

Independent Supervisory Bodies

Sustainable Governance Indicators 2024



Indicator

Effective Public Auditing

Question

Is there an independent audit office? To what extent is it capable of exercising effective oversight?

30 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = There exists an effective and independent audit office.
- 8-6 = There exists an effective and independent audit office, but its role is somewhat limited.
- 5-3 = There exists an independent audit office, but its role is considerably limited.
- 2-1 = There is no independent and effective audit office.

Austria

Score 10

There is an independent and powerful audit office. Formally, the Austrian Court of Audit (Rechnungshof) is an instrument of parliament. Its president is elected by parliament for a period of 12 years, without the possibility of reelection. This gives the president a high degree of independence. The Court has a well-educated staff of more than 300.

The Court of Audit reports regularly to parliament, which can order it to perform specific tasks. Consequently, the parliamentary majority determines how to handle audit reports and, in cases of doubt, the majority supports the cabinet. Thus, the primary means to compel the government to respond positively to audit reports is public opinion. The Court of Audit enjoys an impeccable public reputation, which affords it a powerful role in constitutional practice.

In several key areas, such as monitoring party finances, the Court's competencies have been recently expanded, enabling it to play a more proactive role than in the past. Additionally, the Court's frame of reference is not limited to financial or accounting issues. For instance, in August 2023 the Court criticized the government for lacking a comprehensive and coherent strategy for addressing violence against women (Ruep 2023).

Citation:

Ruep, Stefanie. 2023. "Was die Regierung zum Schutz vor Gewalt an Frauen umgesetzt hat." <https://www.derstandard.at/story/3000000195715/was-die-regierung-zum-schutz-vor-gewalt-an-frauen-umgesetzt-hat>

Canada

Score 10

All the provinces and the federal government have independent auditor-generals, responsible to parliaments and legislatures, not the government. These entities are well-funded and effective. In addition, it is typical for an auditor general to be appointed for a fixed term and to be removed only under specific conditions outlined in the Auditor General Act (Taft 2016).

The Auditor General of Canada plays a crucial role in ensuring transparency, accountability, and good governance within the Canadian federal government. The position is an independent officer of the Parliament of Canada, and the auditor general reports directly to the House of Commons rather than to the government. The auditor general submits annual and other reports to the Speaker of the House of Commons, who then tables them in Parliament. Due to this relationship with the House rather than with the government, the auditor general is expected to operate independently from the government. This independence is crucial for maintaining the credibility and integrity of audit findings.

The role and responsibilities of the auditor general include auditing the federal government's financial statements and its entities to ensure compliance with best practices in public finance. This involves examining the financial transactions and reporting of government departments, agencies, and crown corporations.

The auditors general also conduct performance audits to assess whether government programs are managed effectively and achieve their intended objectives. These audits focus on areas such as efficiency, effectiveness, and compliance with laws and regulations. The auditor general typically evaluates whether government programs and operations provide value for money. This involves examining whether resources are used efficiently and whether the expected outcomes are achieved in a cost-effective manner.

The auditor general may also conduct special examinations of crown corporations and other entities as requested or on its own initiative. These examinations assess the entities' financial management, control systems, and compliance with laws and regulations. The auditor general also monitors and reports on the government's progress in implementing recommendations from previous audit reports. This follow-up process is intended to ensure that the government takes corrective action and is held accountable for addressing identified issues.

Citation:

Taft, Jordan. 2016. "From Change to Stability: Investigating Canada's Office of the Auditor General." *Canadian Public Administration* 59 (3): 467–85. <https://doi.org/10.1111/capa.12176>

Denmark

Score 10

There are two main independent audit functions in Denmark: the institution of the ombudsman and the National Audit Office (Rigsrevisionen).

In 1955, Denmark became the third country in the world, after Sweden and Finland, to introduce the institution of the ombudsman. The ombudsman is appointed by parliament, and the office operates as an independent institution. Distinguished law professors have often held the position, especially in the early years. The ombudsman office audits bureaucracies to ensure they follow the law and defends citizens' rights vis-à-vis the bureaucracy. The ombudsman can decide to take up a case on its own or, more commonly, based on a complaint from a citizen. In 2021, the ombudsman handled 5,272 cases, of which 148 were initiated by the office (Ombudsman 2022). Criticisms from the ombudsman normally lead to a change in practice or policy.

The National Audit Office is an independent institution under the authority of parliament and employs approximately 300 academically trained staff. The National Audit Office assists the parliamentary Public Accounts Committee in processing public accounts and supports Danish parliament members in their assessment of these accounts. The office issues independent audit opinions at the ministry level and provides opinions on the overall Danish public accounts. Additionally, the National Audit Office undertakes major studies of specific policy areas, with the results reported to the Public Accounts Committee.

The National Audit Office's work is highly respected and can lead to policy action. This was seen recently, for instance, in the case of a report on the security surrounding critical IT infrastructure. The National Audit Office found that seven out of 12 systems were insufficiently secure (Rigsrevisionen 2023), which led the government to propose increased funding to enhance the security of these systems.

Citation:

Ombudsman. 2022. Folketingets Ombudsmands beretning 2022. <https://www.ombudsmanden.dk/findviden/fob/fob2022/>

Rigsrevisionen. 2023. "Beretning om statens it-beredskab II." <https://rigsrevisionen.dk/revisionsager-arkiv/2023/dec/beretning-om-statens-it-beredskab-ii>

Finland

Score 10

Legislative accountability in Finland is advanced by the Audit Office, which is accountable to parliament. Formerly, parliamentary oversight of government finances was performed by parliamentary state auditors. However, this institution has been abolished. In its place is the parliamentary Audit Committee, which was created by combining the tasks performed by the parliamentary state auditors with the related functions of the administrative and audit section of the Finance Committee.

The office of the parliamentary state auditors has also been replaced by the National Audit Office of Finland, an independent expert body affiliated with parliament.

The role and duties of the National Audit Office of Finland (NAOF) are defined in the country's constitution (Section 90). The NAOF audits central government finances, monitors fiscal policy, and oversees political party and election campaign funding (National Audit Office of Finland 2023). It is also tasked with auditing the legality and propriety of the state's financial arrangements and reviewing compliance with the state budget.

The office is directed by the auditor general, who is elected by parliament. The National Audit Office of Finland (NAOF) examines the legality, productivity and adherence to the budget of government finances, as mandated by section 90 of the Finnish Constitution. It verifies the accuracy of information presented to parliament regarding central government finances, their management and adherence to fiscal policy regulations.

The NAOF does not audit parliament's finances, funds under parliament's jurisdiction, the Bank of Finland, the Financial Supervisory Authority or the Social Insurance Institution. Internal audit guidelines based on ISSAI auditing standards form the basis for NAOF's audit processes, supplemented by manuals tailored to compliance audits, performance audits and fiscal policy audits.

NAOF plays a crucial role in monitoring and overseeing fiscal policy to ensure the stability and sustainability of public finances, as well as compliance with fiscal policy rules. Empowered by the Fiscal Policy Act, it supervises the establishment and adherence to these rules.

Additionally, the NAOF oversees election campaigns and political party funding to ensure compliance with the Act on Political Parties and the Act on a Candidate's Election Funding. Starting in 2024, lobbying activities directed at parliament and ministries must be reported to the transparency register. The NAOF will act as the registrar and oversee compliance with this disclosure obligation.

In 2021, the Audit Office was embroiled in a scandal that temporarily undermined its operational capacity. Parliament ultimately decided to fire the body's general director and appoint a new, independent general director. The decision was made in parliament without consultation with the judiciary. However, the person at the center of the scandal was later convicted in court (YLE, 2021).

With about 150 staff members, the financial and personnel resources align with the requirements of the Audit Office to effectively carry out its mandate.

The Audit Office also conducts follow-up investigations to determine if its recommendations have been implemented. The findings of both the original and follow-up reports are reported in the media and used by the legislature.

Citation:

National Audit Office of Finland. 2023. <https://www.vtv.fi/en/> (Accessed 22 December 2023)

YLE. 2021. "Court fines former auditor general for abuse of office." <https://yle.fi/news/3-12292381>

Germany

Score 10

The Basic Law assigns the Federal Court of Audit (Bundesrechnungshof) the responsibility for public auditing in Germany, specifically auditing accounts and ensuring the federation properly and efficiently administers public finances. To carry out these duties, members of the court enjoy judicial independence (Article 114, Paragraph 2, Basic Law). As an independent body, the Federal Court of Audit is subject only to the law and holds the same status as the federal ministries, the Office of the Federal President, and the Federal Chancellery. It is autonomous and independent in its choice of audit methods, the depth of the audit, and has the legal authority to decide on the content of the audit (Seyfried, 2021).

During an audit, relevant bodies are required to provide information and cooperate, including sharing confidential or secret data. The Federal Court of Audit must simply state that the information is essential to fulfilling its mandate to obtain the necessary information (Article 28 Prüfungsordnung des Bundesrechnungshofes).

The president of the Federal Court of Audit is elected by parliament (Bundestag) and the Federal Council (Bundesrat) based on the federal government's suggestion. After the election, the president is appointed by the federal president. There is no debate prior to the election, and the Bundestag vote is conducted in secret, requiring a majority of its members. This process ensures the independence of the court's president, and reelection is not permitted (Article 5 Bundesrechnungshofgesetz). Given that the court's members, including the president, enjoy judicial independence, the potential removal of the president adheres to Article 97 of the Basic Law, which outlines judicial independence. Thus, dismissal, whether permanent or temporary, is only possible through a judicial decision based on the law.

As a federal authority, the Federal Court of Audit's financial and personnel resources are funded by the federal budget. The court submits its budget request, including estimates of the resources required to fulfill its mandate, to the federal government, where the final budget is then subject to political negotiations. Currently, the court has a staff of around 1,050 employees and an annual budget of €187 million (Bundesrechnungshof, 2023a). While these costs are low compared to the size of the federal budget (below 0.1%), the resources should be sufficient to effectively monitor the federal budget given the size of the institution.

According to the Open Budget Survey (2021), Germany's budget oversight, comprising audit and legislative oversight, scores an impressive 91 out of 100 points,

ranking it first in global budget oversight. The audit oversight alone is awarded a score of 95. Additionally, the survey rates public access to budgetary information at 73 out of 100, and the audit report – which examines the soundness and completeness of the government’s year-end accounts – at 67 points. Since these scores exceed 61 points, they indicate that Germany publishes sufficient information about the use of public resources to facilitate effective public debate.

Nevertheless, the Federal Court of Audit only examines, criticizes, or recommends cost-saving measures and does not have the authority to issue legally binding judgments. For media access, the Court publishes press releases, statements, and background information on its website. The Court further encourages the media to contact the designated press officer with any questions or requests for additional information (Bundesrechnungshof, 2023b). The legislature reviews the Court’s reports and regularly invites Court representatives to public hearings. If federal ministries receive critical remarks or suggestions for changes from the Court, they must adhere to the “comply or explain” principle. They may diverge from the Court’s guidance but must provide arguments to justify their disagreement with a particular view or suggestion.

Citation:

Bundesrechnungshof. 2023a. https://www.bundesrechnungshof.de/DE/5_ueber_uns/1_wer_wir_sind/wer_wir_sind_node.html

Bundesrechnungshof. 2023b. https://www.bundesrechnungshof.de/DE/7_presse/presse_node.html (accessed: 13.11.23)

International Budget Partnership. 2021. “Open Budget Survey 2021.” <https://internationalbudget.org/sites/default/files/country-surveys-pdfs/2021/open-budget-survey-germany-2021-en.pdf>

International Budget Partnership. 2021. “Open Budget Survey 2021. 8th Edition.” <https://internationalbudget.org/wp-content/uploads/Open-budget-survey-2021-1.pdf>

Seyfried, M. 2021. “Bundesrechnungshof.” In *Handwörterbuch des politischen Systems der Bundesrepublik Deutschland*, eds. Andersen, U., Bogumil, J., Marschall, S., and Woyke, W. Wiesbaden: Springer VS.

New Zealand

Score 10

New Zealand has an independent audit office known as the Office of the Auditor-General (OAG). The OAG operates independently from the government and is responsible for auditing the public sector, including government departments, local authorities, state-owned enterprises and other public entities.

The Office of the Auditor-General conducts various audits to ensure effective oversight of public entities. These include financial audits, performance audits, and compliance audits (Controller and Auditor-General n.d.).

A much-publicized intervention by the OAG in 2023 was the audit of the Labour government’s handling of \$640 million in the Provincial Growth Fund (PGF). The OAG found that applications to the PGF were assessed “inconsistently” and that there was a lack of risk management functions. However, the OAG also stressed that

it might take years before the economic, social, cultural or environmental impacts of any of the PGF-funded projects could be properly assessed (Cheng 2023).

Citation:

Cheng, D. 2023. "Auditor-General's Office says no visibility on whether \$640m in PGF funds is value for money." Stuff, 22 June. <https://www.nzherald.co.nz/nz/politics/auditor-generals-office-says-no-visibility-on-whether-640m-in-pgf-money-is-value-for-money/RXZ36ZCDP5BOHPZIVOM6GNF614/>

Controller and Auditor-General. n.d. "What we do." <https://oag.parliament.nz/about-us/what-we-do>

Norway

Score 10

Norway's independent statutory authority, the Office of the Auditor General (OAG), is named in the constitution and is accountable to parliament. Its main task is to ensure that the central government's resources and assets are used and managed according to sound financial principles and in compliance with parliamentary decisions. In recent years, evaluations of the attainment of reform goals and the effectiveness of new laws have become increasingly important. The operations of fully and partially state-owned companies are also scrutinized. The OAG has 450 employees and is governed by a board of five directors, all selected by parliament for four years. The auditor general, appointed by parliament for a four-year term, leads the OAG. Decisions of the OAG have consistently been consensual. The government is required to follow up on all OAG reports. Failure to do so may result in a vote of no confidence in parliament.

