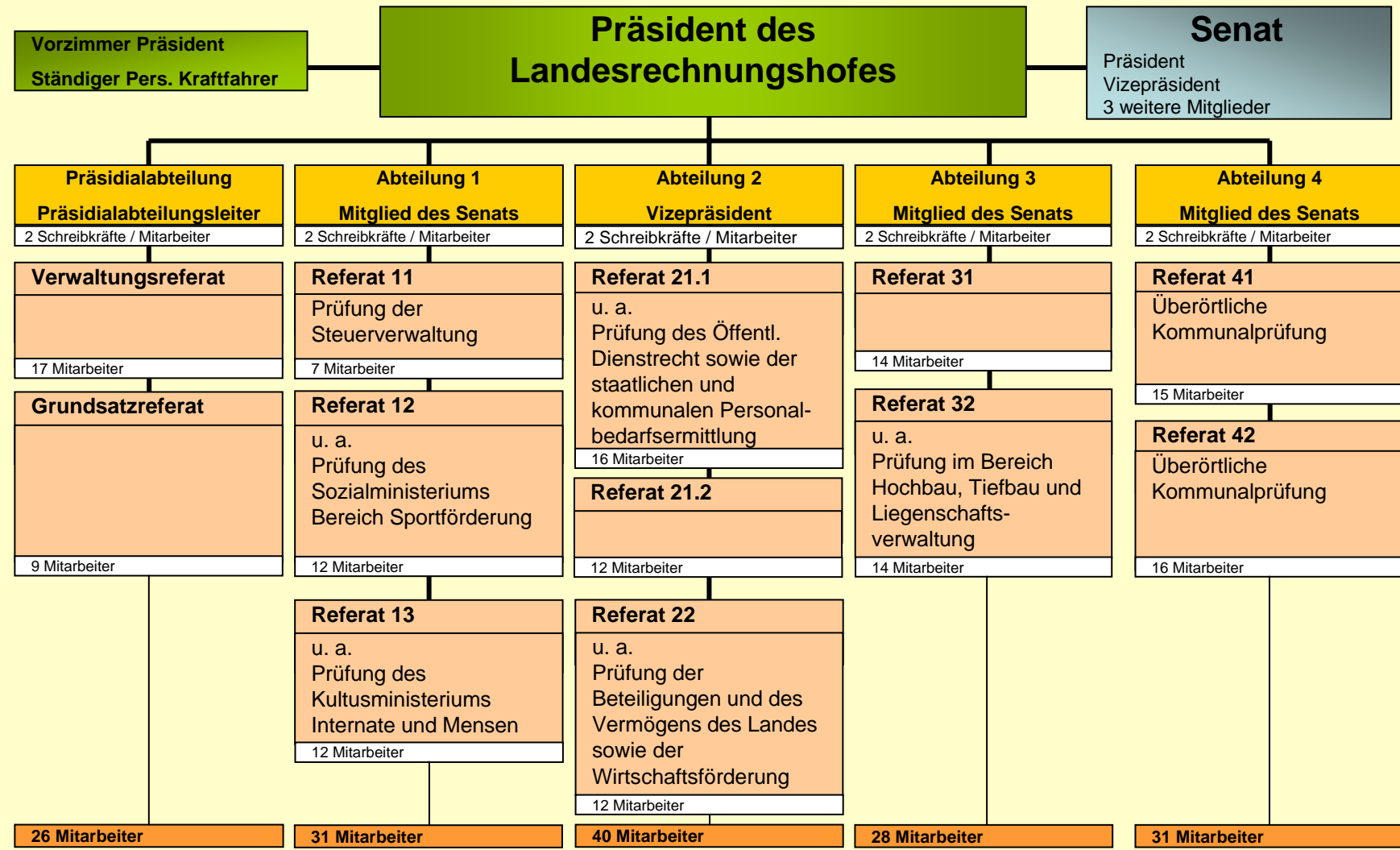
in

The Sports Federation of the Land Saxony-Anhalt and its sports societies

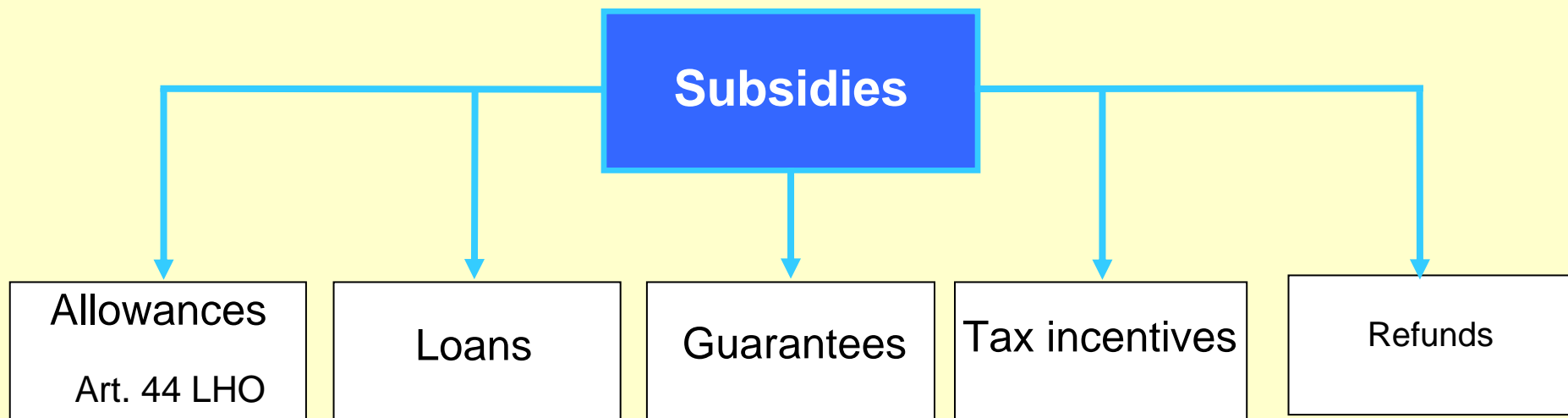
(Audit performed by the Court of Audit of Saxony-Anhalt in 2008)



Organization chart of the Court of Audit of Saxony-Anhalt



1. Subsidies (1) – Concept



Report on subsidies
issued by the Land
Saxony-Anhalt
for 2000 until 2004

- ➔ about 1,5 until 1,8 billion € yearly subsidies
- ➔ the share interest of the grants of the Land amounted to approx. 42 % of the subsidies

1. Subsidies (2) – Misuse and its reasons

Misuse of subsidies ➤



The granted subsidy is not used by the beneficiary for the intended purpose or properly in accordance with criteria of economy, efficiency and effectiveness. In the event of acts that could give rise to criminal court proceedings articles 264 and 266 of the Penal Code are applicable.

**Audits
performed by
the Land
Courts of
Audit**

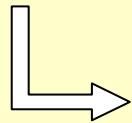
Reasons which encourage the misuse of subsidies:

- ✘ Often the regional ministries are not in the position to evaluate if goals have been attained, neither to assess if subsidies have been used in accordance with criteria of economy, efficiency and effectiveness.
- ✘ An analysis of the initial situation is often missing.
- ✘ The type and scope of the grant are very seldom accounted for.
- ✘ Foundations for effective and efficient decisions regarding incentive measures and for subsequent performance reviews are not in place.

