

GERMANY

1) EDUCATION SYSTEM

General compulsory schooling begins for all children in the Federal Republic of Germany at the age of six and usually involves nine years of full-time schooling (ten years in Berlin, Brandenburg, Bremen, Nordrhein-Westfalen and Sachsen-Anhalt). Those young people who do not attend a full-time general education school or vocational school at upper secondary level once they have completed their period of compulsory general schooling must still attend part-time schooling (compulsory vocational school attendance). This usually lasts three years, according to the duration of training in a recognised occupation requiring formal training. For pupils who do not attend a general education school at upper secondary level or enter training, some Länder have regulations under which pupils are required to remain in full-time education and attend some sort of vocational school.

The ability of pupils to transfer between school types and the recognition of school-leaving qualifications is basically guaranteed if the preconditions agreed between the Länder are fulfilled.

a) Pre-school education

Pre-school education is provided by institutions (mainly *Kindergärten*) catering for children from 3 to 6, the age at which they usually start school. Children of school age who have not yet attained a sufficient level of development to attend a school have a further option (*Schulkindergärten, Vorklassen*). These institutions are either assigned to the pre-school or the primary sector according to the particular Land. Attendance is usually voluntary, although in most Länder the authorities are entitled to make it compulsory for children of school age who are slow to develop.

b) Primary education

Once children reach the age of six, they are obliged to attend primary school. All pupils in Germany enter the *Grundschule* which covers grades one to four. In Berlin and Brandenburg, the *Grundschule* covers six grades.

There is no leaving examination at the end of primary school, and pupils are not awarded a leaving certificate. However, at the end of grade 4 (or grade 6) pupils do receive a report for that year.

The transfer from primary school to one of the different lower secondary school types where pupils remain at least until the completion of their full-time compulsory education is dealt with differently depending on Land legislation. The vote of the school which the pupil is leaving is taken as a basis for the decision or as guidance in the decision regarding the pupil's future school career. This is accompanied by detailed consultations with parents. The final decision is in principle taken by the parents, but for certain school types is dependent on pupils demonstrating a certain level of ability and/or on the capacity available in the desired school and/or on a decision by the school supervisory authority.

c) Secondary education

Secondary education breaks down into lower secondary level (*Sekundarstufe I*), which comprises the courses of education from grades 5 to 10 (or 7 to 10 in Berlin and Brandenburg) of school, and upper secondary level (*Sekundarstufe II*), which comprises all the courses of education that build on the foundations laid in the lower secondary level. Lower secondary level covers the age group of pupils between 10 or 12 and 16 years old and upper secondary level the pupils between 16 and 19 years old. Secondary level educational institutions do differ in terms of duration and school-leaving qualifications, but they are so interrelated that in the aggregate they constitute an open system allowing transfer from one type of course to the other.

Schools providing general education at **lower secondary level** build on the foundations laid by the undifferentiated primary schools (*Grundschulen*). The following types of school exist in the majority of the Länder:

- *Hauptschule*
- *Realschule*
- *Gymnasium*
- *Gesamtschule*.

Hauptschulen, *Realschulen* and *Gymnasien* are schools offering one single course of education. All the instruction at such schools is geared to the attainment of one specific leaving certificate. The *Hauptschule* provides its pupils with a basic general education. It normally covers grades 5-9. *Realschulen* provide a more extensive general education. The standard *Realschulen* cover grades 5 to 10. *Gymnasien* provide an intensified general education. The course of education in the standard *Gymnasium* comprises both the lower and upper secondary level and covers grades 5 to 13. On completion of grade 10 of the *Gymnasium*, pupils are qualified to enter the *Gymnasiale Oberstufe*, i.e. upper *Gymnasium* level, provided their performance has been at least adequate in all subjects in which particular marks are required in order to be promoted to the next grade.