Since 1962, Norway has had a Parliamentary Ombud appointed by parliament. This office investigates complaints from citizens regarding injustices, abuses, or errors by central or local public administrations. Additionally, the Ombud ensures that human rights are respected and conducts independent investigations. Every year, the Ombud's office submits a report to parliament documenting its activities. Generally, the Ombud is active and trusted.

However, the Ombud has recently expressed concerns about the risk of losing funding and popular legitimacy because too few of its recommendations are taken seriously and implemented. Since 1962, the Ombud institution has been extended to other policy areas. The Ombudsperson for Children was established in 1981, followed by the Ombudsperson for Nondiscrimination in 2006, and the Ombudsperson for Older People in 2021.

Since 2017, all ministries have been required to formally assess the impacts of their policies on civil protection and emergency preparedness. The purpose of these written instructions was "to reinforce society's capacity to prevent crises and to deal with serious incidents by means of comprehensive and coordinated work with civil protection and emergency preparedness" (Norwegian Ministry of Justice and Public Security, 2017). Although this instrument is not implemented or assessed by an independent body, it serves as an example of horizontal coordination. However, the

OAG might, on its own initiative, assess whether ministries comply with the regulation.

Citation:
Riksrevisjonen. 2024. Annual Report 2023. Document 2 (2023-2024). <https://www.riksrevisjonen.no/contentassets/9e1061c5f7fe4678b4b93e5d1e5bb611/annual-report-2023.pdf>

Norwegian Ministry of Justice and Public Security. 2017. "Instructions for the Ministries' Work with Civil Protection and Emergency Preparedness." <https://www.regjeringen.no/en/dokumenter/instructions-for-the-ministries-work-with-civil-protection-and-emergency-preparedness/id2569693/>

Sweden

Score 10 Riksrevisionen, the Swedish National Audit Office (Swedish NAO), is the independent auditing body.

It is an independent public agency under the Riksdag charged with auditing public agencies and operations. Established after a 2003 reform, its purpose is to oversee the financial operations of Swedish public agencies and ensure that resources are used according to the decisions made in the Riksdag.

It is the only body with the authority to audit all state finances. The Swedish NAO also has significant international operations, with a mandate to help developing countries build better auditing practices (Riskrevisionen, n.d.,a; n.d.,b). It issues numerous audit reports available on its website, many also in English. A search in the Retriever database (covering print and digital media, radio, and TV) conducted in January 2023, with the keyword "Riskrevisionen," returned 13,671 hits for the two-year period 2022 – 2023. The amount, diversity, and relevance of the reports result in considerable media attention.

Citation:
Riskrevisionen. (n.d.a). "About the Swedish NAO." <https://www.riksrevisionen.se/en/about-the-swedish-nao.html>

Riskrevisionen. n.d., b. "International Operations." <https://www.riksrevisionen.se/en/international-operations.html>

Switzerland

Score 10 "Within the scope of legal and constitutional provisions, the Swiss Federal Audit Office (SFAO) is independent and autonomous. It determines its own audit program annually based on risk analysis and on criteria contained in Article 5 of the Federal Auditing Act. The Federal Council and the Joint Committee on Finance of the Federal Assembly are notified of this program. For administrative purposes, the Swiss Federal Audit Office is assigned to the Federal Department of Finance, but is not subordinate to it" (SFAO 224a).

Switzerland's Audit Office supports the Federal Assembly and the Federal Council through the production of analyses and reports. The chairman of the Audit Office is

elected by the Federal Council; this election must be confirmed by the Federal Assembly. The Audit Office acquired a very independent and self-confident role in the case of the politically controversial export of arms to war-prone regions (NZZ 4 September 2018). It has harshly criticized the federal administration for being insufficiently critical of and for working too closely with representatives of the arms industry.

The power and salience of the Audit Office have been further strengthened by the new rules on political-party financing transparency (SFAO 2024b). The Audit Office has substantial inquiry powers and means. Although it is affiliated with the Department of Finance, its mandate extends beyond strictly financial audits, and include the implementation and impact of laws. The Audit Office now has a dedicated line of action regarding whistleblowing.

Citation:

SFAO (Swiss Federal Audit Office, Eidgenössische Finanzkontrolle). 2024. "Legal mandate." <https://www.efk.admin.ch/en/about-us/act.html>

SFAO (Swiss Federal Audit Office, Eidgenössische Finanzkontrolle). 2024. "How does transparency in political funding work in Switzerland?" <https://www.efk.admin.ch/en/political-funding/background/how-does-transparency-in-political-funding-work-in-switzerland.html>

United Kingdom

Score 10

The National Audit Office (NAO) is independent of both the government and the civil service, and it is overseen by the Public Accounts Committee (PAC) of the House of Commons. The NAO examines government departments, executive agencies, and arm's-length bodies, focusing on assessing the value for money of public spending. It also provides guides on good practice and distills lessons learned on cross-cutting issues important to the government. The NAO is led by the Comptroller and Auditor General, an officer of the House of Commons with statutory authority. By working closely with the PAC, which had 41 active inquiries at the end of 2023, the NAO can both select its investigations and influence public debate. However, the NAO clarifies that its purpose is to investigate whether public money has been well used, not to question government policy objectives.

The NAO conducts over 400 financial audits annually, including audits of all government departments, executive agencies, arm's-length bodies, companies audited under statute or on a voluntary basis, and some charities. Additionally, the NAO publishes around 60 value-for-money reports each year, making recommendations for more efficient and effective spending. It also issues lessons learned reports and good practice guides. The NAO has some international activities, serving as the external auditor for certain international organizations and providing technical assistance to audit institutions in countries receiving UK aid.

NAO reports, often discussed in the PAC, receive extensive media coverage and frequently highlight issues for public authorities. For example, a 2021 report on

COVID-19 criticized the procurement of personal protective equipment (PPE) and other goods and services through emergency direct awards instead of established procurement procedures. In the same year, the NAO found that the government was too slow in disbursing compensation to victims of the Windrush scandal. In 2023, the NAO drew attention to delays in auditing local authorities in England, several of which subsequently admitted to insolvency risks.

Each devolved parliament and government has its own audit office, conducting equivalent research and audit functions. These offices are essential for scrutinizing devolved public services. However, issues such as COVID-19 policy, where both UK and devolved governments funded initiatives, highlight the limitations of these offices in auditing the full range of activities in each country.

Australia

Score 9

Australia has well-resourced audit offices at federal and state levels, ensuring effectiveness in this area. The Australian National Audit Office (ANAO), led by the Auditor-General, audits Commonwealth agencies' financial statements and conducts performance assessments. Parallel institutions exist at the state level to monitor state agencies' activities. While there is little evidence of corruption or extreme maladministration in the public sector, commentary suggests some areas of weakness, including procurement, cybersecurity, and grants administration (Macdonald 2022). Furthermore, it has been observed that on a few occasions there have been efforts by an Australian government to obstruct the oversight activities of the Auditor-General by resorting to the doctrine of cabinet confidentiality (Patrick 2023). However, this practice and line of argument is unusual.

Citation:

Macdonald, A. 2022. "ANAO Auditor-General Says Public Sector Regularly Falls Short in Three Areas." *The Mandarin* August 26. <https://www.themandarin.com.au/198283-anao-auditor-general-says-public-sector-regularly-falls-short-in-three-areas/>

Patrick, R. 2023. "If the Premier Won't Be Transparent, the Auditor-General Should Take Action." *In Daily* October 9. <https://indaily.com.au/opinion/2023/10/09/if-the-premier-wont-be-transparent-the-auditor-general-should-take-action>

Belgium

Score 9

Established by the constitution (Article 180), the Court of Audit (Cour des Comptes/Rekenhof) is a collateral body of parliament. It exerts external control over the budgetary, accounting, and financial operations of the federal state, the communities, the regions, public-service institutions that depend on them, and the provinces. Some public firms and nonprofit organizations are also subject to review, such as the Flemish public-transportation firm De Lijn, which was audited in 2013.

The Court of Audit's legal powers grant it considerable independence and broad autonomy to fulfill its mandate. Members of the Court of Audit are elected by parliament. The court's reports are public and presented to parliament along with the state accounts. The body regularly attracts media attention for its critical remarks regarding the management of public entities or services, such as roads in Wallonia or so-called Economic Activity Zones. However, its recommendations and criticisms are seldom followed up with concrete political actions.

Citation:

<https://www.rtf.be/article/la-cour-des-comptes-dezingue-la-gestion-des-parcs-d-activites-economiques-en-wallonie-11171356>

<https://www.ccrek.be/EN/Presentation/Presentation.html>

<https://www.courdescomptes.be/EN/>

Czechia

Score 9

The Supreme Audit Office (Nejvyšší kontrolní úřad, NKÚ) was established in 1993 (law 166/1993) as an independent audit institution. It oversees public spending and budgeting, evaluating the effectiveness, economy, and efficiency of public resource utilization and identifying weaknesses in their expenditure.

The NKÚ provides independent and impartial reports to the government, the Chamber of Deputies, the Senate, experts, and the public. These reports assess whether national resources have been used effectively, economically, and efficiently, and whether all binding legal regulations have been observed. NKÚ officers face no term limits but must retire at age 65. The president of the Czech Republic nominates the leadership, and all nominations are confirmed by the parliament. On average, the NKÚ audits CZK 230 billion per year, completing 33 control actions in 2022, investigating 167 individuals, and making 19 recommendations.

The NKÚ's annual report for 2022 emphasized the need for substantial changes to achieve sustainable budgets. This commentary mirrored the government's analysis justifying its 2023 package of measures and was implicitly controversial both politically and economically, as discussed under Sustainable Budget Policies.

The report also conducted several investigations into individual government expenditures, uncovering various weaknesses and irregularities. For example, goals for digitalization had not been met and relied heavily on one-off funding from the EU, raising concerns about the lack of guaranteed long-term funding. The use of EU funds during 2016-2017 (the most recent period investigated) was often improperly planned and controlled. Allocations frequently did not follow stated rules, despite contemporary reports suggesting compliance. In practice, allocated sums were often higher than those specified in the bidding process, with inadequate recording of spending and evaluation of impacts. Moreover, assistance intended for smaller enterprises frequently benefited large firms.

While effective auditing is in place, it remains up to public bodies to address the issues raised by the audit office. Past experience shows that media attention is sometimes drawn to these findings.

Citation:

Supreme Audit Office. <https://www.nku.cz/cz/o-nas/>

Annual Report from the Supreme Audit Office. 2022. <https://www.nku.cz/assets/publikace-a-dokumenty/vyrocnizprava/vyrocnizprava-nku-2022.pdf>

Estonia

Score 9

The National Audit Office (NAO) is an independent institution defined by the Estonian constitution. According to the constitution, the NAO is not a part of any branch of power, and it must remain independent. The scope, functions and competences of the NAO are defined in the National Audit Office Act. The primary purpose of the NAO is to exercise economic oversight over the funds of the public sector. Although the reports of the NAO are aimed at the national parliament, the government and the public, the parliament remains the foremost client. The auditor general annually reports to the parliament on the use of public funds and on government budgetary discipline and spending.

Besides providing the annual audit report to the Riigikogu, the NAO conducts performance audits across various policy domains, focusing on strategies and specific pressing issues. No external entity can mandate the NAO to perform audit functions. The NAO independently determines what, when and how to audit. The NAO Act grants the office the legal authority to obtain all necessary information to conduct its work.

The auditor general (AG) is appointed to office by the Riigikogu for a term of five years, with candidates proposed by the president. A candidate for the position of AG must pass a security check by the Estonian Internal Security Service. Removal of the AG is determined under conditions specified in the NAO Act. The Supreme Court makes relevant decisions in cases of extended incapacity to work or entry into force of a judgment of conviction for a criminal offense.

The activities of the NAO are financed from the state budget. Since the budget is drafted by the Ministry of Finance, a certain breach of financial independence exists for the NAO – that is, the Ministry of Finance, which is audited by the NAO, effectively decides on the extent and manner of financing of the entity auditing it. The NAO employs approximately 100 people. Three-fourths of them are engaged in auditing, while the remaining one-fourth perform support and administrative tasks. In recent years, the National Audit Office (NAO) and the auditor general have become more active in communicating their work to the public. As a result, a number of shortcomings and problems in the work of government have been brought

into public debate, eventually contributing to the quality of policy implementation. The findings of the NAO are widely reported in the media and are publicly available on the NAO's website.

France

Score 9

The national Court of Auditors (Cour des Comptes) is a powerful and independent institution. It monitors the accounts of any institution that spends public money. The court is independent in the choice of the audits it undertakes. Since 2008, the institution being monitored can “contradict” or corrected the audit. A decree-law from March 2023 creates an “appeal court of auditors,” with the Conseil d’Etat – the administrative high court – acting as the final appeal court.

The institution appears to possess the means necessary to exercise its powers. It is a very prestigious institution, representing one of the most preferred posts in French administration, especially for the best students leaving the elitist National School of Administration (ENA, now INSP).