2. Sports promotion in the Land Saxony-Anhalt

Art. 36 Section 1 of the Constitution of the Land Saxony-Anhalt:

„Art, Culture and Sports are to be safeguarded and promoted by the Land and its municipalities.“



Derivation of sports autonomy

Since 2005 sports promotion goes mainly to:

- Land Sports Federation (institutional and project promotion)
- Societies and other sports bearers
- Municipalities and private bearers (sports grounds and facilities investments)
- Land trusts for sports and sports for handicapped persons



Total financing by the Land: more than 20 million € yearly

3. Functioning and organization of the audit (project management)

**11 auditors
in 4 audit teams**



- _____ Public funding law (4) _____>
- _____ Company law (2) _____>
- _____ Staff (2) _____>
- _____ Construction (2) _____>
- _____ Taxation (1) _____>

3 authorities
6 societies
Investment bank
Olympic training
centre

2007

November

December

January

February

March

2008

12.11.2007

Beginning of the investigations

08.11.2007

Introductory discussion

11.02.2008

Ending of the investigations

04.03.2008

Draft of the audit letter

18.03.2008

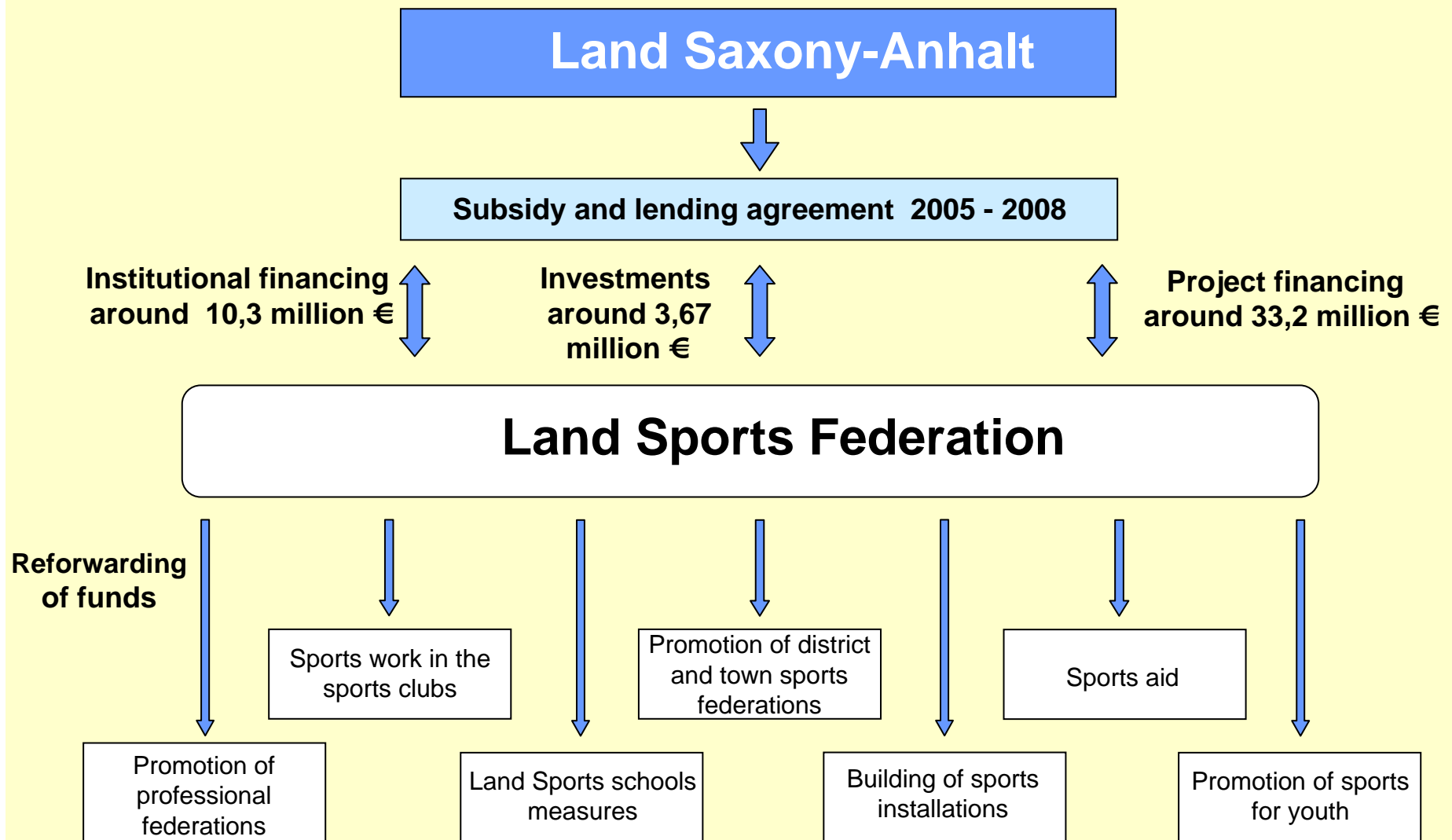
Audit letter

12.03. and 13.03.2008

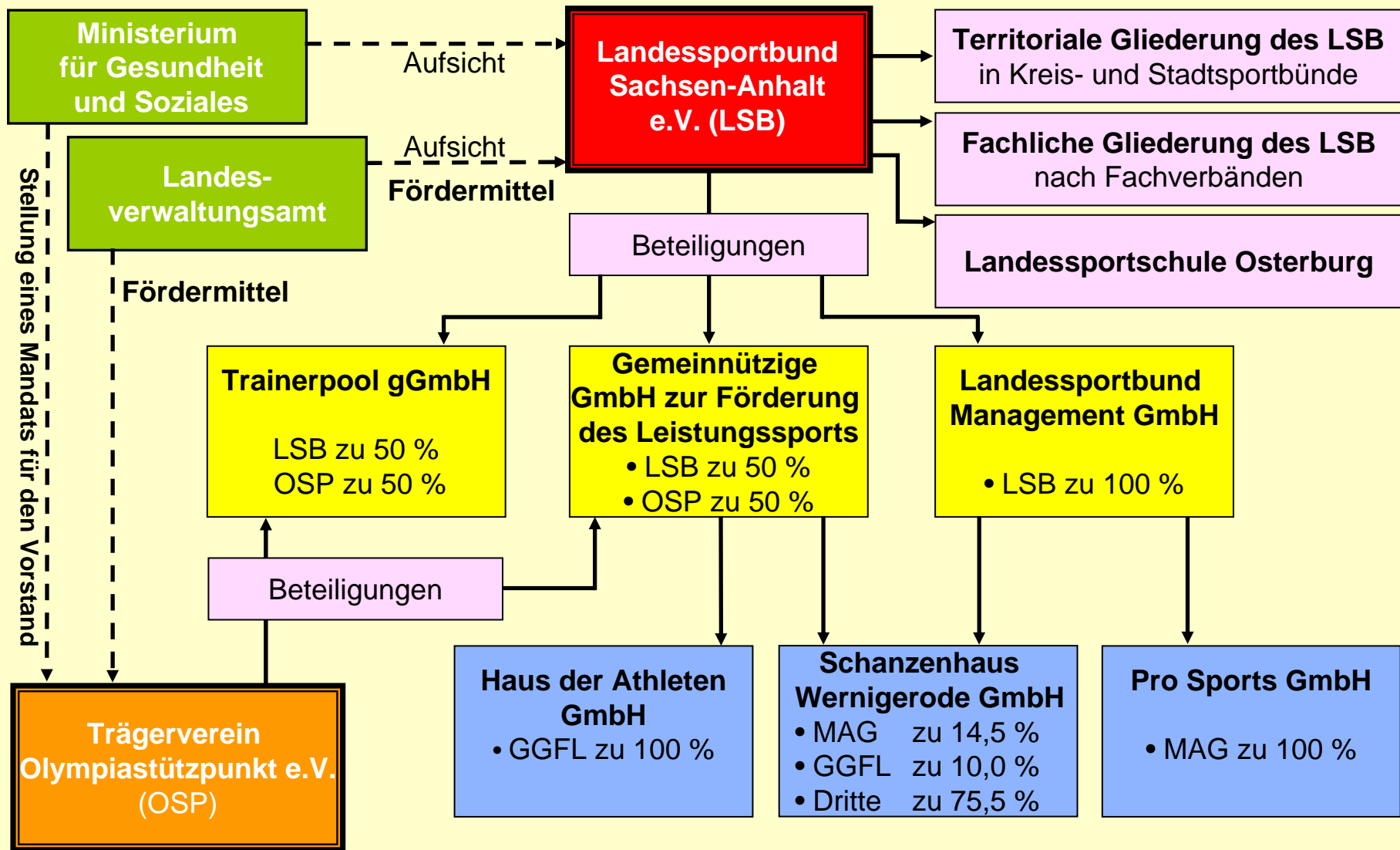
Final discussions with the Land Sports Federation and the Land Ministry