Apart from *Hauptschule*, *Realschule* and *Gymnasium*, which are schools offering one single course of education, there are also schools offering several courses of education, where teaching in specific subjects and for specific grades is provided either in classes geared towards a particular final qualification or in set classes divided up into at least two levels of ability. Almost all Länder have *Gesamtschulen* (comprehensive schools), albeit in some Länder in only very limited numbers as a special type of school¹. Several Länder introduced types of school, with particular names which differ from one Land to another, in which, however, the traditional courses available at the *Hauptschule* and the *Realschule* are brought under one organisational umbrella – these include *Mittelschule* (Sachsen),

¹ In the cooperative comprehensive schools, the three courses of education (*Hauptschule*, *Realschule* and *Gymnasium*) are brought under one educational and organisational umbrella; these form an educational and organisational whole at the integrated *Gesamtschule*. The provision of comprehensive schools (*Gesamtschulen*) varies in accordance with the respective educational laws of the Länder.

Sekundarschule (Sachsen-Anhalt), *Regelschule* (Thüringen), *Erweiterte Realschule* (Saarland), *Verbundene Haupt- und Realschule* (Hessen, Mecklenburg-Vorpommern), *Integrierte Haupt- und Realschule* (Hamburg) and *Regionale Schule* (Rheinland-Pfalz, Mecklenburg-Vorpommern). Grades 5 and 6 at all secondary schools can be organised as a phase of orientation (*Orientierungsstufe/Förderstufe*) with the choice of school career being left open until the end of grade 6. In 2002 in some Länder the orientation stage is a separate organisational unit independent of the standard school types. In this case the secondary schools subsequently attended will begin with the 7th grade.

Once pupils have completed compulsory schooling – generally when they reach the age of 15 – they move into **upper secondary education**. The type of school entered depends on the qualifications and entitlements obtained at the end of lower secondary education (First general education qualification – *Hauptschule* leaving certificate – after 9 years and *Mittlerer Schulabschluss* – *Realschule* leaving certificate – after 10 years; these certificates carry particular designations in some Länder; Qualification for transfer to the *Gymnasiale Oberstufe*, the upper *Gymnasium* level). The range of courses on offer includes full-time general education and vocational schools, as well as vocational training within the dual system (*duales System*). The majority of the Länder offer the following types of general education and vocational school, with some forms specific to individual Länder:

- *Gymnasium*
- *Berufsschule*
- *Berufsfachschule*
- *Fachoberschule*
- *Fachschule*

and in some Länder:

- *Berufliches Gymnasium/Fachgymnasium*
- *Berufsoberschule*
- *Berufskolleg*
- *Fachakademie*

The *Gymnasiale Oberstufe* (upper level of the *Gymnasium*) forms part of the general education schools and has also been established in other types of school in addition to the *Gymnasien*. In some Länder, these include the *integrierte Gesamtschule* and the *Berufliches Gymnasium/Fachgymnasium*. Admission to the *Gymnasiale Oberstufe* requires a formal entrance qualification which can generally be obtained at the end of the 10th grade at the *Gymnasium* or, with comparable standards, at other types of schools providing lower secondary education. In its three-year structure, the upper level of the *Gymnasium* leads to the acquisition of the *Allgemeine Hochschulreife* (general entrance qualification for higher education) which at present in most Länder can still be obtained after the successful completion of 13 consecutive school years. In some Länder, the *Allgemeine Hochschulreife* can either be acquired after 12 years of schooling, or the conversion in successive stages to 12 years of school education is currently under way.

Full-time vocational schools include the *Berufsfachschule*, the *Fachoberschule*, the *Berufliches Gymnasium* or *Fachgymnasium*, the *Berufsoberschule*, the *Fachschule* and other types of schools that exist only in certain Länder or are of marginal importance due to their small numbers.

Berufsfachschulen are full-time schools which prepare their pupils for an occupation or provide vocational education as well as extending their general education. They offer a very wide range of courses. In cases where such schools do not provide a full career qualification, the period of *Berufsfachschule* attendance may – under certain conditions – be recognised as equivalent to the first year of dual system vocational training (*duales System*). Depending on the training objective, *Berufsfachschulen* require their pupils to have a *Hauptschulabschluss* or a *Mittlerer Schulabschluss*. The duration of training at *Berufsfachschulen* varies from one to three years, depending on the intended career specialisation.