The president of the court is named by the Council of Ministers (the president and the government). It is thus usually a rather visible political figure who fulfills the necessary credentials, such as some past linkage to the court, ideally being a member of that administration. Since 2020, the position has been held by Pierre Moscovici, a former minister of the economy under the Hollande presidency, and a European commissioner. Once named, the court president cannot be removed, granting the officeholder substantial autonomy. Typically, the fact that the president is a leading politician gives the court some public visibility. However, to date, no president of the court has attempted to return to politics afterward.

Latvia

Score 9

The State Audit Office is an independent and collegial supreme audit institution. It operates independently of parliament and the government (State Audit Office Law). The auditor general is appointed to office by the Saeima for four years. The current auditor general was approved in December 2023.

The State Audit Office conducts financial, compliance, and performance audits of executive and local authorities. Both the parliament and the government have full access to the audit findings and conclusions. The State Audit Office also has complete access to the information and evidence required for its audits.

In 2022, it had a 93.1% implementation rate for its recommendations. The highest number of recommendations was for the Ministry of Education and Science and the Ministry of Welfare – both responsible for sectors with major reforms expected (Valsts kontrole, 2024).

The 2022 – 2025 Strategy of the State Audit Office focuses on strengthening the effectiveness of public expenditure, building trust in the public sector, enhancing the impact of the Supreme Audit Office for the public good, and increasing the capacity and professionalism of auditors (Valsts kontrole, 2023).

The audits are extensively reported in the media. The State Audit Office's Public Council also supports these publicity efforts. Several audits have attracted significant press and public interest – huge financial problems at Rezekne city municipality, public procurement for the military, and the malfunctioning healthcare system in the sphere of oncology.

Citation:

State Audit Office Law. <https://likumi.lv/ta/en/en/id/62538-state-audit-office-law>

European Court of Auditors. 2023. "Latvia." <https://op.europa.eu/webpub/eca/book-state-audit/en/#h-17>

Valsts kontrole. 2023. Latvijas Republikas Valsts kontroles 2022. gada publiskais pārskats. Rīga. <https://lrvk.gov.lv/uploads/files/Dokumenti/Par%20mums/Gadap%C4%81rskati/Valsts%20kontroles%202022.%20gada%20publiskais%20p%C4%81rskats.pdf>

Valsts kontrole. 2023. "Valsts kontroles darbības stratēģija 2022.-2025.gadam." <https://www.lrvk.gov.lv/lv/par-mums/valsts-kontrole/strategija>

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Lithuania

Score 9

Lithuania has an independent National Audit Office whose autonomy is guaranteed by both the appointment process and its accountability mechanisms. The parliament appoints the auditor general based on a nomination by the president. The National Audit Office is accountable to both the parliament and the president. The parliament's Committee on Audit reviews financial, compliance and performance audit reports submitted by the office and prepares draft parliamentary decisions concerning the implementation of audit recommendations. Traditionally, the position of the head of the Committee on Audit is allocated to a member of the Seimas opposition. The National Audit Office also collaborates with other parliamentary committees.

In practice, the National Audit Office consults political institutions, stakeholders and society on the question of which audits to undertake. However, it retains the discretion to make the final decisions regarding the audits, which are planned in advance every year. The Seimas has the right to request a particular audit by adopting a resolution. According to the National Audit Office, it determines which audits to undertake based on priority areas, in addition to those audits it is legally required to perform, such as the audits of draft annual state budgets and EU investments.

The National Audit Office serves as an independent fiscal institution, monitoring compliance with EU fiscal-policy norms. According to an OECD review released in

2019, this unique institutional setup, in which the independent fiscal institution (founded in 2015) is part of the National Audit Office, presents several challenges. These include a lack of clear public identity and operational independence, as well as difficulties in recruiting and retaining senior staff members. However, the Budget Policy Monitoring Department (BPMD) was praised for quickly establishing “a reputation for solid independent analysis,” contributing to fiscal transparency and enhancing parliamentary and public debates.

In the past, the National Audit Office has criticized the government’s draft budgets for their lack of compliance with fiscal-discipline provisions and poor allocation of government expenditures. While these criticisms are not always taken into account, there seems to have been progress over time. The Office monitors the implementation of its recommendations and provides up-to-date data on their implementation on its web page. It has also undertaken initiatives to inform the general public about the importance of the efficient and effective use of taxpayers’ money, as well as the challenges to the sustainable development of the state in addressing the most important issues.

Citation:

National Audit Office. <https://www.valstybeskontrolė.lt/EN>

OECD Independent Fiscal Institutions Review. 2019. “Lithuania’s Fiscal Independent Institution.” <https://www.oecd.org/gov/budgeting/lithuania-independent-fiscal-institutions-review-2019-en.pdf>

Slovenia

Score 9

The Court of Audit, which was established in 1991 and has been operational since 1995, is an independent state body tasked with monitoring and ensuring the transparent and efficient use of public funds in Slovenia. It audits all public institutions that receive public or European funds. Financially independent, it presents a financial plan to the National Assembly, which authorizes funds, making it an autonomous budget user. While mandated to conduct certain audits, no entity can delegate tasks or issue instructions. However, the National Assembly and the government can propose specific audits, with the court selecting at least five proposals from the National Assembly, including two from opposition MPs. Additionally, it can initiate audits based on initiatives from individuals and civil society organizations. The National Assembly appoints the president and two deputies of the court for nine-year terms.

The highly trusted Court of Audit regularly conducts effective and independent audits, prompting remedial actions for identified irregularities. From 2020 to 2022, it faced pressures from both the government and the opposition, including internal conflicts over audit reports, notably regarding the procurement of COVID-19 protective equipment.

During the same government’s tenure, Prime Minister Janša initially refused to nominate two Slovenian prosecutors proposed by the Judicial Council to the EU

Public Prosecutor's Office (EPPO). After negotiations and EU intervention, the government finally informed the EPPO about the candidates in November 2021, leading to their nomination for a five-year term.

Under Robert Golob's new government, a new president of the Court of Audit was appointed in July 2022, following changes in the deputy president position in 2021. In 2022, the court issued numerous audit reports, summary reports, and post-audit reports covering 94 audited entities. The National Assembly committee overseeing public finances reviews these reports regularly, and the media frequently covers the court's findings.

Citation:

Računsko sodišče. 2023. "Poročilo o delu 2022." <https://www.rs-rs.si/o-racunskem-sodiscu/o-racunskem-sodiscu/onas/>

Delo. 2023. "Evropska delegirana tožilca." <https://www.delo.si/tag/evropska-delegirana-tozilca/>

Dnevnik. 2021. "Po izvolitvi Frank Elerjeve in Oštirja za delegirana tožilca Dikaučič želi spremeniti zakonodajo." <https://www.dnevnik.si/1042977756>

Greece

Score 8

Greece's Hellenic Court of Audit (ElSyn 2024) is a highly respected and independent institution with nearly 200 years of history, having been established in 1833 and modeled on the French "Cour des Comptes." The Greek constitution guarantees its organization and operation (Article 98).

The Hellenic Court of Audit plays a crucial role in auditing public finances and acts as a high-level court for disputes related to public pensions and the financial responsibilities of public servants. Among its most significant tasks are controlling government expenditures and supervising public procurement, especially concerning high-cost public tenders.

The audit office has unrestricted access to information, documents, and premises during its audits. It is well-equipped with the financial and human resources necessary to fulfill its duties. The executive branch cannot interfere with the decisions made by the audit office, and these decisions carry the weight of court rulings, which the government and public administration are obliged to follow.

The audit office is held in high regard, on par with Greece's highest courts, such as the Supreme Criminal and Civil Court (Areios Pagos) and the Supreme Administrative Court (Symvoulío tis Epikrateias). Accordingly, the head (president) of the audit office is appointed in the same manner as the heads of these courts, as specified in the constitution (Article 90, paragraph 5). This process involves the ranking of candidates by the supreme courts, followed by the cabinet selecting appointees from among the highest-ranking judges and submitting a list of

candidates to a parliamentary committee composed of the speaker, vice presidents, and other heads of parliamentary committees (the “Conference of Parliamentary Chairmen”). This committee votes by reinforced majority on the new head, who is then officially appointed by the Minister of Justice.

While the appointment process allows for some political discretion, it generally ensures the independence of the audit office’s head.

The audit office publishes an annual report, which it submits to parliament. Although these reports are not frequently covered in the media or widely utilized by the legislature, they are an essential part of parliamentary debates.

Citation:

EISyn. 2024. “Hellenic Court of Audit.” <https://www.elsyn.gr/en>

Portugal

Score 8

The primary national audit institution in Portugal is the Tribunal de Contas, which operates as a Supreme Audit Institution following the court model. According to the Portuguese constitution and the law, the Court of Auditors is a sovereign body and a Supreme Court with unique jurisdiction. Its primary mission is to externally and independently control public financial activities and enforce financial responsibilities, serving as a cornerstone of the country’s financial governance.

This audit office operates independently from the government while remaining an integral part of the judicial system, as mandated by Lei n.º 98/97. The head of the audit office is appointed by the president of the republic, upon a proposal from the government, ensuring the preservation of its independence.

Additionally, the Tribunal de Contas possesses jurisdiction and financial control powers that enable it to make independent and autonomous decisions regarding the audit processes it undertakes. This court conducts its audits effectively despite encountering persistent challenges, notably the issue of workforce rejuvenation, characterized by a low percentage of employees under the age of 40.

The Organizational and Procedural Law specifies that the Court of Auditors is responsible for evaluating the legality and the economy, effectiveness, and efficiency, based on technical criteria, of the financial management of public entities, including the organization, functioning, and reliability of internal control systems. Article 11(2) also states that the court cooperates with other sovereign bodies – primarily through its support services – to disseminate necessary information for preventing and combating waste, illegality, fraud, and corruption concerning public funds and values at both the national and community levels.

Citation:

Law on Organisation and Procedural Law of the Court of Auditors (LOPTC) (Lei de Organização e Processo do Tribunal de Contas). 1997. https://diariodarepublica.pt/dr/detalhe/lei/98-1997-193663?_ts=1703762058332

Slovakia

Score 8

The Supreme Audit Office of the Slovak Republic (NKÚ) is an independent body established by law. It has nearly 300 employees and a budget of €13.9 million in 2022, determined annually by the State Budget Law. NKÚ conducts financial, compliance, and performance audits with full discretion over the scope of its audits. It is authorized to obtain necessary information and question officials and witnesses. The president and two vice presidents of NKÚ are elected by the National Council of the Slovak Republic via secret ballot (Law 39/1993).

Since its inception in 1993, NKÚ's ability to perform high-quality audits has improved, and its reports have received significant media coverage. However, a key limitation is the follow-up on its recommendations, with implementation details often only available in control protocols (Nemec, 2022). The Open Budget Survey (OBS 2021) rates NKÚ as competent and efficient but suggests improvements in auditing a larger percentage of budgeted and extra-budgetary funds. The OBS also recommends that NKÚ report on executive actions taken in response to its findings and that the executive publicly disclose the steps taken to address these recommendations.

Citation:

Nemec, J. 2022. Public Administration and Governance: Slovakia. Brussels: European Union.

Zákon 39/1993 o Najvyššom kontrolnom úrade SR. https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/39/vyhlasene_znenie.html

Open Budget Survey. 2021. "Slovakia." <https://internationalbudget.org/open-budget-survey/country-results/2021/slovakia> or <https://internationalbudget.org/sites/default/files/country-surveys-pdfs/2021/open-budget-survey-slovakia-2021-en.pdf>
www.nku.gov.sk

United States

Score 8

In the 1970s, in response to the Watergate scandal, Congress created numerous regulatory agencies responsible for overseeing the executive branch, including those from within the executive branch itself (Roberts and Dull 2013). These independent agencies and auditors have collectively become known as the "accountability state" (Hilliard, 2017).

Inspectors general play an important role in the federal government, regularly monitoring for unlawful or inefficient behavior by the agencies (Potter 2019). They are generally regarded with a high level of respect and seen as having mostly avoided the partisan politicization that characterizes much of the U.S. government (Spence 2019).

Some concerns have been raised about a chilling effect caused by U.S. presidents dismissing inspectors general who seem to frustrate or embarrass their administration (Dodds 2020). Various presidents have entered office and tried to remove inspectors general. Ronald Reagan removed more than a dozen in his first few weeks in office. His successor, George H. W. Bush, tried to remove all of them but came under intense political pressure and relented. More recently, Donald Trump was known for removing inspectors general whom he found troublesome (Thompson et al. 2020). Congress can insist on the reinstatement of inspectors general, and this sometimes happens, but generally the president's party in Congress tends to side more with the president of their own party than with government bureaucrats in such disputes (Michaels 1997).

Citation:

Nadia Hilliard. 2017. *The Accountability State*. Lawrence: University Press of Kansas.

Patrick Roberts and Matthew Dull. 2013. "Guarding the Guardians: Oversight Appointees and the Search for Accountability in US Federal Agencies." *Journal of Policy History*.

Joel Aberbach and Bert Rockman. 2009. "The Appointments Process and the Administrative Presidency." *Presidential Studies Quarterly*.

Judith Michaels. 1997. *The President's Call*. Pittsburgh: Pittsburgh University Press.

Frank Thompson, Kenneth Wong, and Barry Rabe. 2020. *Trump, the Administrative Presidency, and Federalism*. Brookings.

Graham Dodds. 2020. *The Unitary Presidency*. New York: Routledge.