4. Tasks and financing of the Land Sports Federation



5. Structure of the Land Sports Federation and its holdings

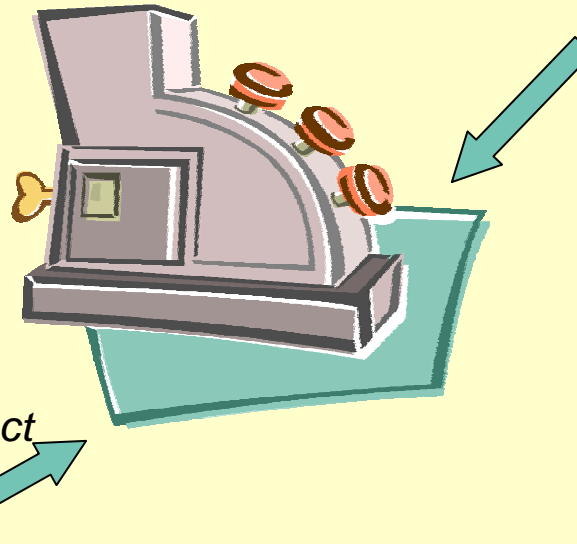


6. Accounting, cash flows, use of subsidies (1) – Conclusions of the Land Court of Audit

Lack of transparency and manipulation of submitted data concerning own funds

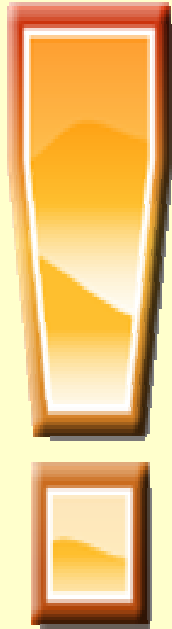
Lack of transparency in submitted data regarding expenditure for the Land sports schools

Lack of separation between institutional financing and project financing



Most significant conclusion issued by the Court of Audit:

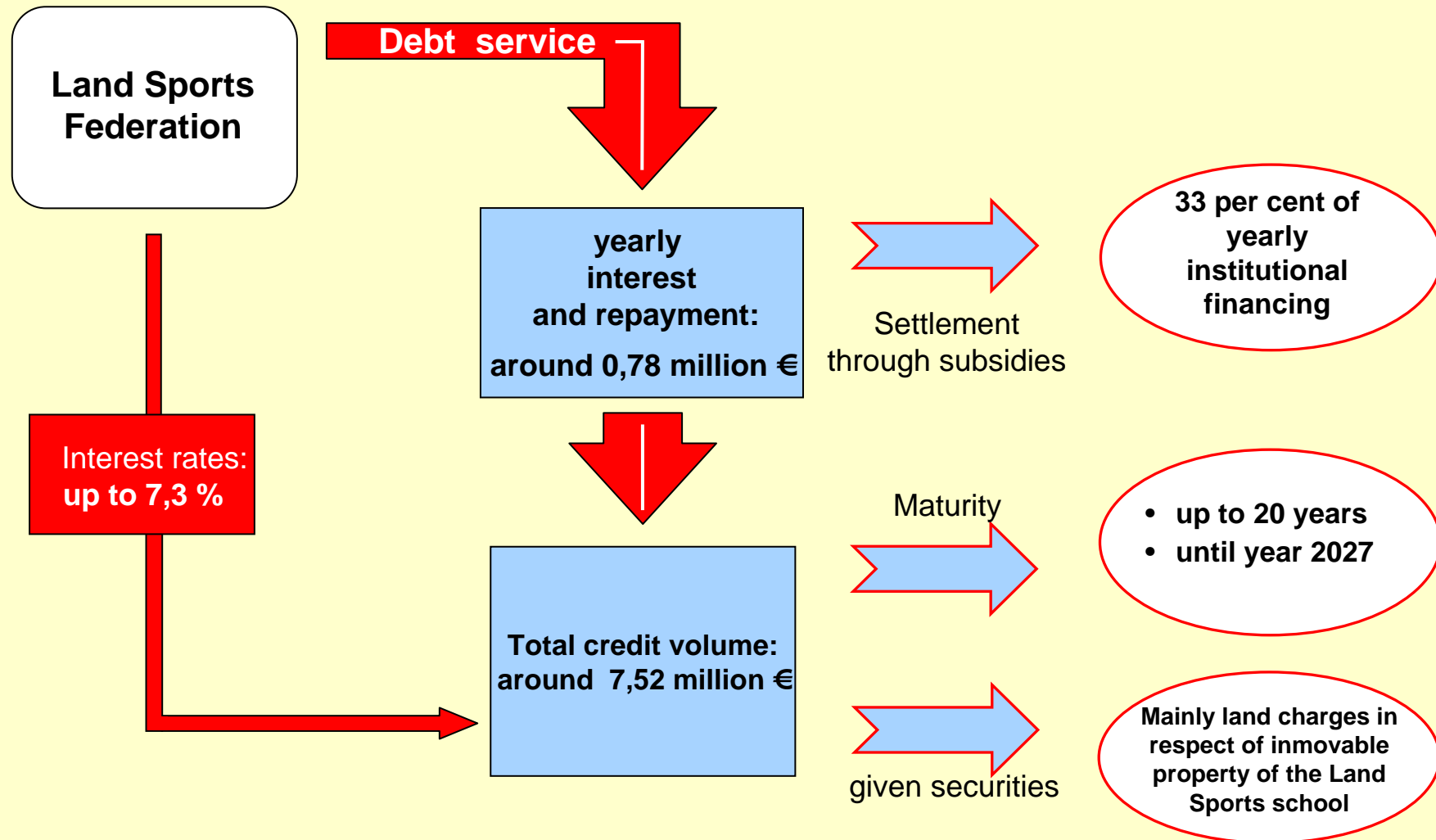
- ✘ Lack of transparency in the accounting led to uneconomic and inefficient conduct and therefore to misuse of subsidies**