The *Fachoberschule* is a school type lasting two years (11th and 12th grades) which takes pupils who have completed the *Mittlerer Schulabschluss*, equips them with general and specialised theoretical and practical knowledge and skills and leads up to *Fachhochschulreife* (higher education entrance qualification for the *Fachhochschule*). Completed vocational training can serve as a substitute for the 11th grade of the *Fachoberschule*, so that pupils with such qualifications can proceed directly with the 12th grade.

In contrast to the *Gymnasium*, which normally offers a continuous period of education from grade 5 to grade 12 or 13, the *Berufliches Gymnasium* or *Fachgymnasium*² has no lower or intermediate level (grades 5 – 10). This type of school exists in some Länder in the form of the *Gymnasiale Oberstufe* with career-oriented specialisations and comprises a three-year course of education. Starting on the basis of a *Mittlerer Schulabschluss* satisfying the requirements for admittance to the *Gymnasiale Oberstufe* or an equivalent qualification, the *Berufliches Gymnasium/Fachgymnasium* leads, as a rule, to a general entrance qualification for higher education (*Allgemeine Hochschulreife*). Furthermore, *Berufliche Gymnasien/Fachgymnasien* in some cases offer pupils the opportunity to obtain more than one qualification at the same time (double qualification courses of education), viz. a combination of a higher education entrance qualification (*Hochschulreife/Fachhochschulreife*) and a vocational qualification in accordance with Land law (e.g. for assistant occupations). A vocational education of this kind may also be obtained at institutions combining the *Gymnasium* and vocational schools (e.g. *Oberstufenzentren*) or at a particular type of school such as the *Berufskolleg* in Nordrhein-Westfalen. These double qualification courses of education at upper secondary level take three to four years to complete.

The *Berufsoberschule* has so far only existed in a few Länder. Providing two years of full-time education, it leads to the *Fachgebundene Hochschulreife* and, with a second foreign language, to the *Allgemeine Hochschulreife*. Attendance of the *Berufsoberschule* can also be on a part-time basis for a correspondingly longer period. Acceptance into the

² This type of school is called *Berufliches Gymnasium* in some Länder and *Fachgymnasium* in others.

Berufsoberschule requires the *Mittlerer Schulabschluss* and at least two years' successful vocational training or at least five years' relevant practical experience. The first year of the *Berufsoberschule* can be replaced with other study courses leading to the *Fachhochschulreife*. The pupils are assigned a specialisation in accordance with the first vocational training or practical experience they have already completed.

Fachschulen cater for vocational continuing education (1-3 year duration) and as a rule require the completion of relevant vocational training in a recognised occupation and subsequent employment. In addition, the *Fachhochschulreife* can be acquired under certain conditions.

Two-thirds of young people in Germany undergo vocational training in the dual system (*duales System*)³ lasting, as a rule, for three years, depending on their chosen occupation. Those successfully completing the training are entitled to do skilled work in one of 350 recognised occupations requiring formal training (*anerkannte Ausbildungsberufe*). Compulsory full-time schooling must be completed before commencing vocational training. There are no other prerequisites for admission to the dual system; training in the dual system is generally open to everyone.

d) The tertiary sector

The tertiary sector encompasses institutions of higher education and other establishments that offer study courses qualifying for entry into a profession to students who have completed the upper secondary level and obtained a higher education entrance qualification.

As of January 2003 there were the following types of higher education institutions in the Federal Republic of Germany:

- *Universitäten, Technische Hochschulen/Technische Universitäten, Pädagogische Hochschulen, Theologische Hochschulen;*
- *Kunsthochschulen* and *Musikhochschulen* (colleges of art and music);
- *Fachhochschulen*.

Apart from the public sector of higher education referred to here, there are a number of special higher education institutions which only admit certain groups (e.g. higher education institutions of the Federal Armed Forces and *Verwaltungsfachhochschulen*).