Rachel Potter. 2019. *Bending the Rules: Procedural Politicking in the Bureaucracy*. Chicago: University of Chicago Press.

David Spence. 2019. "The Effects of Partisan Polarization on the Bureaucracy." In *Can America Govern Itself?*, eds. F. Lee and N. McCarty. Cambridge: Cambridge University Press.

Ireland

Score 7

Ireland has increasingly adopted an "evidence-informed approach" to policymaking, favoring it over an evidence-based one. Ruane (2021) highlights the significant role of the central statistics office in integrating high-quality datasets into policy formulation. More recently, following the Troika, the Irish Government Economic and Evaluation Service (IGEES) has been supporting departmental-level audits and developing capacity to address future data challenges. An OECD review of IGEES found it made a "significant difference in strengthening the analytical capacity of the Civil Service in Ireland."

To further improve the quality of policy analysis and challenge government economic and budgetary proposals, several other institutional innovations have been introduced. These include the creation of the independent Irish Fiscal Advisory Council (IFAC) and the Parliamentary Budget Office (PBO). An Official Statistics Board, chaired by former Assistant Secretary to the Department of Social Protection Anne Vaughan, provides oversight and coordination. Additionally, the Oireachtas Library Service, Department of Finance, Department of Public Expenditure and Reform, Central Bank, Fiscal Advisory Council and various sub-sectoral Ombudsman offices (policing, media, children etc.) perform watchdog functions, reviewing fiscal issues and debt sustainability.

The Office of the Comptroller and Auditor General (C&AG) derives its remit from Article 33 of the 1937 constitution of Ireland, although it was established in 1923 and had its powers substantially revised in 1993. These revisions included the assessment of value for money and special assessments of economy, effectiveness and efficacy in specific aspects of public administration. The latest published example is the review of NAMA (C&AG 2022). The independent C&AG is appointed by the president, based on the nomination of Dáil Éireann, and operates under a strong culture aligned with constitutional and legislative provisions to act independently of the government and report to parliament.

The C&AG's remit includes the state and state bodies, including specified agencies or bodies receiving state funds. It publishes annual reports on the Accounts of the Public Services, the latest being for 2022 (published in 2023), addressing issues arising from audits of government departments and offices, including the accounts of the Revenue Commissioners. These reports are examined in detail by the Dáil Committee of Public Accounts. The latest general report publicly available is a 2021 evaluation of the National Asset Management Agency (C&AG 2022), and a 2023 audit of the Irish Advisory Council on 25 reports undertaken in 2022.

Scott's (2021) assessment views the development of the C&AG office as consistent with international trends of arms-length regulation. However, he identifies significant weaknesses in Ireland's regulatory capacity, effectiveness and accountability. While the C&AG has strong formal independence, including protection from removal from office, its capacity for formal regulation or enforcement is limited.

Citation:

C&AG. 2023. "<https://www.audit.gov.ie/en/find-report/publications/2023/25-irish-fiscal-advisory-council.pdf>"

C&AG. 2022. "National Asset Management Agency: Progress on Achievement of Objectives as at End 2021." <https://www.audit.gov.ie/en/find-report/publications/2023/special-report-116-nama-progress-on-achievement-of-objectives-as-at-end-2021.pdf>

Coakley. 2021. "The Politics of the Presidency." In *The Oxford Handbook of Irish Politics*, eds. Farrell D. and N. Hardiman, 366-382. Oxford: OUP.

Daly, P. 2021. "The Irish Courts and the Administrative State." In *The Oxford Handbook of Irish Politics*, eds. D. M. Farrell and N. Hardiman, 264-280. Oxford: Oxford University Press.

Reidy, T., and F. Buckley. 2017. "Democratic Revolution? Evaluating the Political and Administrative Reform Landscape After the Economic Crises." *Administration* 65 (2): 1-12.

Ruane, F. 2021. "Introducing Evidence into Policy Making in Ireland." In *Policy Analysis in Ireland*, eds. J. Hogan and M. P. Murphy, 63-76. Bristol: Policy Press.

Scott. 2021. "Politics of Regulation in Ireland." In *The Oxford Handbook of Irish Politics*, eds. Farrell D and N Hardiman, 647-668. Oxford: OUP

Italy

Score 7

The Italian Court of Audit (Corte dei Conti) is a constitutional body responsible for oversight and judicial functions in public accounting and related legal matters. It also offers expert advice to the government, parliament, and local authorities when requested.

Article 100 of the Italian constitution mandates that the Court of Audit conduct a preventive evaluation of the legality of government actions and assess subsequent state budget management. In jurisdictional matters, the Court has the authority to adjudicate cases involving accountants, administrators, and public officials for all aspects of public resource management.

The leadership of the Court of Audit consists of a board of presidency, which includes a president, four members selected by parliament, four members elected from among the Court's magistrates, and the Court's general prosecutor. The president is appointed by decree of the president of the republic on the recommendation of the president of the Council of Ministers. The board's elected members serve four-year terms and are ineligible for reelection for eight years after their term ends. The Court regularly reports its findings to parliament but is not accountable to it, as it stands as an independent judicial body.

Recently, the Court of Audit has been at the center of public debate due to its oversight responsibilities associated with the implementation of the National Recovery and Resilience Plan (NRRP). The Court's 2023 report on public finance coordination emphasized that Italy is significantly lagging in spending European funds. This finding prompted a strong response from the Meloni government, which deemed the Court's attitude counterproductive. These remarks were followed by the approval of Decree Law 44/2023, which reduces the Court's concurrent control function. The role of the Court in implementing the NRRP, as clarified in a government declaration, is thus successive.

Citation:

Report on public finance coordination: <https://www.corteconti.it/Download?id=ddfd70d1-1d57-46c6-b12c-6c0001670bb7>

REV: A public statement of the government clarified the role of the Corte dei Conti re NRRP:

www.governo.it/it/articolo/norme-riguardanti-la-corte-dei-conti-e-i-controlli-sul-pnrr-nota-di-palazzo-chigi/22788

Netherlands

Score 7

The General Audit Chamber (Algemene Rekenkamer) annually scrutinizes annual reports and ex post policy evaluations by ministerial departments. In 2012, the government introduced the Regulation for Regular Evaluation Studies, which specifies criteria for assessing policy efficiency, goal achievement, evidence-based policymaking and subsidy-based policies. The Chamber chooses its own research agenda formally independently, but informally in consultation and coordination with the government and its departments. In line with the general trend toward more instrumental advice, the General Audit Chamber has focused its attention on specific points in departmental agendas. Multiyear research programs focus on policy areas and themes of significant financial and societal importance. Accountability research consists of examination of departmental annual reports, with the goal of doing more than simply approving the national accounts and giving an opinion on the quality of

operational management. In the coming years, the focus will be on data management and the use of (machine learning) algorithms.

Since evaluation findings are just one factor in designing new or adjusting existing policies, it is not clear how much policy learning actually occurs. A recent study commissioned by the minister of finance assessed past evaluations and their use. The study confirmed that although “no other country evaluates so many of its policies,” policymaking civil servants and members of parliament are less sensitive to the outcomes of previous policies than to images and incidents (as reported in the press). One thing is very clear though: If learning occurs, it becomes evident only years after a seriously problematic situation is first signaled.

One cause of this delay may be political interference in the functioning of inspectorates and monitoring agencies. State inspectorates are currently part of a ministry. As such, they are embedded in terms of finances, external communication and press relations, and research programming. Even the assessment of its performance depends on the ministry. A minister has far-reaching powers to issue instructions. These sometimes involve the omission of serious inspection in certain policy aspects or areas, and sometimes the intensification of such activity. Ministries may also influence the effectiveness of inspectorates by withholding research budgets. One inspector has described the swing of the pendulum: “After every disaster there is criticism: The government is lax, supervision is inadequate. But if things go well for a while, the opposite is heard: The government must take a step back. The Netherlands can do with less supervision, because the administrative burden is too high.”

Studies show that the selection of cases to be investigated by the auditors (Rekenkamers) – especially at the local level – seems to be rather random, and methods used for evaluation are not always very convincing. At the same time, there is much more scrutiny than elsewhere, and it is relatively independent, with serious criticisms resulting. Yet again, much of this critique is often ignored for years, and always draws almost immediate denials by those in power.

Citation:

P. Omtzigt. “Concept Verslag Notaoverleg, Tweede Kamer, Initiatiefnota van het lid Omtzigt ‘Voorstellen ter versterking van de onafhankelijkheid van rijksinspecties’ (36149).”

Algemene Rekenkamer. 2021. Vertrouwen in verantwoording, Strategie 2021-2025.

Toezine. “Toezichthouders kunnen meer hun rol als evaluator pakken.”

02 november 2021

NRC, Karlijn Kuijpers, Derk Stokmans. 2023. “Houd de politiek buiten het toezicht, zeggen de inspecteurs.” NRC June 11.

F. Mertens. 2023. De minister en de inspecteur-generaal. Fragmenten uit de geschiedenis van het onderwijstoezicht. Delft: Eburon.

Spain

Score 7

The Court of Audit, recognized by the Spanish constitution, is an external audit body responsible for auditing the state's accounts, electoral and party funding, and the financial management of the entire public sector. In addition, most autonomous communities have established regional courts of audit to monitor their devolved competences. The national audit office is empowered to undertake investigations on its own initiative following the submission of a complaint and has the authority to impose substantial penalties for the misuse of public funds.

The head of the audit office is appointed by the King based on a proposal from the plenary, for a term of three years. The election is conducted by secret ballot. Members of the plenary and the head of the Court can be removed from office only after completing their term, upon resignation accepted by the parliament, due to incapacity or incompatibility, or for serious failure to perform their duties (Court of Audit 2023).

After a contentious period when the political autonomy of the Court was questioned, the major parties reached an agreement in 2021 to renew its members.

Although there have been certain improvements (the budget for 2023 was €78 million; 2020 €63 million), the office suffers from a lack of financial resources, personnel, and independence from politicians, since members of the plenary are appointed by the parties themselves. The Court of Audit legally has budgetary autonomy and draws up its own budget, which is approved by parliament.

The Court of Audit actively exchanges information on improved methods as a member of several international organizations of supreme audit institutions, such as EUROSAI, INTOSAI, and OLACEFS. It also maintains relations with the European Court of Auditors and participates in auditing various international organizations.

Citation:

Court of Audit. 2023. "Website." <https://www.tcu.es/en/>

Israel

Score 6

The State Comptroller's Office is an independent audit office that audits government ministries, local and municipal governments, and other independent governmental organizations, including public universities, all military branches and government-funded corporations. The scope of its audit powers is one of the broadest in the world, giving the comptroller jurisdiction over 1,400 organizations. The office derives its authority from the Basic Law: The State Comptroller, which authorizes it to receive immediate information from bodies being audited.

Additionally, the state comptroller is responsible for auditing campaign and party finances, and reviewing the accounts and finances of party candidates and government ministers. The office also serves as the State Ombudsman, responding to complaints from the public regarding the organizations under its jurisdiction. The State Comptroller's Office acts independent, and its reports and conclusions are widely covered in the media and public discourse.

The comptroller reports on government ministries and local authorities. The decision on which issues and departments to investigate lies with the comptroller. The reports are also presented in parliamentary committees. Each agency examined must collaborate with the comptroller. Additionally, each agency must provide a response to the comptroller's reports and findings, explaining their activities and the corrections being made. The comptroller, however, has no legal authority to force an agency to make the necessary amendments.

The state comptroller is elected in a secret vote by the Knesset for a period of seven years. The budget of the State Comptroller's Office is determined by the Knesset Finance Committee to ensure its independence from the executive branch. The Knesset also decides the state comptroller's salary and holds the power to remove them from office, although no state comptroller has ever been removed from office in Israel.

The State Comptroller's Office publishes various types of reports, most of which are discussed by the Knesset. The media discusses the major annual report as well as reports it believes are of public interest. For example, the reports on the fire in Carmel in 2008, housing expenses of Prime Minister Netanyahu and issues that could lead to criminal charges have been discussed in the media.

The current state comptroller was appointed in 2019. Upon entering office, the state comptroller announced several changes to how the State Comptroller's Office would function, including issuing positive reports in addition to negative ones. Furthermore, the state comptroller closed the department responsible for examining corruption issues and made it more difficult for whistleblowers. Because the state comptroller lacks legal authority to enforce his recommendations, his power derives from his personal influence and the media coverage his reports receive. As the present state comptroller has repeatedly expressed a desire to limit his critique of government activities, it appears that the power of the State Comptroller's Office has diminished.

Citation:

The State Comptroller <https://www.mevaker.gov.il/he/Pages/default.aspx>

Japan

Score 6

According to the constitution, state revenues and expenditures are audited annually by the Board of Audit. The Board of Audit Act clarifies the organization and mandate of the board. The board is independent of the cabinet. It is composed of commissioners appointed for five-year terms by the cabinet with the consent of both houses of parliament. Commissioners can be removed from office only if they are sentenced to imprisonment or retire upon reaching the age of 70. While judges were previously appointed from among high-ranking bureaucrats, especially Ministry of Finance officials, at present they are recruited either from academia or from among the Board of Audit bureaucrats, which reduces the risk of collusion with different ministries.

The Board of Audit has the obligation to audit the revenues and expenditures of all state institutions and all juridical persons whose stated capital is based 50% or more on funds provided by the state. If it finds it necessary or is requested by the cabinet, it can audit the financial management of other entities (e.g., those that receive state subsidies). All entities are obliged to accept field audits and provide the requested documents. The board may request the head of a ministry or agency to take disciplinary action against an official who has caused substantial damage to the state. Any crimes must be reported to the Public Prosecutor's Office. Audit reports have to be submitted to, but need not be approved by, the Diet.