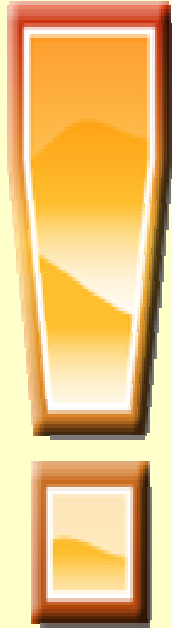
The Land Court of Audit demanded:

- ✘ Revision of budget and economic plans as well as revision of evidence regarding employment of funds
- ✘ Transparent and clear account and settlement according to types and purposes of financing of the general budget of the Land Sports Federation
- ✘ Break-up of financing structures for Land sports schools under observance of economic aspects and a transparent description of the financing
- ✘ Transparent and accurate description in accordance with its origin of the Land Sports Federation's income

7. Borrowing through the Land Sports Federation (1) – most significant conclusions



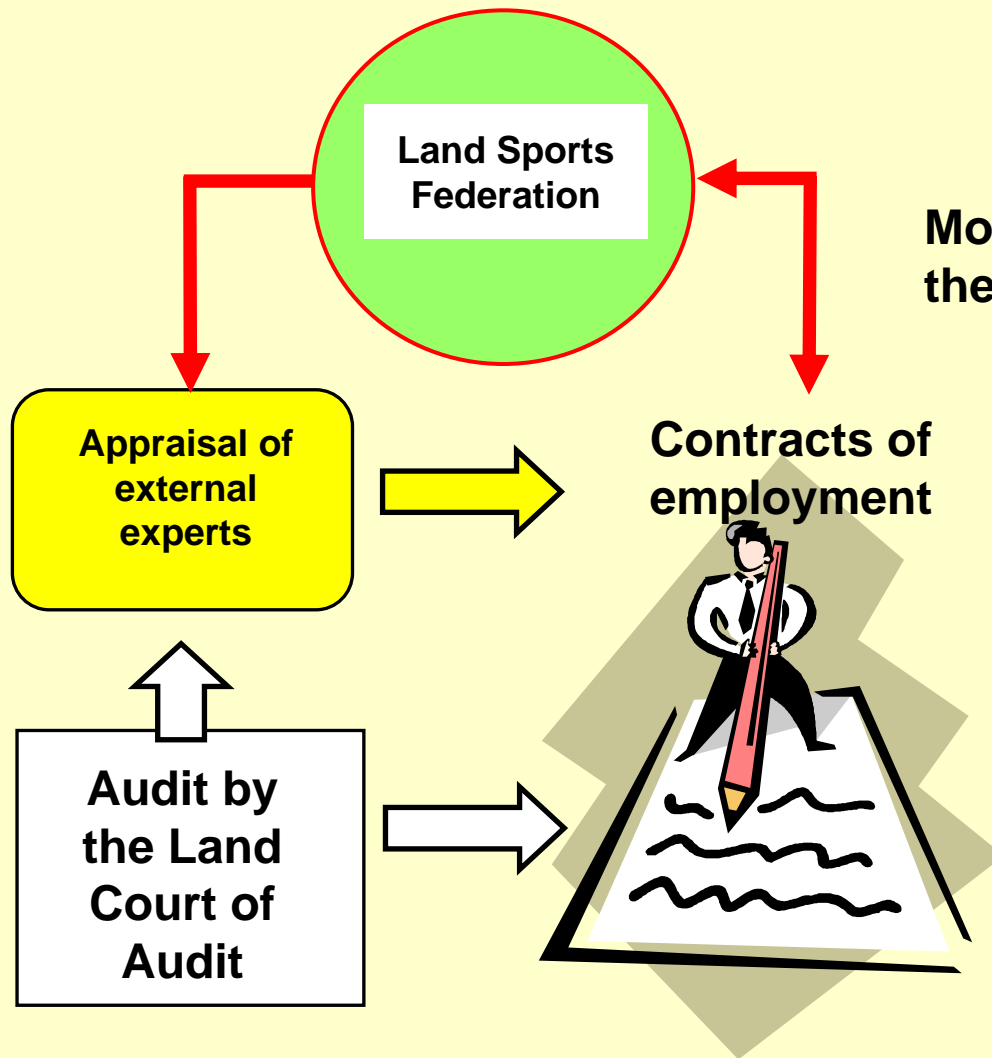
7. Borrowing through the Land Sports Federation (2) – Land Court of Audit's demands



The Land Court of Audit demands:

- ✘ For the time being no further borrowing through the Land Sports Federation
- ✘ Further credits should be avoided at long term by a previous financial planning, the appropriate creation of reserves and, possibly, the prevention of expenditure restraints
- ✘ Credits should be subject to the approval of the Land Ministry (supervision)
- ✘ Further credits should be authorized only if a thorough check of the need and economy, efficiency and effectiveness of the measures to be financed is carried out
- ✘ Verification by the Land Ministry if the Land can negotiate better conditions when dealing with future credits

8. Staff of the Land Sports Federation (1) – most significant conclusions



Most significant conclusions issued by the Land Court of Audit

- ✘ 32 out of 39 employees in the administrative offices were classified too high
- ✘ Violation of the prohibition of favouritism
- ✘ Yearly approx. 300.000 € excessively increased personnel expenses financed with allowances
- ✘ The Land Sports Federation withheld from the Land the results of the expertise, although the Land financed the services provided by these experts