Those with a higher education entrance qualification may also choose to enter a *Berufsakademie* as an alternative to higher education. These have been established since 1974 in eight of the 16 Länder. At state or state-recognised private *Studienakademien* (study institutions) and in companies students receive academic but, at the same time, practical career training.

³ It is described as a dual system because training is carried out in two places of learning: at the workplace and in a vocational school (*Berufsschule*).

2) TYPES OF SCHOOLS

In Germany, in all areas of education there are also, beneath public schools, to a greater or lesser extent, privately-maintained institutions. The right to establish private schools is expressly guaranteed by the Basic Law and, to some extent, by provisions in the constitutions of the individual Länder.

At pre-school level the 1990 Child and Youth Welfare Act (*Kinder- und Jugendhilfegesetz*) gives priority to institutions run by non-public bodies. Around 66% of *Kindergärten* in the Länder in western Germany are run by non-public bodies of the child and youth welfare services (churches, welfare associations, parents associations etc.); in the Länder of eastern Germany, privately-maintained establishments make up a proportion of around 33%. *Kindergärten* which are funded by non-public bodies are also subject to public supervision. This is generally exercised by the youth welfare offices of the Länder (*Landesjugendämter*) in their role as supra-regional organisers of the public youth welfare services.

In the primary sector, private schools may only be established on very strict conditions; as laid down in the Basic Law *Grundschulen* are almost exclusively public-sector schools. In 2001 only 2.4% of all primary schools were privately-run schools (in almost all cases they are either denominational primary schools, Rudolf Steiner schools – known as *Freie Waldorfschulen* – reformist schools or primary schools with an integrated boarding facility).

At secondary level two types of private school are to be differentiated:

- Alternative Schools (*Ersatzschulen*) are, in terms of their overall purpose, to serve as a substitute for a public-sector school which already exists or is essentially provided for in a Land. At these schools compulsory schooling can be completed. However, these alternative schools, in their capacity as, for example, denominational schools, reformist schools, boarding schools or international schools may also fulfil an educational mission of their own. Alternative schools must acquire state approval.
- Complementary schools (*Ergänzungsschulen*) are to complement the range of courses on offer from public bodies by offering types of education which do not generally exist in public-sector schools, above all in the vocational sphere. Complementary schools do not need to acquire state approval, but have merely to notify authorities that they plan to start up.

In the tertiary sector, the number of non-public institutions of higher education has remained low (mainly small church-run institutions). The overwhelming majority of higher education institutions in the Federal Republic of Germany are state-run institutions maintained by the Länder. The Länder alone are responsible for awarding state recognition to non-public institutions of higher education. Professional academies (*Berufsakademien*) are governed by regulations specific to the Länder: in some Länder they are publicly maintained, whereas in others the *Berufsakademie* laws only provide for the existence of

privately maintained professional academies, which require the approval of the relevant Land ministry.

For pupils with special educational needs (*Sonderpädagogischer Förderbedarf*), whose development cannot be adequately assisted at mainstream schools, a range of special schools (*Sonderschule*) exists in accordance with the types of disability, which are also known as *Förderschulen* or *Schulen für Behinderte* in some Länder.

3) EDUCATIONAL RESPONSIBILITY

In the Federal Republic of Germany responsibility for the education system is determined by the federal structure of the state. Under the Basic Law the exercise of governmental powers and the fulfilment of governmental responsibility is incumbent upon the individual Länder as far as the Basic Law does not provide for or allow for any other arrangement. The Basic Law contains only a few fundamental provisions on questions of education, culture and science.

Unless the Basic Law awards legislative powers to the Federation, the Länder have the right to legislate. Within the education system, this applies to the school sector, the higher education sector, adult education and continuing education. Administration of the education system in these areas is almost exclusively a matter for the Länder. Detailed regulations are laid down in the constitutions of the Länder and in separate laws of the Länder on pre-school education, on the school system, on higher education, on adult education and on continuing education.