Japan ranked average among OECD countries in the Open Budget Survey 2021. A notable weakness of Japan's Board of Audit is the lack of formal mechanisms for public assistance in audit investigations. Annual audit reports occasionally capture public attention. For example, the November 2023 report revealed 344 instances of wasteful spending or inappropriate accounting, amounting to JPY 58 billion (about €360 million). The board also indicated that unsecured financial assistance from government-affiliated financial institutions aimed at countering the effects of the COVID-19 pandemic amounting to JPY 69.7 billion (about \$463 million) had become irrecoverable.

Citation:

Board of Audit of Japan. 1947, amended 2021. "The Board of Audit Act." <https://www.jbaudit.go.jp/english/jbaudit/law.html>

International Budget Partnership. 2022. "Open Budget Survey 2021, Japan." <https://internationalbudget.org/sites/default/files/country-surveys-pdfs/2021/open-budget-survey-japan-2021-en.pdf>

Prime Minister of Japan and His Cabinet. 1946. "The Constitution of Japan." https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

Watanabe, Toru. 2023. "3 mil. in unsecured COVID loans in Japan irrecoverable, total may hit \$6.64 bil." The Mainichi, November 8. <https://mainichi.jp/english/articles/20231108/p2a/00m/0na/012000c>

Poland

Score 6

The Supreme Audit Office (Naczelna Izba Kontroli, NIK) serves as Poland's highest audit authority, operating under the principles of collegiality and accountable to the Sejm (parliament). It oversees various entities, including government administration bodies, the National Bank of Poland, state legal entities and other state organizational units. Furthermore, the NIK is empowered to audit the activities of local government bodies, legal entities of local self-government and other organizational units of local self-government. It broadens its examination to different entities and economic entities (entrepreneurs) to the extent that they use state or municipal assets or funds and fulfill financial obligations to the state. The budget implementation is also within the purview of the NIK's audit responsibilities. The office can obtain all necessary information and question officials and staff during its audits.

The president of the Supreme Audit Office is appointed by the Sejm upon the request of the marshal of the Sejm or a group of at least 35 deputies, requiring an absolute majority vote with Senate consent. The dismissal of the president is subject to stringent conditions, including a Tribunal of State verdict or severe illness, making the termination of a six-year term challenging. The approval of the budget law by the Polish Sejm concurrently approves the NIK's financial plan.

The NIK has a central bureau in Warsaw and 16 local branches, with the president wielding powers akin to the minister responsible for budget matters. The release of the NIK's findings to the media is contingent on the nature and significance of the matter. Depending on the situation, the NIK may opt to make its findings public through interviews with journalists, press conferences, or statements and information published on its website.

Marian Banaś has been the head of Poland's Supreme Audit Office since 2019. Initially associated with the Law and Justice administration, Banaś became a leading opponent following a Central Anti-Corruption Bureau investigation into alleged links to a criminal group. In 2023, before the parliamentary elections, Banaś threw his support behind the far-right party Konfederacja, citing its advocacy for the independence of the NIK (Notes from Poland 2023).

Citation:

Notes from Poland. 2023. "Head of Polish State Audit Office Holds Press Conference with Far-Right Leader." <https://notesfrompoland.com/2023/07/27/head-of-polish-state-audit-office-holds-press-conference-with-far-right-leader/>

Hungary

Score 3

The criticism faced by the Hungarian State Audit Office (ÁSZ) centers on the issues of administrative expertise, political bias, lack of transparency and potential conflicts of interest. Concerns have arisen that the office targets opposition parties and organizations with more rigorous audits while allegedly being more lenient with those aligned with the government. Additionally, there are transparency issues related to the publication of audit reports and the methodologies used in conducting audits. These criticisms highlight the challenges that independent institutions face in maintaining autonomy and public trust in a politically charged environment. For example, the Democratic Coalition (DK) and the Együtt parties were each fined HUF 16 million for renting office space below market rates. The Politics Can Be Different party (LMP) faced a similar fine of HUF 8.8 million for the same reason. These fines have raised concerns about selective enforcement, as there is no similar scrutiny of the ruling Fidesz party's activities.

Furthermore, the government urged the Audit Office to fine several NGOs critical of the government under the new anti-NGO legislation. After a field trip to Hungary in 2023, the European Parliament's budget control committee was particularly critical of the quality of the ÁSZ's leadership and performance. Overall, the Audit Office is more of a complementary government body than one that oversees the government. In February 2024, just a few months before the European Parliament and municipal elections, the State Audit Office levied a record-breaking HUF 520 million (approximately €1.34 million) fine on opposition parties for allegedly using foreign funds during the 2022 general election campaign. This action put the opposition parties in a difficult position ahead of the next campaign period and further tilted the playing field in favor of Fidesz (Bloomberg 2024).

Citation:

Bloomberg. 2024. "Hungary Clamps Down on Orban's Opponents With Hefty Fine." 20 February. <https://www.bloomberg.com/news/articles/2024-02-20/opposition-deprived-of-funding-as-orban-clamps-down-with-hefty-fine>

Indicator

Effective Data Protection

Question

Is there an independent authority that effectively holds government offices accountable for their handling of data protection and privacy issues?

30 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = An independent and effective data protection authority exists.
- 8-6 = An independent and effective data protection authority exists, but its role is somewhat limited.
- 5-3 = A data protection authority exists, but both its independence and effectiveness are considerably limited.
- 2-1 = There is no effective and independent data protection office.

France

Score 10

The country's national data protection authority, the Commission Nationale de l'Informatique et des Libertés (CNIL), is an independent regulatory authority with several core functions. It advises the government regarding data privacy and the proper implementation of EU regulations in this area (such as the General Data Protection Regulation, or GDPR). It can take the initiative to inspect data controllers to monitor compliance. Finally, individuals can appeal to the CNIL in instances of data privacy infringements. The CNIL can issue warnings and fines, and can even order data controllers to cease their activity. It is thus well equipped to pursue its goals. Despite a modest staff of 225 employees (in 2020) with a budget of €17 million, the CNIL is today a highly respected institution that received 13,585 complaints in 2020 (an increase of more than 60% following the adoption of the EU regulations), leading to a total of 9,057 inquiries.

In practice, the CNIL has not refrained from taking on powerful adversaries, such as Google or Facebook. It has been very effective over the past 40 years and showed particular strengths during the COVID-19 crisis. Its role is widely supported by the public and political elites. In 2020, the authority conducted 247 review processes and imposed 14 penalties entailing financial sums amounting to nearly €140 million. Perhaps the most visible recent example of the CNIL's power is a €50 million fine imposed in January 2019 against Google for the violation of GDPR principles.

The primary limits to the CNIL data privacy protection efforts are its limited means and the challenges presented by a constantly changing information landscape.

Citation:

CNIL. 2021. "La CNIL en bref." <https://www.cnil.fr/fr/cnil-direct/question/la-cnil-cest-quoi>

Sweden

Score 10

The public agency tasked with protecting individual privacy in Sweden is the Swedish Authority for Privacy Protection (Integritetsskyddsmyndigheten, IMY in Swedish). The data protection regulatory reform associated with the implementation of the EU's General Data Protection Regulation (GDPR) in 2018 expanded the agency's remit, which includes protecting citizens' personal information, such as health and financial data (IMY, 2024a). Consequently, the IMY has seen significant growth in budget allocation and staff in recent years. By December 2023, the number of employees had reached 132 (109 full-time equivalents), compared to just over 30 employees in 2007 (IMY, 2022, 2024b).

The agency audits both public and private sector organizations – from municipalities to H&M – at all levels of governance. These reports are independent, used as legitimate evidence in court decisions, and reported as such in the media (IMY, 2024c).

Citation:

IMY. 2022. "Integritetsskyddsmyndighetens budgetunderlag 2023–2025." <https://www.imy.se/globalassets/dokument/ovrigt/imys-budgetunderlag-2023-2025.pdf>

IMY. 2024a. "Our Mission." <https://www.imy.se/en/about-us/swedish-authority-for-privacy-protections-assignment/>

IMY. 2024b. "Integritetsskyddsmyndighetens budgetunderlag 2025–2027." <https://www.imy.se/globalassets/dokument/ovrigt/imys-budgetunderlag-2025-2027.pdf>

IMY. 2024c. "Audit reports and decisions." <https://www.imy.se/tillsyner/>

Switzerland

Score 10

Article 13 of the constitution mandates that every citizen must be protected against the abuse of data. Data protection legislation has been in force since 1993. "The Federal Data Protection and Information Commissioner (FDPIC) is the authority responsible for data protection in the case of data processing by private parties (e.g., companies) and by federal bodies. Data processing by municipal and cantonal authorities is the responsibility of the data protection supervisory authorities of the cantons or municipalities. The FDPIC has the following tasks in particular in the area of data protection:

- It supervises data processing by the federal administration and federal-related companies ... as well as by private parties (e.g., companies),
- It advises citizens, companies and private organizations as well as the federal administration and federal-related companies.
- It comments on federal legislative projects,

- It exchanges information with domestic and foreign data protection authorities and cooperates with them on a case-by-case basis,
- It raises awareness and informs the public” (FDPIC 2024).

The Federal Data Protection Law was revised in 2020, taking into account the General Data Protection Regulation of the European Union, a regulation that Switzerland had already signed. The Federal Data Protection and Information Commissioner (Eidgenössischer Datenschutz- und Öffentlichkeitsbeauftragter, EDOEB) had 41 employees in 2023 (FDIP 2023: 101). A 2011 evaluation of the Federal Data Protection Law attested to the effectiveness, independence and transparency of the EDOEB (Bolliger et al. 2011).

Citation:

Christian Bolliger, Marius Feiraud, Astrid Epiney, and Julia Hänni. 2011. Evaluation des Bundesgesetzes über den Datenschutz. Schlussbericht im Auftrag des Bundesamts für Justiz. Bern/Freiburg: Büro Vatter/Institut für Europarecht, Universität Freiburg.

FDPIC. 2023. “30th Annual Report 2022/2023.” <https://www.edoeb.admin.ch/edoeb/en/home/deredoeb/taetigkeitsberichte.html>

Federal Data Protection Commissioner, Eidgenössischer Datenschutz- und Öffentlichkeitsbeauftragter. 2024. “Data Protection.” <https://www.edoeb.admin.ch/edoeb/en/home/deredoeb/auftragundaufgaben-DS.html>

Australia

Score 9

The Office of the Australian Information Commissioner (OAIC) supports privacy regulation. The agency is independent and effective, despite challenges posed by recent high-profile data breaches highlighting weaknesses in the information protection architecture across private and public sector organizations (Tran 2023).

Citation:

Tran, D. 2023. “Data Breaches Affecting Millions of Australians Are on the Rise, Information Commissioner Says.” ABC News March 1. <https://www.abc.net.au/news/2023-03-01/data-breaches-revealed-by-australian-information-commissioner/102039710>

Austria

Score 9

Since 2013, the Austrian Data Protection Authority (ADPA) has existed, replacing the former Data Protection Committee. In 2018, the ADPA was restructured, and its staff has been continuously increased since then. The office is headed by a chairperson appointed by the Data Protection Council.

The office and its chairperson are not dependent on the government – they are not obliged to follow any specific government directive. The independence of the office has never been seriously questioned. In recent years, there have been several occasions on which the ADPA demonstrated its willingness to block planned government laws if deemed inappropriate, such as its veto against the use of algorithms by public authorities when dealing with job-seekers in 2020.

More generally, the ADPA has exercised its right to take positions in legislative processes widely and effectively. In 2023, it criticized various aspects of the suggested ORF reform bill (Der Standard 2023). The key focus of the ADPA's annual agenda in 2023 was on the financial sector (Fonds professionell 2023).

The proliferation of anonymized administrative data for researchers in Austria remains underdeveloped. While the Austrian Micro Data Center (AMDC) at Statistics Austria provides a platform for accessing some of this data, most governmental administrative data have yet to be delivered to the AMDC.

Citation:

<https://www.data-protection-authority.gv.at/>

Der Standard. 2023. "Datenschutzbehörde äußert ernste Bedenken zu ORF-Beitrag." <https://www.derstandard.at/story/3000000034792/datenschutzbehoerde-aeussert-ernste-bedenken-zu-orf-beitrag>

<https://www.fondsprofessionell.at/news/recht/headline/datenschutzbehoerde-prueft-den-finanzsektor-225930/>

Czechia

Score 9

The Office for the Protection of Personal Data (Úřad pro ochranu osobních údajů, ÚOOÚ) was first established in June 2000. Its chair is chosen by the Senate and confirmed by the president, ensuring independence from the government of the day. The EU Global Data Protection Directive of May 25, 2018, was enshrined in the Personal Data Processing Act 2019 (110/2019). This act implements the EU's new legal framework, with the ÚOOÚ responsible for its implementation. The ÚOOÚ also handles data processing that does not fall within EU law, such as immigration-related matters. It sets out requirements for processing personal data for criminal law enforcement purposes and some aspects of national security. The intelligence services are required to comply with internationally recognized data protection standards.

The ÚOOÚ has a role in electronic communications and regulates bulk commercial communication and advertising. It supervises compliance with any unsolicited advertising disseminated via electronic means and is involved in cooperation between national authorities responsible for enforcing consumer protection laws.