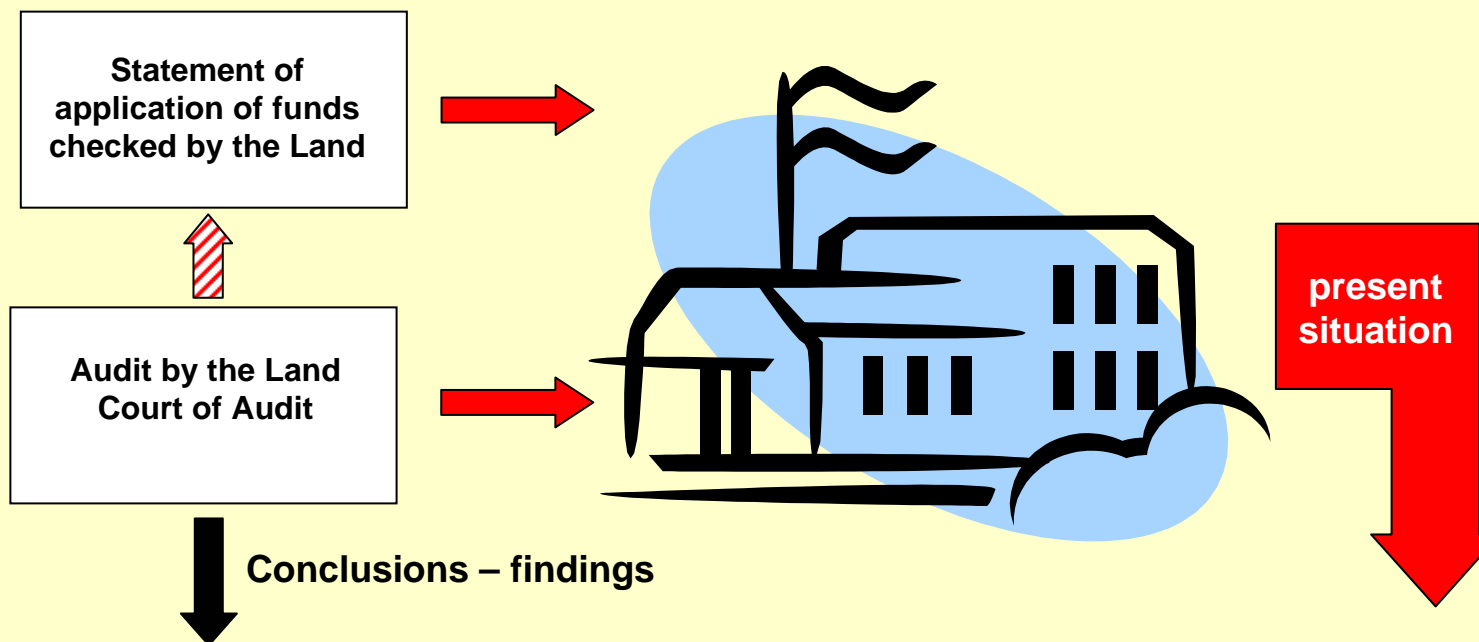
8. Staff of the Land Sports Federation (2) – the Land Court of Audit's demands



The Land Court of Audit demands:

- ✘ To guarantee the staff classification according to the collective bargaining law
- ✘ Observance of the prohibition of favouritism in the new internal collective wage agreement
- ✘ No safeguarding of achievements which have been based on staff classifications that go against the collective bargaining law

9. Land Sports schools (1) – most significant conclusions issued by the Land Court of Audit



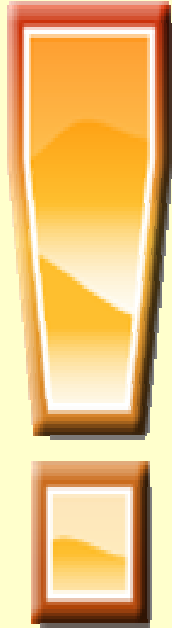
Infringement of public procurement law → imminent claim for recovery of **around 2,0 million €**

Infringement of allowance law → imminent claim for recovery of **around 1,0 million €**

as well as

not authorized borrowing
by the Land Sports Federation

→ Interests and loan repayment **around 3,0 million €**
from subsidies



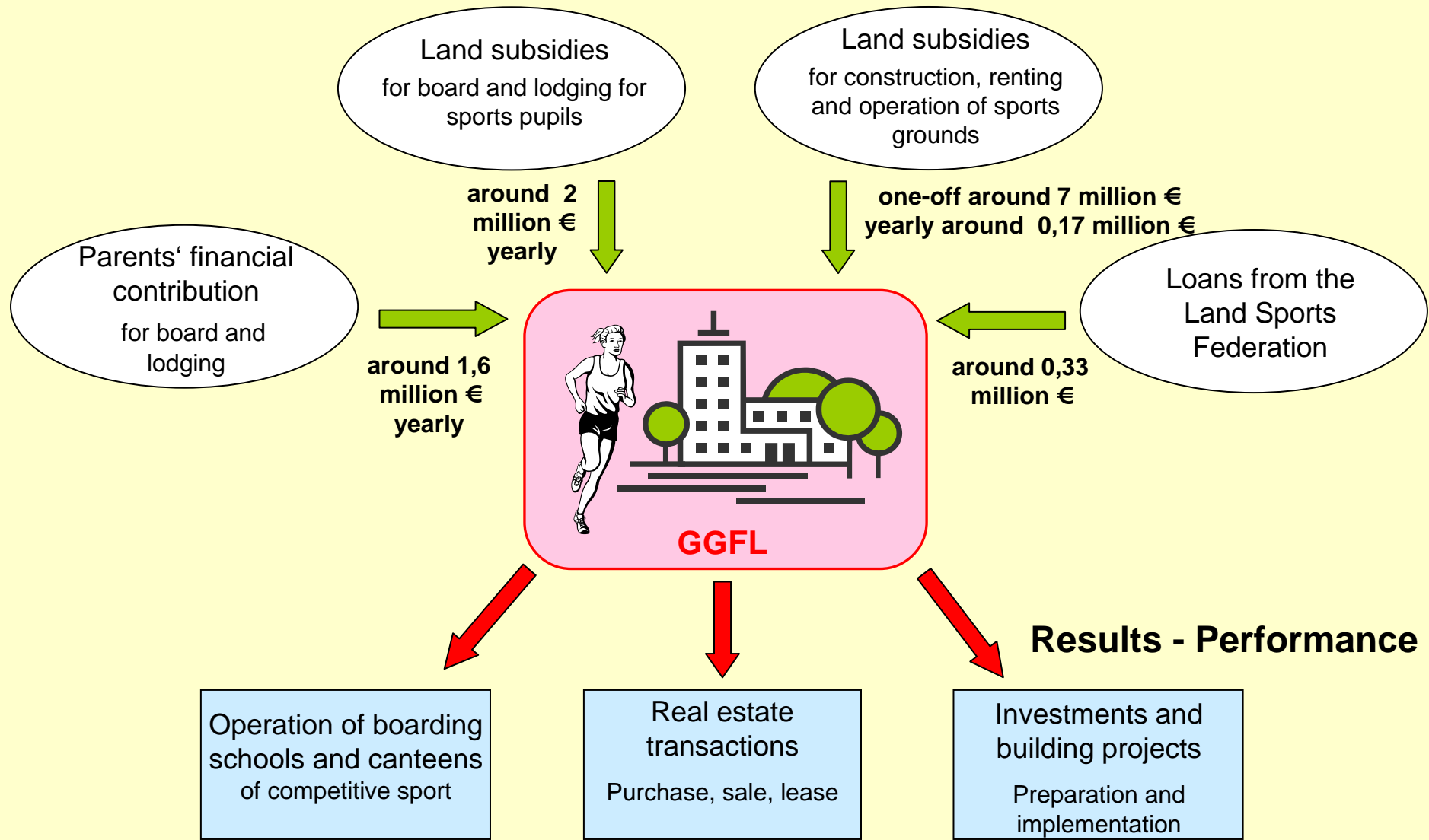
The Land Court of Audit demands:

- ✘ **To lay the foundations for avoiding the misuse of subsidies:**
 - Transparent description of the financing based on a realistic cost calculation
 - Implementation of reflections on the three EEE's before implementing significant measures
 - Stringent complying with regulations on public procurement and allowances