The scope of the Federal Government's responsibilities in the field of education is defined in the Basic Law, according to which the Federation bears responsibility particularly for the regulations governing the following domains of education, science and research:

- In-company vocational training and vocational further education;
- Framework responsibility for the general principles of higher education;
- Training assistance;
- Promotion of scientific and academic research and technological development, including the promotion of up-and-coming academics;
- Youth welfare;
- Legal protection of participants of correspondence courses;
- Regulations on entry to the legal profession;
- Regulations on entry to medical and paramedical professions;
- Employment promotion measures; occupational and labour market research.

Apart from this, the Federation has legislative authority over pay and pensions for civil servants (e.g. teachers, university lecturers) and general competence over regulation of legal relationships in the civil service as whole, as well as the legislative authority over foreign affairs.

In addition to the division of responsibilities described above the Basic Law also provides for particular forms of cooperation between the Federation and the Länder such as in the joint task of the *Expansion and construction of institutions of higher education, including university clinics*. Federal and Land authorities can also cooperate, on the basis of agreements, in educational planning and in the funding of research projects and institutions of supraregional importance. The body responsible for the cooperation of the Federation and the Länder is the Commission for Educational Planning and Research Promotion of the Federation and the Länder (*Bund-Länder-Kommission für Bildungsplanung und Forschungsförderung*), in which the Federal Government and the governments of all Länder are represented with the same number of votes.

The ministers and senators of the Länder responsible for education and training, higher education and research, and also cultural affairs work together as well. The main aim of the cooperation in the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder of the Federal Republic of Germany (*Kultusministerkonferenz*) is to guarantee by means of coordination the necessary measure of shared characteristics and comparability in the FRG's education system. Cooperation within the Standing Conference has led to uniform and comparable developments in many areas of the school and higher education system. Over and above its role of coordinating the work of the individual Länder at a national level, the Standing Conference is also an instrument for cooperation with the Federation, a relationship which is based on partnership.

Within the Federal Government, the Federal Ministry of Education and Research is primarily responsible for the Federation's areas of responsibility whereas in the Länder, the Ministries of Education, Cultural Affairs and the Ministries of Science (which have different titles in the various Länder) in their capacity as highest authorities of a Land are responsible for education, science and culture. In eleven Länder separate Ministries for science and research have been established in addition to the Ministries for schools.

The supervision of the school system (general education and vocational schools) is in most cases structured in a two-tier system, in which the Ministries of Education and Cultural Affairs form the upper tier, and the schools' offices (*Schulämter*) at local authority level form the lower tier. As a rule, the primary schools, the *Hauptschulen* and *Sonderschulen* are answerable to the schools' offices, and the other schools, including the vocational schools, to the Ministries of Education and Cultural Affairs.

4) FINANCING OF EDUCATION

Pre-school education is not a part of the state school system, and *Kindergarten* attendance is not, as a general rule, free of charge. To cover some of the costs, parental contributions are levied, the level of which depends on parents' financial circumstances.

Publicly maintained *Kindergärten* (maintained by the local authorities) are financed by the local authority (*Kommune*), by the Land (subsidies to cover personnel and material costs etc.) and through parental contributions. Meanwhile, *Kindergärten* that are privately maintained (by churches, parents' initiatives etc.) are also financed by the local authority

(*Kommune*), by the Land (subsidies to cover investment, personnel and material costs etc.) and through parental contributions, and, in addition, by the maintaining body's own resources (on average 20%).

The public-sector school system is financed on the basis of a division of responsibilities between the Länder and the local authorities (*Kommunen*). While the latter bear the costs of non-teaching staff and the material costs, the Ministries of Education and Cultural Affairs of the Länder are responsible for the teaching staff payroll. The local authorities (*Kommunen*), which are responsible for the establishment and maintenance of schools and supply them with financing, are described as *Schulträger*, or school maintaining bodies. Attendance of public-sector schools is free of charge.

In order to balance out school costs between the local authorities and the Länder, the local authorities have certain expenses (e.g. for transporting pupils to and from school) reimbursed from the Land budget (generally by the Ministry of Education and Cultural Affairs). The Land also supports the local authorities through one-off grants, for example contributions to school construction costs or certain subsidies for running costs.