The new law mandates a range of new activities, and difficulties in recruiting qualified specialists have been identified as factors limiting its effectiveness. The annual report for 2022 indicates that 1,528 complaints and 664 suggestions were handled. The primary complaints involved using data for marketing purposes, making personal details public, and camera monitoring. Nearly all complaints were resolved through communication with the concerned parties, with very few advancing further. Thirty fines were issued for passing on commercial information, resulting in a total revenue of CZK 948,000. A few cases were referred to the courts.

For example, a CZK 40,000 fine against a hospital for handling electronic health documentation was upheld by the court.

Data protection issues are covered by the media on a regular basis, and the ÚOOÚ frequently comments on legislation, including that regarding personal identity cards. These cards display an identification number that includes the date of birth and sex, which is necessary for various purposes such as opening a bank account. The ÚOOÚ argued that this information should not be on a document from which it could be easily copied. However, private businesses have complained about the cost of transitioning to a different numbering system.

Citation:

<https://uouu.gov.cz/media/vyrocní-zpravy/dokumenty/uouu-vz2022-el.pdf>

Denmark

Score 9

Denmark has an independent authority, the Danish Data Protection Agency (Datatilsynet), which monitors the implementation and enforcement of data protection rules. The agency is led by a chairman and six other members appointed by the minister of justice, and its task is to supervise compliance with personal data protection rules. It also provides guidance and advice, handles complaints, and conducts inspections.

The agency primarily addresses cases of principal importance concerning personal data and the laws governing public institutions' treatment of personal information. It can sanction companies and bureaucracies with fines or demand the cessation of specific programs. For instance, it intervened when a municipality provided insufficiently secure Chromebooks to primary school students (Datatilsynet 2022).

Major recent issues concern the implementation of General Data Protection Regulation (GDPR).

The agency participates in international cooperative efforts, including within the European Union, and oversees data handling in relation to Schengen and Europol cooperation. Since 25 May 2018, when the European Union's GDPR went into effect, the agency's director has represented Denmark on the new European Data Protection Board (EDPB).

Citation:

Datatilsynet. 2022. "Datatilsynet nedlægger behandlingsforbud i Chromebook-sag." <https://www.datatilsynet.dk/afgoerelser/afgoerelser?categorizations=22717>

Finland

Score 9

Finland has two independently operating data protection authorities: the Data Protection Board and the Data Protection Ombudsman. Affiliated with the Ministry of Justice, the Data Protection Board is the primary decision-making agency concerning personal data issues. The Data Protection Ombudsman supervises the processing of personal data in accordance with the objectives of the Personal Data Act of 1999. The Ombudsman's office has about 40 employees and can be called upon for guidance in private matters or to advise organizations.

The Office of the Data Protection Ombudsman safeguards data protection rights. It is a national supervisory authority that ensures compliance with data protection legislation. This autonomous and independent entity has its ombudsman appointed by the government for a term of five years (Office of the Data Protection Ombudsman 2023).

The Office of the Data Protection Ombudsman has the resources to effectively advocate for data protection and privacy issues in relation to the government.

Data protection has been a significant issue in Finland. In 2020, a private mental healthcare provider, Vastaamo, was blackmailed by online hackers who gained access to electronic records containing sensitive health information. The case is currently being processed in court, with 14,000 charges (YLE 2023).

The data protection authorities have the necessary capacities, structural framework and personnel resources to effectively advocate for data protection and privacy issues in relation to the government. The authorities have the statutory power to access all necessary information and question officials and witnesses to fulfill their mandate. The head of the national data protection authority is appointed in a manner that ensures independence.

The legislature has final consent authority for the removal of the head of the national data protection authority. The financial and personnel resources allocated to the national data protection authority are consistent with the resources it needs to fulfill its mandate. However, decisions regarding these resources are beyond the executive's discretion.

The activities of the national data protection authority lead to adequate follow-up by the executive branch. The findings of the data protection authority are actively reported in the media and are used by the legislature.

Finlex. 1999. "Personal Data Act (523/1999)." https://www.finlex.fi/en/laki/kaannokset/1999/en19990523_20000986.pdf
The Data Protection Ombudsman, <https://tietosuoja.fi/en>

YLE. 2023. "Vastaamo Hacking Suspect Faces 14,000 New Data Breach Charges." <https://yle.fi/a/74-20051571>

Germany

Score 9

Following chapter four of the Federal Data Protection Act (Bundesdatenschutzgesetz, BDSG), the national data protection authority in Germany is the Federal Commissioner for Data Protection and Freedom of Information (Bundesbeauftragte für den Datenschutz und die Informationsfreiheit, BfDI). The BfDI is considered a supreme federal authority responsible for protecting the fundamental right of informational self-determination. It functions as both a supervisory body and an advisor to the Bundestag regarding data protection issues. Additionally, the commissioner is independent in the performance of tasks and the exercise of power, thus free from both direct and indirect external influence (Article 10 BDSG).

While the BfDI operates independently and can choose which audits to undertake, citizens have the right to file a complaint with the commissioner if they believe their rights regarding data protection or access to information have been infringed (BfDI, n.d.). Furthermore, the BfDI has access to all necessary information, as each public authority is obligated to provide all data or information needed by the commissioner to fulfill the relevant tasks (Article 16 BDSG).

The BfDI is elected, without prior debate, by the Bundestag with more than half of the parliament's statutory members at the proposal of the federal government. To be eligible for election, the candidate for the commissioner's office must be at least 35 years old and possess sufficient qualifications, experience, and skills in the domain of data protection. If elected, the BfDI serves for five years; however, reelection for one additional term is possible. Although the dismissal of the federal commissioner is possible, the standards for removal are high. Thus, removal from office is only possible at the request of the president of the Bundestag due to the commitment of serious misconduct or by no longer fulfilling the necessary requirements (Article 11f. BDSG).

Similar to the previously examined Federal Court of Audit, the BfDI, as a federal body, is financed by the federal budget, with the final amount of financial resources depending on political considerations. For the financial year 2024, the federal commissioner is allocated €45 million, making up 0.01% of the total federal budget (Bundesministerium der Finanzen, 2023). With 50 additional positions added in 2022, the BfDI had a personnel budget for 396.4 positions. Eighty percent of these positions were filled, meaning that 301 people worked for the BfDI in 2022 (BfDI, 2023). (Note that additional data protection authorities exist in each federal state, which significantly increases the budget and the number of people employed in this area)

The BfDI submits an annual report (Tätigkeitsreport) detailing its work to the federal government, parliament, and council. The report is also available to the public on the BfDI's website. Additionally, the authority published 13 press releases in 2022. The

media can also submit inquiries to the BfDI. In 2022, the commissioner responded to 413 requests by email and 406 by telephone.

Furthermore, in 2022, the authority was involved in 119 draft laws, 109 regulations, 33 directives, and 12 additional projects initiated either by the European Union or at the national level. While the commissioner criticized the often untimely inclusion of the BfDI, overall inclusion increased by almost 50% (BfDI, 2023a). However, as of April 2022, many recommendations made by the BfDI in his annual report have not been fully implemented or have not been implemented at all (BfDI, 2023b). Specifically, in his 2022 report, the BfDI criticized that none of the recommendations from the 2021 report were fully implemented. Regarding the legislature, the commissioner serves as an advisor to the parliament. This means the BfDI is included as an expert on data protection in parliamentary committees and supports the parliamentary consultation process through detailed statements on relevant issues (BfDI, 2023).

Citation:

BfDI. 2023. "Tätigkeitsbericht 2022, 31. Tätigkeitsbericht für den Datenschutz und die Informationsfreiheit."

BfDI. 2023. "Nicht vollständig umgesetzte Empfehlungen des BfDI aus älteren Tätigkeitsberichte."

[https://www.bfdi.bund.de/SharedDocs/Downloads/DE/Taetigkeitsberichte/Ausz%C3%BCge/alte-](https://www.bfdi.bund.de/SharedDocs/Downloads/DE/Taetigkeitsberichte/Ausz%C3%BCge/alte-Empfehlungen.html)

[Empfehlungen.html](https://www.bfdi.bund.de/SharedDocs/Downloads/DE/Taetigkeitsberichte/Ausz%C3%BCge/alte-Empfehlungen.html)

BfDI. n.d. "Aufgaben und Befugnisse des BfDI."

<https://www.bfdi.bund.de/DE/DerBfDI/Inhalte/DerBfDI/AufgabenBfDI.html>

Bundesministerium der Finanzen. 2023. "Sollwerte des Haushaltsjahres 2024."

<https://www.bundeshaushalt.de/DE/Bundeshaushalt-digital/bundeshaushalt-digital.html>

Greece

Score 9

Greece has a nationally recognized independent data protection authority, the Hellenic Data Protection Authority (DPA 2024), which is acknowledged by the constitution (Article 9A) and tasked with upholding citizens' rights to personal data protection. Established in 1997 and updated in 2019, the DPA operates in line with corresponding EU Directives and European Council Regulations.

The DPA is empowered to issue decisions that the government and public administration must comply with. It has the necessary resources, organizational structure, and personnel to effectively advocate for data protection and privacy. The DPA independently determines which cases to audit and has the authority to request all necessary information and question officials.

The head of the DPA is selected through a process designed to guarantee independence, as provided by the constitution (Article 101A). The selection process is conducted by a parliamentary committee consisting of the speaker, vice presidents, and other heads of parliamentary committees (the "Conference of Parliamentary Chairmen"). This committee votes by a reinforced majority on the new head of the DPA.

Typically, the DPA is led by a retired high-ranking judge, and its decisions are binding on the government and public administration, although there may be delays in their implementation.

The DPA publishes an annual report, which it submits to parliament. While these findings are sometimes reported in the media and utilized in parliamentary debates, this occurs infrequently.

Citation:

DPA. 2024. "The Hellenic DPA." <https://www.dpa.gr/en>

The laws regulating the DPA are Law 2472/1997 and 4624/2019.

Israel

Score 9

The Privacy Protection Authority, located within the Ministry of Justice, enforces the Privacy Protection Act (1981) and the Digital Signature Act (2001). It regulates and enforces privacy and personal data issues. According to the Privacy Protection Law, the authority is granted regulatory and enforcement power over personal data. It is responsible for protecting all personal information held in digital databases. The regulation includes administrative and criminal enforcement, and applies to all entities (public and private) in Israel that hold or process personal data.

In January 2024, the European Union categorized Israel's privacy protections as adequate.

The authority has full discretion over the investigations it conducts. Although its budget is part of the Ministry of Justice's budget, it is managed separately to ensure independence. The chair of the authority must hold qualifications that make them suitable to be appointed as a judge and have no criminal record or indictment. The chair is appointed for a single six-year tenure. These measures ensure independence. De facto, the findings of the authority are reported mostly in niche media that handle issues of data and privacy, and do not reach the broader public agenda. The authority has the legal tools needed to initiate criminal investigations and uses these tools when necessary.

Lithuania

Score 9

An independent and effective data protection authority exists in Lithuania. The State Data Protection Inspectorate supervises and controls the enforcement of legal protections for personal data. As a government agency, it has the legal and policy independence necessary to make regulatory decisions. The agency has the discretion to decide which audits it will undertake, planning them regularly based on risk assessments and responding to reported incidents in state and private organizations.

For instance, in 2022, it conducted 44 planned audits (compared to 16 in 2021) and 12 audits in response to reported incidents (State Data Protection Inspectorate, 2023).

With more than 25 years of experience and a staff of about 43 in 2022 – an increase of 14 positions compared to 2021 – the agency has the capacity and resources to focus on implementing the EU’s General Data Protection Regulation, which came into force in 2018 (State Data Protection Inspectorate 2023). According to the organization’s 2022 activities report, its key performance indicator – the share of individuals who contacted the Inspectorate and rated its services very positively or positively – reached 92%, exceeding the target of 82%.

Citation:

State Data Protection Inspectorate. <https://vdai.lrv.lt/en/>

Norway

Score 9

The Norwegian Data Protection Authority (DPA) is responsible for holding the government accountable for data protection and privacy issues, and for safeguarding individuals’ privacy rights. Established in 1980, the DPA currently has 68 employees. Although the Director is appointed by the government, the DPA operates with legally granted autonomy. The primary legislation guiding the DPA’s work is the Personal Data Act (PDA), which establishes the general principle that individuals should be able to control how their personal data is used. The PDA implements the EU GDPR in Norwegian legislation.

Through information, dialogue, the handling of complaints, and inspections, the DPA monitors and ensures that public authorities, companies, NGOs, and individuals comply with data protection legislation. For example, the DPA effectively halted the use of a COVID-19 contact-tracing application due to inadequate personal data protection relative to infection numbers at the time. In 2023, the DPA imposed a substantial fine (NOK 20 million) on the Labor and Welfare Administration for failing to operate the legally required procedures for handling sensitive personal data. Media attention to data protection is generally high, especially when public bodies fail to comply with their legal obligations.

Nevertheless, the number of cases that the Norwegian DPA must manage has increased in recent years. These cases relate both to transparency issues, where companies, media, and individuals request access to documentation about the agency’s work, as well as data leaks and privacy incidents in public and private organizations. This has forced the agency to prioritize some matters over others, as it simply does not have the resources to follow up on all cases and conduct as many inspections as desired.