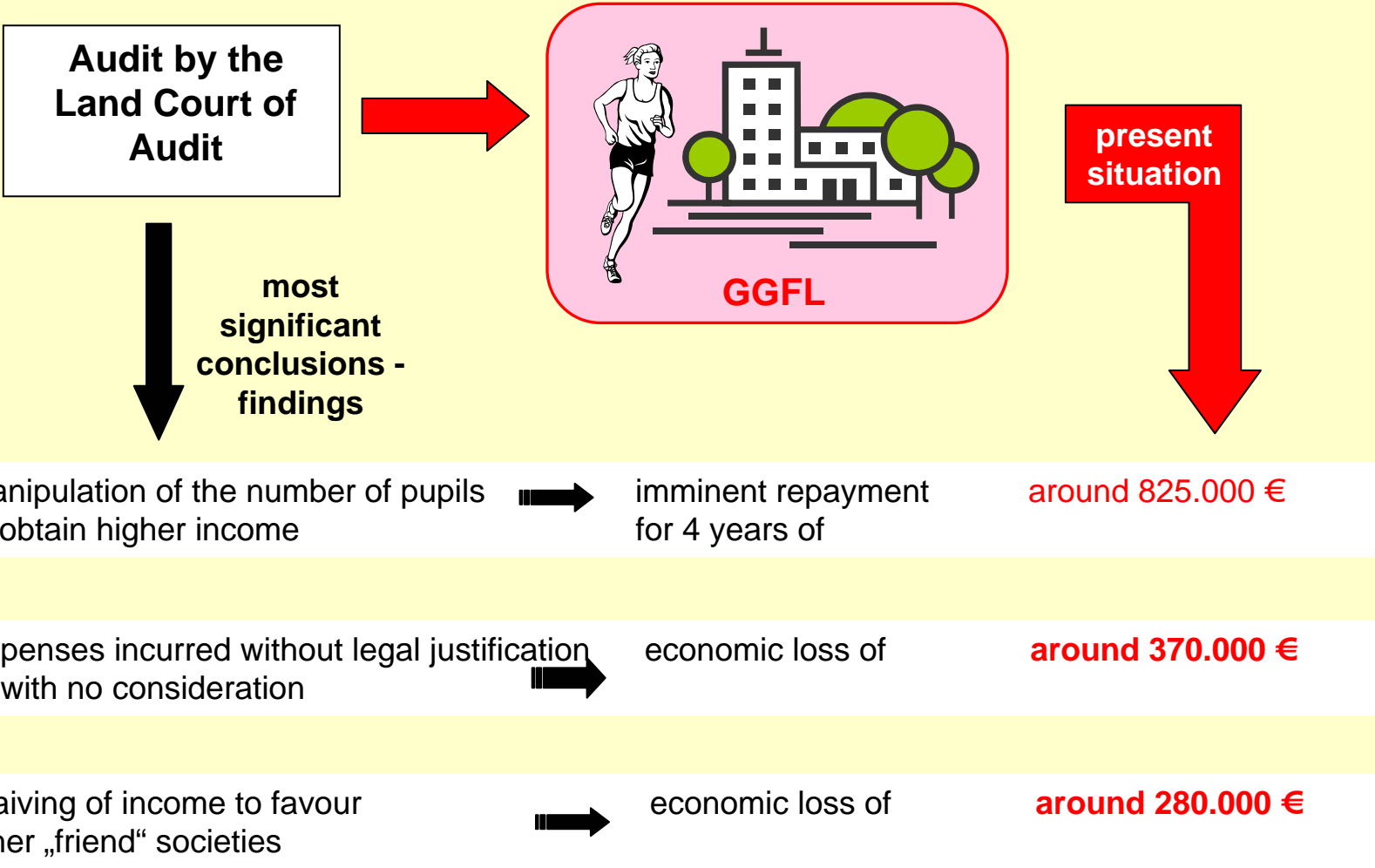
- ✘ Analysis of the eligibility for subsidy of an object in the current operation structure as well as of the amount and type of subsidy

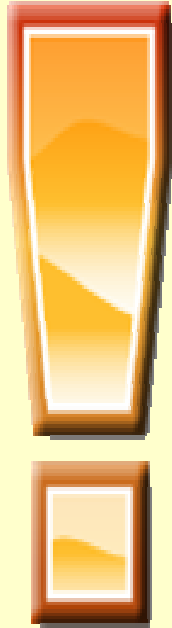
- ✘ Analysis of the possibilities of claims for recovery