Where schools have catchment areas extending beyond the local area (e.g. certain special schools and *Fachschulen*), the Land is usually the maintaining body (*Schulträger*) and therefore also responsible for funding the material costs and the non-teaching staff payroll. In some Länder, there are also local authority schools that are established by the *Kommunen* and, in terms of the costs of teaching staff and material costs, are supported solely by them.

A process to modernise and further develop the field of public administration is currently underway, which aims to attain a more effective and efficient use of resources. The purpose of this process is, above all, to remove the heavily regulated use of resources by extending the financial autonomy of the schools. The possibility of schools managing their own budgetary funds has increased in recent years as a result of school-specific regulations. These reforms of school financing are currently being put into practice in many Länder. In some Länder, schools are already able to determine their own use of resources for materials within the budget allocated by the maintaining body. Initial approaches are also in place for the autonomous use of the personnel resources allocated.

The payments made by the local authorities cover around 20% of expenditure on the school system, while the Länder pay around 80% of the overall costs of financing the school system.

The maintaining bodies of private schools receive some financial support from the Länder, in various forms. All of the Länder guarantee standard financial support to schools entitled to such assistance; this includes contributions to the standard staff and running costs. The Länder either grant a lump-sum contribution, calculated on the basis of specific statistical data and varying according to school types, or the individual school may have to set out its financial requirements and receive a percentage share in subsidies. In all cases, the reference value is the situation pertaining to costs in the public-sector schools. As well as standard financial support, there are other forms of financial assistance, which may be paid

together with that support, such as contributions to construction costs, contributions to help provide teaching aids to pupils free of charge, contributions to old-age pension provision for teachers, and granting sabbatical leave to permanent teachers with civil servant status while continuing the pay salaries. The greatest number of *Ersatzschulen* (alternative schools) are, however, maintained by the Catholic and Protestant Churches, which fund their schools from their own means to the extent that little or no fees must be charged. The share of public funding in the overall financing of private schools varies between the Länder, and also depends on the type of school (there are also numerous special provisions, for example for approved private schools in contrast to recognised private schools, for boarding schools and for church-run alternative schools).

Parental contributions are levied for attendance of pre-school institutions. These depend on parental income, and an application can be made for full or partial reimbursement, or for contributions if parents cannot afford to pay them. These would then be assumed by the local youth welfare office. Attendance of public-sector primary and secondary schools is free of charge, and there are no fees for enrolment or for report cards.

So that pupils have access to all teaching aids used in lessons regardless of their economic and social circumstances, all Länder have regulations on the provision of financial assistance for pupils to purchase teaching aids (*Lernmittelhilfe*), or on their provision free of charge (*Lernmittelfreiheit*). Under these regulations, pupils are either exempt from the costs of teaching aids or only have to pay part of the costs. The funds are provided either by the local authority responsible for establishing and maintaining the schools (*Schulträger*), or by the Land in question. Generally, pupils at public-sector schools are lent textbooks and other expensive teaching aids (e.g. pocket calculators) for the time they require them. When teaching aids become the property of pupils, parents may be required to pay a portion of the costs in some cases. Parents and pupils are expected to provide their own expendable materials (exercise books, pens and pencils) and other items (e.g. drawing instruments, material for use in crafts and needlework/metalwork lessons). In some Länder schools also provide expendable materials. The precise arrangements vary from Land to Land. It is also the responsibility of the Land to decide whether pupils at private schools are to be supplied with teaching aids free of charge. Some Länder expect parents to pay a portion of the cost of teaching aids themselves, either in the form of a lump sum or by buying certain items directly. Others offer pupils the option of buying their own teaching aids by making a contribution (say 50%) to the cost.

In general, there are no provisions for financial assistance to primary and lower secondary school pupils. On the basis of legal regulations on the part of the Federation (Federal Training Assistance Act – *Bundesausbildungsförderungsgesetz*), pupils from grade 10 onwards at general and vocational secondary schools are entitled under certain conditions to financial support from the state, as a rule, in the form of a grant, if they have no other means (mainly from their parents' income) of maintenance and financing training. Some Länder have provisions under which upper secondary pupils who have no claim to an assistance under the Federal Training Assistance Act can receive financial assistance from the Land under certain conditions.