Citation:

Norwegian Data Protection Authority. <https://www.datatilsynet.no/en/>

Slovenia

Score 9

The Office of the Information Commissioner, an autonomous institution that also ensures and monitors personal data protection, was established in 2005. The current Information Commissioner has extensive experience in this area, having held office since 2014 (her second term began in 2019) and previously served as deputy commissioner from 2003 – 2008. The commissioner has a five-year mandate and is appointed by the National Assembly on the proposal of the president of the republic.

The funds for the commissioner's work are allocated from the state budget once the National Assembly determines them based on the commissioner's proposal. The institution's functions in data protection include monitoring the implementation of laws regulating the processing and protection of personal data and acting as an appeal body in the event of complaints from individuals about refusals to provide personal data.

Personal data protection is addressed in several other laws, resulting in a wide range of initiatives and complaints from various areas. For example, in 2022, the commissioner received 1,030 requests or initiatives for introducing the inspection procedure and 160 complaints regarding violations of individuals' rights. Additionally, the office received 12 cases of unauthorized disclosure or other unauthorized processing of patients' personal data, dealt with 81 complaints from individuals about breaches of the right to access their data, and received 22 complaints about violations of the right to erasure of their data.

According to the Information Commissioner, she has faced many problems and challenges due to legal confusion in this area. However, the new Law on Personal Data Protection, adopted at the end of 2022, along with other laws and regulations, represents an improvement in Slovenia's regulatory system for better personal data protection.

Decisions and statements by the commissioner regarding personal data protection have often been labeled as rigid positions under pressure from politicians and the media. During the COVID-19 pandemic, government representatives even blamed the commissioner for vaccination problems in Slovenia. Nevertheless, the Information Commissioner proved to be an independent state institution, and the public recognized this.

Two government offices handle data protection, among other responsibilities. The Government Office for Information Security focuses on enhancing information security. Its primary goal is to increase resilience to cyber threats that endanger individuals, businesses, the government, and society. Meanwhile, the Government Office for the Protection of Classified Information handles the classification and protection of sensitive information. It ensures the development and implementation

of standards for safeguarding classified information within government agencies, local authorities, public license holders, non-governmental organizations, and commercial companies that manage classified data. The office also grants authorizations for legal entities to access classified information and issues security certificates.

Citation:

Informacijski pooblaščenec. 2023. "Letno poročilo Informacijskega pooblaščenca 2022." https://www.ip-rs.si/fileadmin/user_upload/Pdf/porocila/LP2022.pdf

The Slovenia Times. 2021. "Vaccination Coordinator Blames Info Commissioner For Vaccination Problems." <https://sloveniatimes.com/23954/vaccination-coordinator-blames-info-commissioner-for-vaccination-problems>

Spain

Score 9

The Spanish Data Protection Agency (AEPD) is a public authority that operates independently of the public administration. Integrated into a broader international and subnational network of agencies, the AEPD possesses the capacity and personnel to advocate for data protection and privacy issues against the government and vested interests. The AEPD has the autonomy to choose which audits to conduct.

The workload and relevance of claims have increased significantly over the past 30 years – from 81 complaints in 1994 to more than 15,000 in 2023. The findings of the data protection authority are quite impactful and often publicized in the media, particularly in cases involving Google or ChatGPT. Additionally, the agency actively promotes rights against the unlawful publication on the internet of photographs, videos or audio with sexual or violent content and calls for stronger regulation from the legislature in this regard.

There are also data protection agencies in Catalonia and the Basque Country. According to the Organic Law on Data Protection, the appointment of the president of the AEPD is the responsibility of the government upon the proposal of the Ministry of Justice. A public competition of candidates must first be called, and their "merit, capacity, competence and suitability" must be assessed. The president and the deputy can only cease to hold office before the end of their term either at their own request or by removal by the Council of Ministers. The AEPD prepares and approves its own budget and sends it to the government, which includes it in the General State Budget.

United Kingdom

Score 9

After Brexit, the UK maintained the same data protection policies it had as an EU member, including the General Data Protection Regulation (GDPR). The relevant legislation is the Data Protection Act, which has been periodically revised since its enactment in 1998.

The Information Commissioner's Office (ICO) is tasked with upholding information rights. Its main office is in England, with separate offices in Northern Ireland, Scotland, and Wales. The ICO is an executive non-departmental public body with operational independence. The Commissioner oversees various data-related legislation, including the Data Protection Act, the Freedom of Information Act, and privacy and electronic communications regulations. Formally, the Commissioner is a crown appointment based on a recommendation from the ministry and is subject to scrutiny by the corresponding parliamentary committee. The ICO's decisions and interventions are often reported in the media.

After a long period of development and much debate, the Online Safety Act was passed in late October 2023. Its purpose is to place obligations on social media companies to protect users' safety, with an emphasis on shielding children from harmful content. OFCOM, the regulator of broadcasters, telecommunications companies, and postal services, is charged with enforcing the Act..

Latvia

Score 8

The Data State Inspectorate was established in 2001 and now operates under the Personal Data Processing Law (2018). Its independent status is provided for in Article 52 of the Data Regulation. The inspectorate aims to protect fundamental human rights and freedoms in data protection. Therefore, its legal status ensures its operational independence.

The inspectorate is supervised by the Ministry of Justice and financed from the state budget.

The Cabinet of Ministers appoints the director of the inspectorate for a five-year term upon the recommendation of a selection committee. The director of the inspectorate can serve up to two consecutive terms.

Once a year, the inspectorate submits its operational report to the Saeima, the government, the Supreme Court of Latvia, the European Commission, and the European Data Protection Board and makes it available on its website.

Since 2022, the inspectorate has had the right to provide an opinion on draft legislation directly, without additional confirmation from the Ministry of Justice (Data State Inspectorate, 2023).

Citation:

Personal Data Processing Law. <https://likumi.lv/ta/en/en/id/300099-personal-data-processing-law>

Data State Inspectorate. 2023. "Annual Report 2022." <https://www.dvi.gov.lv/lv/media/2202/download?attachment>

New Zealand

Score 8

The Office of the Privacy Commissioner serves as an independent authority responsible for overseeing and enforcing privacy laws, as well as holding government offices and other entities accountable for data protection and privacy issues.

The office has several key functions – most importantly, investigating complaints from individuals regarding privacy breaches, issuing compliance notices to entities that fail to comply with privacy laws, providing guidance to organizations and government agencies on complying with privacy laws, and educating the public about privacy-related matters.

The process of appointing the privacy commissioner is designed to uphold the commissioner's independence. The privacy commissioner is appointed by the governor-general, based on the recommendation of the minister of justice, following the criteria set out in the Privacy Act 2020.

The work of the Office of the Privacy Commissioner is regularly reported in the news media. For example, in 2023, the privacy commissioner publicly raised concerns about a significant increase in serious data breaches (1News 2023a) and weighed in on debates about the use of artificial intelligence by private and public entities (RNZ 2023). The privacy commissioner's investigation into the role of Latitude Financial in New Zealand's largest-ever data breach was also widely covered in the news (1News 2023b).

Māori have long criticized New Zealand's data protection regime, raising difficult questions about data sovereignty and arguing that "the rightful authority for Indigenous data is not with the state, but with Indigenous people." Some activists have demanded a Māori equivalent of the Office of the Privacy Commissioner (Mathias 2022). Additionally, the Royal Society of New Zealand has sought to increase awareness of issues of data sovereignty (RSNZ 2023). Independent Māori organizations Te Mana Raraunga (TMR 2023), the Māori Data Sovereignty Network and Ngā Toki Whakarururanga (NTW 2023), a by-Māori for Māori collective dedicated to advancing and protecting Māori interests – including with regard to data and digital and intellectual property – are also active in this space.

Citation:

1News. 2023a. "41% increase in 'serious' data breaches – Privacy Commissioner." <https://www.1news.co.nz/2023/01/12/41-increase-in-serious-data-breaches-privacy-commissioner/>

1News. 2023b. "Privacy Commissioner to Investigate NZ's Largest Data Hack." <https://www.1news.co.nz/2023/05/10/privacy-commissioner-to-investigate-nzs-largest-data-hack/>

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NTW. 2022. “Ngā Toki Whakarururanga.” <https://www.ngatoki.nz/who-we-are>

RNZ. 2023. “AI in Politics: Law Expert Urges Transparency from Political Parties, More Regulation.” <https://www.rnz.co.nz/news/political/490690/ai-in-politics-law-expert-urges-transparency-from-political-parties-more-regulation>

RSNZ. 2023. “Mana Raraunga, Data Sovereignty.” Royal Society/Te Apārangi. <https://www.royalsociety.org.nz/what-we-do/our-expert-advice/all-expert-advice-papers/mana-raraunga-data-sovereignty/>

TMR. 2023. “Te Mana Raraunga.” <https://www.temanararaunga.maori.nz>

Estonia

Score 7

Estonia has a Data Protection Inspectorate (AKI) that operates under the purview of the Ministry of Justice. The AKI is financed from the state budget, and its budget is adopted and monitored by the minister of justice. In its daily operations, AKI is independent and has the discretion to decide which audits to undertake. The inspectorate works under the framework of the Personal Data Protection Act and the Public Information Act. It is also responsible for ensuring compliance with the European Union’s General Data Protection Regulation (GDPR).

The director general of the AKI is appointed by the government upon the proposal of the minister of justice for a five-year term. The legislative branch (Riigikogu) or judiciary (Supreme Court) do not have the authority to interfere in the appointment or removal of the head of the national data protection authority. The director general reports directly to the Constitutional Committee of the Riigikogu and to the chancellor of justice. AKI currently has 33 staff positions, which is roughly consistent with its needs to fulfill its mandate.

AKI is responsible for protecting citizens’ privacy and personal data and ensuring the transparency of public information. As a law-enforcement agency, AKI can issue proposals or recommendations to terminate infringements, issue binding precepts, impose coercive payments or fines, or apply to initiate criminal proceedings. Additionally, AKI acts as an educator and consultant, answering citizens’ queries and contributing to the public awareness of data use.

Overall, issues with cybersecurity are an increasing concern in data protection. In December 2023, hackers downloaded the health data of more than 10,000 people from a private company’s server (AKI 2023). AKI, together with the prosecutor’s office, initiated an investigation of the incident. The first reaction of the director general of AKI was that the responsibility lies with private companies as the data holders and users, and that no legislative amendments were needed.

Findings of the data protection authority are occasionally covered in the media, usually when a data breach or leak has occurred. In August 2023, AKI arguably

failed to check properly before allowing access to sensitive data used for a sociological survey on women's reproductive behavior (Nagel, 2023). Both incidents are so recent that it is too early to judge whether they will lead to executive or legislative action.

Citation:

AKI. 2023. "News." <https://www.aki.ee/uudised/geneetilise-testimisega-tegeleva-ettevotte-andmebaasist-laadit-ebaseaduslikult-alla>

Nagel, Hannes. 2023. "Isikuandmete väljapetmine seab ohtu meie kõigi turvalisuse." ERR News, August 14. <https://www.err.ee/1609062242/hannes-nagel-isikuandmete-valjapetmine-seab-ohtu-meie-koigi-turvalisuse>

Italy

Score 7

The Italian Data Protection Authority (Garante per la Protezione dei Dati Personali, or GPDP) was established in 1996 by Law 675 and further regulated by Legislative Decree 196/2003, which provided a comprehensive data protection framework. In 2018, the GPDP underwent significant changes following Legislative Decree 101/2018, which implemented the GDPR in Italy.

The GPDP is responsible for protecting the privacy of individuals in Italy. It monitors compliance with data protection laws, examines complaints, provides feedback to the government, and issues opinions on new legislation. Additionally, the GPDP offers advice to institutions on applying data protection laws.

The GPDP has a wide range of powers, including adopting guidelines and codes of conduct, conducting on-site inspections, imposing administrative sanctions, and ordering the rectification or deletion of personal data. A four-member board governs the GPDP. The members are elected by the Chamber of Deputies and the Senate from a pool of candidates who submit their applications through a public selection process. The board's term is seven years and cannot be renewed.

Although the GPDP is intended to operate independently of political influence, the appointment of its board members often reflects political considerations rather than professional expertise. This, along with the GPDP's limited financial resources and staffing, can hinder its effectiveness. However, the relatively short tenure of Italian governments compared to the board's term of office and the increasing influence of European data protection regulations provide the GPDP with some degree of autonomy and influence.

Citation:

Financial resources (2022): <https://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9906258>

Staff. 2022. "<https://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/9845410>"

Portugal

Score 7

The National Data Protection Commission (Comissão Nacional de Proteção de Dados – CNPD) serves as the primary authority responsible for overseeing and ensuring compliance with the General Data Protection Regulation (Regulamento Geral sobre a Proteção de Dados – GDPR). The GDPR aims to safeguard the protection and lawful processing of individuals’ personal data while facilitating its free movement.

Moreover, CNPD operates independently, diligently pursuing its responsibilities and competencies while enjoying administrative and financial autonomy. This autonomy is also reflected in the status of CNPD members and their respective roles within the organization.

The latest activity report from CNPD, published in 2022, reveals a substantial increase in their workload. The Commission investigated and initiated more inquiries (1,785) and tripled the number of prosecution cases (251) compared to the previous year (CNPd, 2022). The total fines imposed also significantly increased, surpassing €4.8 million, primarily due to a €4.3 million fine imposed on the National Institute of Statistics (INE) concerning the 2021 Census, which is currently under appeal (Público, 2023).

However, CNPD faces a concerning structural shortage of human resources. At the end of 2022, CNPD had only 28 employees, a modest increase from 25 workers in 2021. This number remains far from sufficient to meet all demands, as stated in their own assessment (CNPd, 2022). This shortage, coupled with a high number of requests for information and participation (8,310) and increased procedural activities, continues to pose significant obstacles to CNPD’s effectiveness.