10. Public Utility Company for the Promotion of Competitive Sport (1) – Financing and Performance



10. Public Utility Company for the Promotion of Competitive Sport (2) – Conclusions issued by the LCA

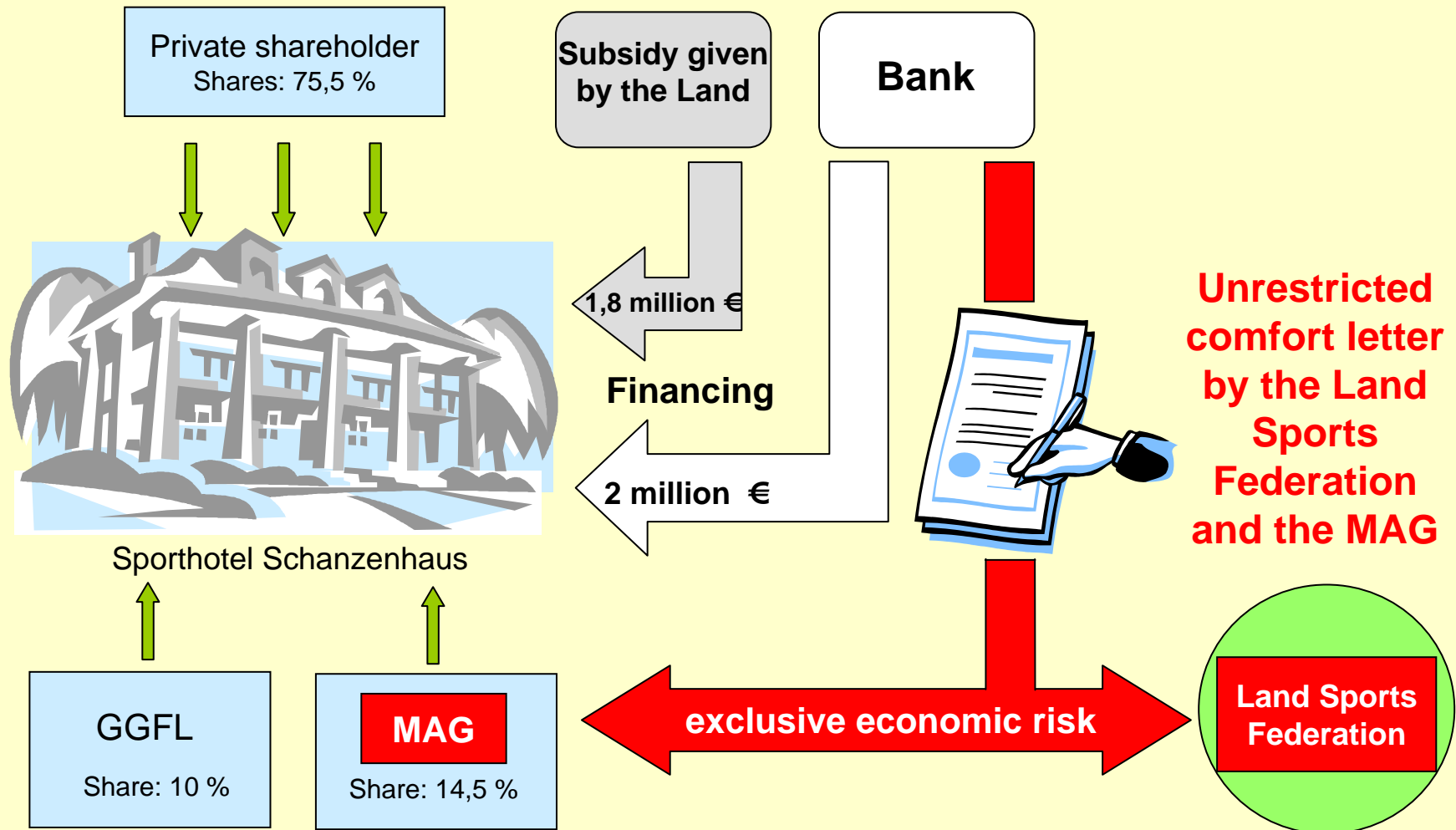




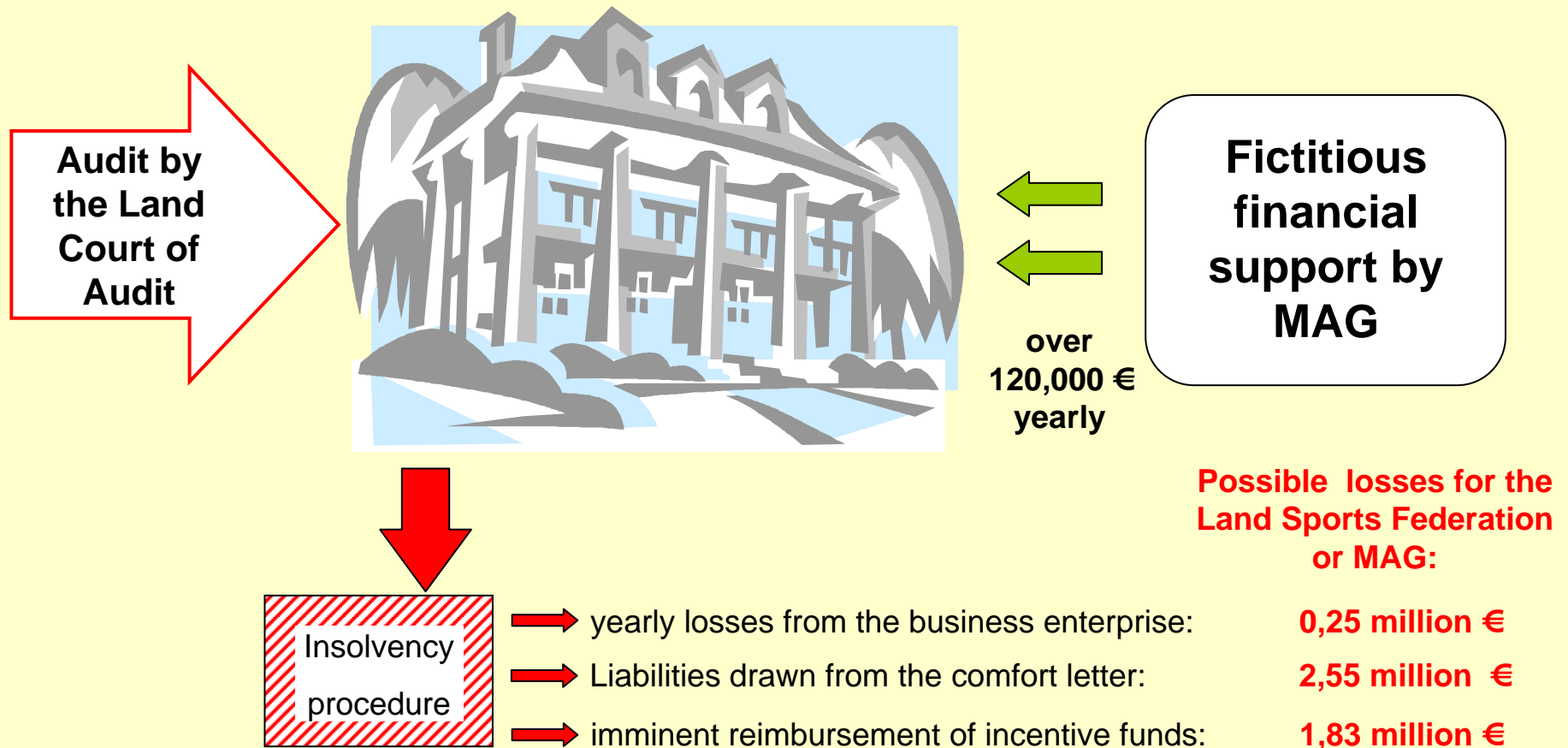
The Land Court of Audit demands:

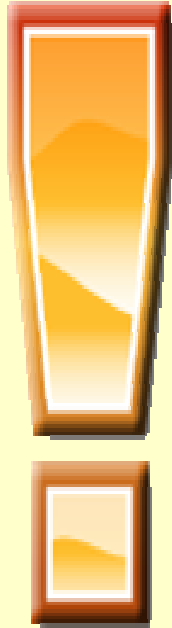
- ✘ Claim for recovery of ‚overbilled‘ funds (number of pupils)
- ✘ Analysis of the liability for losses
- ✘ To ensure a proper management

11. Schanzenhaus Wernigerode GmbH (1) – Comfort Letter



11. Schanzenhaus Wernigerode GmbH (2) – Conclusions issued by the Land Court of Audit

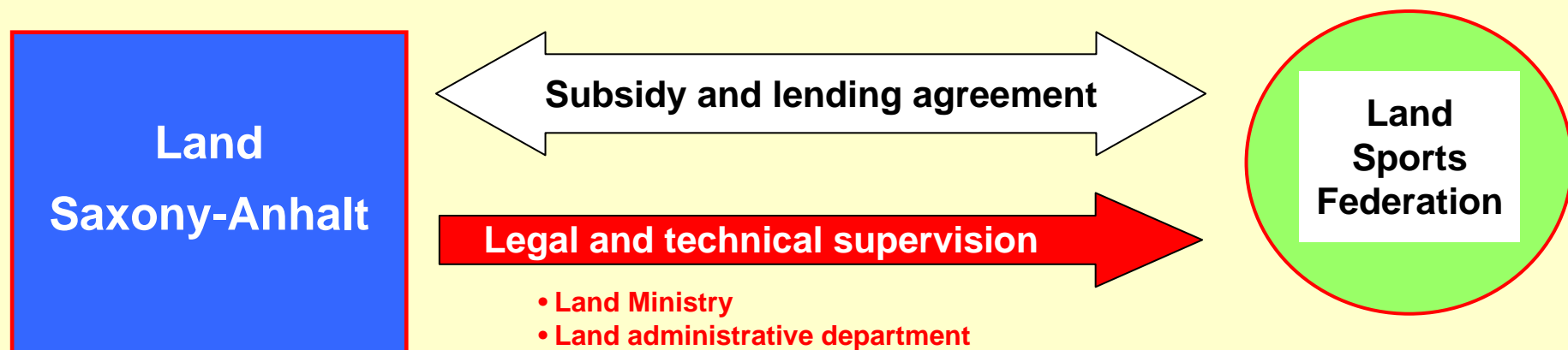




The Land Court of Audit demands:

- ✘ Analysis of the consequences derived from the insolvency procedure for the Land Sports Federation and the MAG, also in accordance with Article 84 GmbHG (Private Limited Company Law)
- ✘ Reflections on the three EEAs with regard to a further use and financing of Hotel Schanzenhaus
- ✘ Check of all possible alternatives of a further use of the hotel and their financial consequences
- ✘ Observance of the danger for the condition of ‚public utility‘ of the Land Sports Federation
- ✘ The Land Ministry veils for the fulfilment of the Land Court of Audit’s demands within the bounds of its supervision task.