Each of the Länder has its own arrangements as regards the transport of pupils to and from school. There are certain differences as to who is entitled to use school transport and the scope of services provided. In all cases, however, there are comprehensive provisions for the period of compulsory full-time schooling. In general, fares are reimbursed, usually for public transport, while under certain conditions a school transport service is established in its own right. It is generally the responsibility of the districts and municipalities, and in some Länder of the individual local authorities, to ensure adequate provision for transporting pupils to and from the school they attend. School transport is funded by the maintaining bodies (i.e. usually the local authority). In most cases subsidies are granted by the Land in question. The authorities are not obliged to provide transport for pupils to any school, regardless of distance. A right to school transport as such exists only to the *nearest school*, though the term is defined differently from one Land to the next. A partial refund of travelling costs may be granted in cases where parents decide to send their children to a school other than that which is nearest to their home. The assumption of travelling costs by the authorities does not mean that school transport is entirely free of charge in all Länder. In some Länder, the transport costs are assumed in full if the parental income is so low that they are considered to be living in poverty. In other Länder, parents still have to make a contribution despite being on a low income. However, in this case, the amount of the contribution depends on the parental income.

In the Federal Republic of Germany accident insurance does exist for all pupils and students during lessons, on the way from home to school and back and during school functions. Statutory accident insurance is normally in the hands of the local authority accident insurance association.

5) PUBLIC AUDIT

According to the federal structure of the Federal Republic of Germany alongside the Federation as the central state, there are 16 Länder or individual (federate) states. Both the Federation and each of the Länder have the status of a state. Even if sovereignty of the Länder is limited due to the assignment of clearly defined constitutional tasks by the Basic Law, which is the constitutional basis for the German state, that sovereignty is not granted by the Federation, but recognised by it under the Constitution. In principle, the Länder decide on their own constitutions. In accordance with the principle of separate constitutional areas of activity for the Federation and the Länder, the two also administer their budgets independently and are not reliant on one another. This means that the Federation and all the Länder have each set up their own autonomous audit body. The Federal Court of Audit audits the budgetary and financial operations of the Federation, whilst the regional courts of audit examine those of the Länder.

Because of standards established by skeleton federal law at federal level, the status, duties and procedures of the Land courts of audit are largely the same. The Land courts of audit have a constitutional duty to audit the income and expenditure accounts and the summary of assets and liabilities which must be presented by the Minister of Finance of the Land for discharge of the regional government, as well as the efficiency and regularity of the Land's financial management including its separate property funds and enterprises. This

constitutional duty coincides in practical terms with the duties of the Land administration. Thus all the public offices of a Land, to the extent that they earn income, spend money, or act in a way which is otherwise relevant to public finances, are subject to auditing.

Some Land courts of audit are also responsible (although not always to the same extent) for auditing the financial management of local authorities (*Kommunen*), for instance in Brandenburg, Mecklenburg-West Pomerania, Rhineland-Palatinate, Saxony, Saxony-Anhalt and Schleswig-Holstein. In Hessen the external audit of local authorities is conferred on the president of the Land court of audit. In the city states of Berlin, Bremen and Hamburg (which are at the same time Länder and cities), the audit work performed by the regional audit body also covers local government matters. In Baden-Württemberg and Bavaria, independent legal entities are responsible for auditing local government, and in the other Länder it is the Länder authorities or other superior local authorities.

As far as the school sector is concerned, the Land courts of audit are responsible for the audit of those schools where the *Land* supplies the funding. Then, not only perform regional audit bodies their audit work within the sphere of activity of the respective Ministry of Education and Cultural Affairs, but also they carry out audits directly in the schools themselves. Likewise, in those cases where the Land courts of audit are responsible for auditing the financial management of local authorities, their remit also covers the material costs of schools which are financed with local public funds. Finally, both regional audit bodies and school maintaining bodies (*Schulträger*) carry out performance audits in the school sector.