12. Supervisory responsibilities (1) – for the Administration as regards the Land Sports Federation

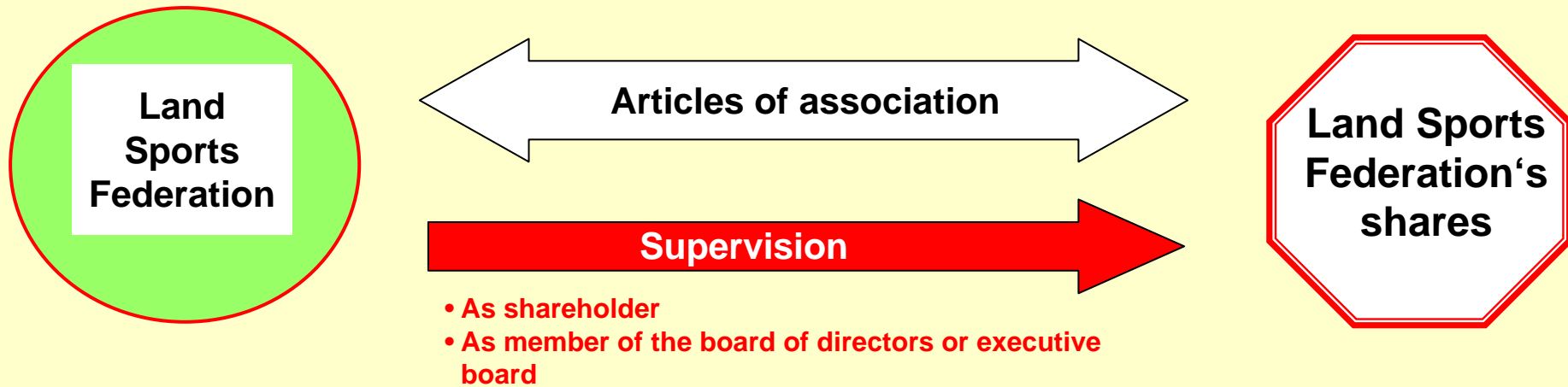


Most significant audit criticism from the Land Court of Audit:

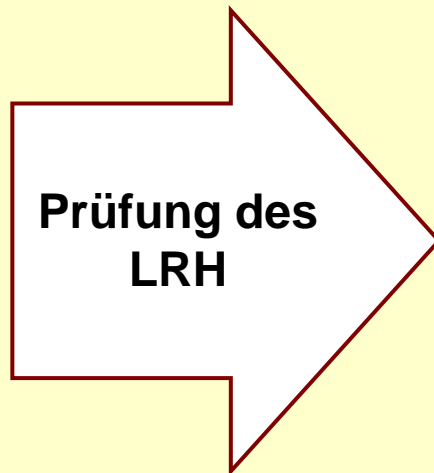


- ✘ The competent authorities did not fulfil their supervision and control functions
- ✘ Statements of application of funds were not checked for up to 8 years; as a consequence: no positive exertion of influence by the Administration on the economic orientation of the Land Sports Federation
- ✘ Neglect of supervision due to the fact that Administration officers hold functions in the field of sports

12. Supervisory responsibilities (2) – for the Land Sports Federation and its holdings

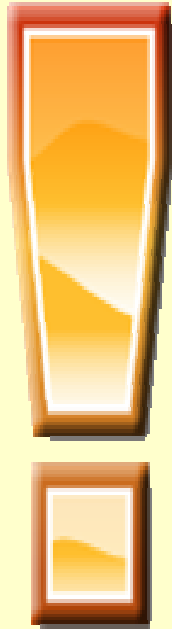


Most significant audit criticism from the Land Court of Audit:



- ✘ The Land Sports Federation was stretched too far as regards its supervisory function due to its multiple branched shares
- ✘ Dual functions within executive bodies as well as functions in „friend“ companies favoured the misuse of subsidies
- ✘ No risk management in the Land Sports Federation and its holdings

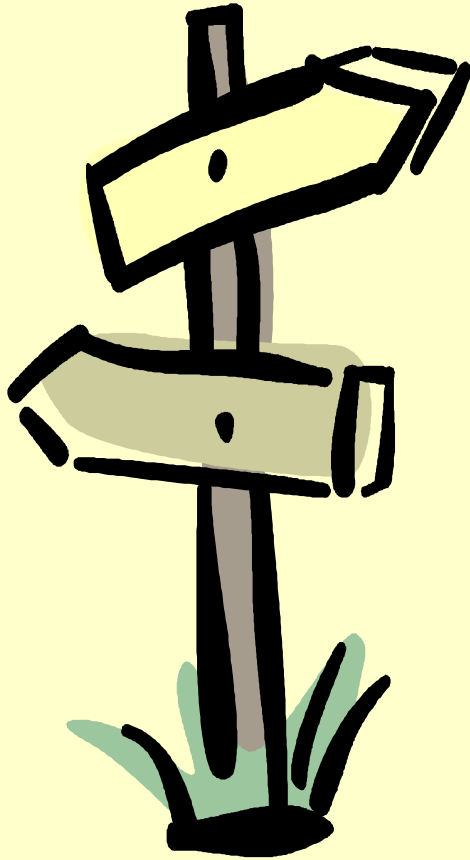
12. Supervisory responsibilities (3) – The Land Court of Audit's demands



The Land Court of Audit demands:

- ✘ Proper discharge of the supervisory responsibilities within administrative authorities
- ✘ Current check of statements of application of funds and immediate reduction of arrears
- ✘ Preventive measures to avoid clashes of interests and overlapping of responsibilities
- ✘ Proper management of records within administrative authorities
- ✘ Proper business management within the Land Sports Federation and its holdings
- ✘ Building up of appropriate controls and risk management within the Land Ministry and in the Land Sports Federation
- ✘ To create tools so as to be able to have a favourable influence on an economic action of the subsidy grantor

13. Present situation of the follow-up of audit results



- * The Land Ministry and the Land Sports Federation have created special working groups to solve the problems which have been identified by the Land Court of Audit
- * Resignation of the President and dismissal of the General Manager of the Land Sports Federation and MAG
- * Subsidy contract with the Land Sports Federation was terminated by the Land Ministry
- * Guidelines for the promotion of sports issued by the Land Sports Federation are to be thoroughly revised by the Land Ministry
- * Observance of the prohibition of favouritism by modification of collective wage agreement
- * Claims for recovery based on the conclusions issued by the Land Court of Audit are currently being issued by the Land
- * The Land Sports Federation intends to establish new statutes
- * Prosecuting attorney's office investigates in at least 14 areas