Citation:

CNPd. 2022. “Relatório de Atividades 2022.” https://www.cnpd.pt/media/tutpevyh/relato-rio_2022.pdf

Law No. 58/2019, of August 8, Personal Data Protection Law (Lei da Proteção de Dados Pessoais). 2019. Available at

https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=3118A0001&nid=3118&tabela=leis&pagina=1&ficha=1&so_miolo=&nversao=#artigo

Público. 2023. “Apesar das condicionantes dos ciberataques, Protecção de Dados averiguou e acusou mais.” <https://www.publico.pt/2023/03/15/sociedade/noticia/apesar-condicionantes-ciberataques-proteccao-dados-averiguou-acusou-2042209>

Ireland

Score 6

The Irish Data Protection Act 2018 was signed into law on 24 May 2018, coinciding with the implementation of the General Data Protection Regulation (GDPR). The Data Protection Commission (DPC) is Ireland’s national independent authority responsible for upholding the fundamental right of individuals in the European

Union (EU) to have their personal data protected. The DPC's functions and powers also relate to other regulatory frameworks, including the Irish ePrivacy Regulations (2011) and the EU Directive known as the Law Enforcement Directive (LED). The DPC's European role is crucial, given the large number of data and social media multinational corporations (MNCs) with European headquarters based in Ireland, which fall under Irish data protection oversight. International bodies are incorporated into this legislation. An independent process appoints the head of the DPC, and the body is allocated financial and personnel resources consistent with its mandate. The executive branch follows up on DPC findings, which are extensively reported in the media and utilized by the legislature.

Many international social media MNCs, and hence social media regulation at the EU level, fall under the remit of the Irish data protection office, increasing the demand for effective regulation and enforcement. The European Data Protection Board (EDPB) has intervened in Irish data protection decisions to increase sanctions and strengthen remedies (EDPB, 2023). The EDPB concluded that Irish data protection decisions have been insufficient to remedy GDPR breaches, suggesting a reluctance by the Irish authority to appropriately regulate social media multinationals. This is particularly significant for wider Europe due to the prevalence of European continental hubs of social media and technology multinationals in Ireland, under Irish authority.

Citation:

Data Protection Commission. 2023. "www.dataprotection.ie" www.dataprotection.ie

McIntyre, T. J. 2021. "Regulating the Information Society; Data Protection and Ireland's Internet Industry." In *Policy Analysis in Ireland*, eds. J. Hogan and M. P. Murphy, 702-718. Bristol: Policy Press.

MacCartaigh, M. 2021. "The Changing Policy Analysis Capacity of the Irish State." In *Policy Analysis in Ireland*, eds. J. Hogan and M. P. Murphy. Bristol: Policy Press, 47-62.

IGEES. 2019. "Irish Government and Evaluation." <https://www.gov.ie/en/organisation-information/8f949-irish-government-economic-and-evaluation-service-igees/#about-igees/>

Ruane, F. 2019. "The Changing Patterns of Production and Consumption of Official Statistics in Ireland." *Journal of the Statistical and Social Inquiry Society of Ireland* 43 (1): 223-240.

European Commission. 2022. "eGovernment Benchmark 2022, 2021-2022 data." <https://op.europa.eu/en/publication-detail/-/publication/a7d80ca2-3895-11ed-9c68-01aa75ed71a1/language-en/format-PDF/source-291321135>

European Commission. 2022. "European Data Portal, 2022." <https://data.europa.eu/en/publications/open-data-maturity/2022>

Boyle, R., O'Leary, F., and O'Neill, J. 2022. *Public Sector Trends*. Dublin: IPA.

Japan

Score 6

Personal data protection in Japan is regulated by the Act on the Protection of Personal Information (APPI) from 2003, which was revised in 2017. The APPI was the first non-EU legal regime recognized in an adequacy decision after the European Union's General Data Protection Regulation (GDPR) came into force. Data protection is managed by the Personal Information Protection Commission, established in 2016. Its chairperson and members are nominated for five-year terms by the prime minister with the consent of both houses of parliament. Apart from

bureaucracy, commission members originate from academia and business, which ensures a certain degree of independence and impartiality. The commission enjoys high discretion in conducting audits. It can issue cease-and-desist orders, though it cannot directly impose administrative fines. Business operators who refuse to follow the commission's orders, however, may be imprisoned for up to one year. In some cases, the reaction of the commission to reports concerning the leaking of important personal data has been slow.

The controls conducted by the Personal Information Protection Commission and its administrative guidance issued to governmental institutions occasionally draw the media's attention. For instance, in July 2023, the commission inspected the Digital Agency due to problems with implementing the My Number system – individual numbers allocated to all residents that facilitate the administration of benefits and other issues. It was revealed that many numbers had been linked to the wrong bank accounts.

In its report from November 2022, the UN Human Rights Committee expressed concern over the lack of sufficient safeguards, such as independent judicial oversight, against arbitrary surveillance and access to personal data by state institutions in Japan.

Citation:

DLA Piper. 2022. "Data Protection Laws of the World, Japan." https://www.dlapiperdataprotection.com/system/modules/za.co.heliosdesign.dla.lotw.data_protection/functions/handbook.pdf?country-1=JP

European Commission. 2019. "European Commission Adopts Adequacy Decision on Japan, Creating the World's Largest Area of Safe Data Flows." https://ec.europa.eu/commission/presscorner/detail/en/IP_19_421

Personal Information Protection Commission, Japan. "Commission." <https://www.ppc.jp/en/aboutus/commission/>

Watanabe, Junki, and Shuhei Shibata. 2023. "Commission to Probe Digital Agency over My Number Mishaps." *The Asahi Shimbun*, July 7. <https://www.asahi.com/ajw/articles/14950982>

U.N. Human Rights Committee. 2022. "Concluding Observations on the Seventh Periodic Report of Japan." <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsuBJT%2Fi29ui%2Fb4lh9%2FUJJO87S0HPMR1PnCPt3LQO6EolLe709268JsfEokJ6QyNqFgsWSBy1rovzRJaQqYHclTtywUvvrBUCl%2F6iBnTGHkY>

Poland

Score 6

Data protection in Poland is governed by the EU General Data Protection Regulation or GDPR (Regulation (EU) 2016/679) and the Act of May 10, 2018 on the Protection of Personal Data. The same act also established a new data protection authority, the Personal Data Protection Office (Urząd Ochrony Danych Osobowych, UODO). The powers of the UODO include the ability to conduct compliance audits, issue administrative decisions, disclose decisions in the public interest, request disciplinary or legal proceedings against violators, and mandate the timely notification of the outcomes of implemented actions.

The Personal Data Protection Office may: require data controllers and processors or their representatives to provide information deemed necessary; gain access to the premises of data controllers and processors, as well as to equipment and tools used for processing personal data; and obtain from data controllers or processors access to all personal data and any information necessary for the performance of the authority's tasks.

The follow-up by the executive branch on the actions of the UODO has been limited, as most of the legislation in this area is governed by EU laws. However, the UODO cooperates closely with other public institutions, such as the Chief Pharmaceutical Inspectorate, the Environmental Protection Inspectorate, the Office of Competition and Consumer Protection, the National Council of Legal Advisers, and the Office of Electronic Communications.

Although the European Court of Justice mandates that the head of the national data protection authority should be independent and impartial, in Poland, the appointment and removal of the president rest with the political majority in both chambers of the parliament. As a result, in 2019, Jan Nowak, a former member of the Law and Justice party, was elected to serve a four-year term. Due to his visible political engagement, the Polish upper chamber – the Senate, dominated by the opposition – refused in May 2023 to approve his second term in office. The president had failed to discuss and influence legislation on urgent issues like tracking technologies, international data transfers and artificial intelligence. He had also failed to engage in educational campaigns directed toward all citizens.

Citation:

Data Guidance. 2023. "Poland – Data Protection Overview." <https://www.dataguidance.com/notes/poland-data-protection-overview>

Slovakia

Score 6

Law 18/2018 governs the protection of personal data in Slovakia, establishing rights and responsibilities for data processing and defining the role and organization of the Office for Personal Data Protection of the Slovak Republic.

The Office for Personal Data Protection is an independent body with a budget set annually by the State Budget Law. In 2021, it had 45 employees and a budget of €1,738,043.75. The office monitors compliance with data protection laws and has the authority to obtain information and question officials. Its president is elected by the National Council of the Slovak Republic via secret ballot, while the government nominates the vice-president based on the president's proposal (Law 18/2018).

The Office's direct control activities are limited; its 2023 control plan covers only three central ministries and one central state administration body. It maintains a

relatively low profile, attracting media attention primarily when publishing annual reports on fines. Information on follow-up actions is not publicly available.

Citation:

Zákon 18/2018 o ochrane osobných údajov. <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/18/20220330>

<https://dataprotection.gov.sk/uouu/sk>

Belgium

Score 5

In May 2018, the Belgian federal government established the Data Protection Authority (DPA – Autorité de protection des données/ Gegevensbeschermingsautoriteit). The DPA’s mission is to protect individual privacy during personal data processing. To enhance efficiency, several pre-existing authorities and services were consolidated under the DPA. The restructured authority, accountable to the House of Representatives, appoints its board of directors politically for six-year terms. Belgium was also one of the first countries to create the function of Secretary of State for Privacy in 2015 (De Busser 2021).

However, the DPA has faced issues related to transparency, conflicts of interest, and governance errors. Notably, the European Commission initiated a serious infringement procedure against Belgium due to DPA member Frank Robben’s dual role as the head of a public body handling social security and health-related data. The complaint was withdrawn following Robben’s resignation from the DPA in early 2022.

Robben’s resignation did not resolve the DPA’s issues. In 2020, two whistleblowers alerted parliament about conflicts of interest and governance errors within the DPA, particularly concerning member David Stevens. Parliament eventually dismissed Stevens and one of the whistleblowers. Since then, the secretary of state for data protection has attempted to reform the body, but without success to date.

Citation:

<https://www.dataprotectionauthority.be/>

<https://www.lecho.be/economie-politique/belgique/federal/demission-de-l-adp-frank-robben-n-est-que-le-sommet-de-l-iceberg/10365250.html>

<https://www.lesoir.be/492667/article/2023-02-02/critique-torpille-sabote-le-projet-de-loi-apd-de-mathieu-michel-vane-nouvelle>

<https://www.lesoir.be/438557/article/2022-04-27/lapd-est-inoperante-un-et-demi-dalertes-de-ses-deux-codirectrices>

De Busser, E. 2021. “Data Protection Around the World: Belgium.” *Data Protection Around the World: Privacy Laws in Action* 7-21.

Hungary

Score 5

The right to personal data protection and information freedom is regulated under the Act CXII of 2011, which was amended in 2018 to implement the EU’s General Data Protection Regulation (GDPR). Since then, the GDPR has been incorporated into various sectoral laws, such as the labor code. In 2023, a “whistleblower law” came

into force, introducing the EU's 2019/1937 Whistleblower Directive into the Hungarian legal system. The 2014 law was found to be insufficient, as evidenced in the lead-up to the 2023 corruption trial against former Secretary of State Völner in the Ministry of Justice. However, the European-induced modification has faced criticism for a controversial article interpreted as enabling citizens to anonymously report same-sex families to authorities. This aspect of the legislation was particularly contentious, and led President Katalin Novák to veto the proposed law. Novák stated that the article weakened rather than strengthened the protection of fundamental values. This move was unusual for Novák, who generally supports Prime Minister Viktor Orbán. The law was revised after the veto, especially as the European Union Commission announced it would otherwise take legal action. The National Authority for Data Protection and Freedom of Information (Nemzeti Adatvédelmi és Információszabadság, NAIH) is responsible for supervising and defending the data protection rights of Hungarian citizens. While it has not played a significant role in the public debate, there is still little experience with the new European regulation in this field. The NAIH has challenged the government in some COVID-19-related cases. For instance, it has criticized the fact that sensitive data required to register for vaccination is collected and saved not by the government but by a Fidesz-allied firm, IdomSoft Zrt. However, the NAIH has failed to speak out against the misuse of public data for Fidesz's election campaigns, and has not addressed the Pegasus surveillance scandal, in which the government used Pegasus spyware to target opposition politicians and public figures. Additionally, the NAIH has been reluctant to take proactive measures on freedom of information practices, whereby the government routinely classifies documents of strategic importance for national security reasons, and fails to respond to public information queries from independent journalists (see Láncoš 2019).

Citation:

Láncoš, P.L. 2019. "Freedom of Information in Hungary: A Shifting Landscape." In Dragos, D.C., Kovač, P., and Marseille, A.T., eds., *The Laws of Transparency in Action. Governance and Public Management*. Cham: Palgrave Macmillan. https://doi.org/10.1007/978-3-319-76460-3_10

United States

Score 5

There is no single national authority for data protection. With some exceptions, such as banks, credit unions, and insurance companies, the Federal Trade Commission has jurisdiction over most commercial entities. It has the authority to issue and enforce federal privacy regulations, including those for telemarketing, email marketing, and children's privacy, and to take enforcement action to protect consumers against unfair or deceptive trade practices, including materially unfair privacy and data security practices.

Many state attorneys general have similar enforcement authority over unfair and deceptive business practices, including the failure to implement reasonable security measures and violations of consumer privacy rights, which harm consumers in their states.

Because the costs of varying privacy protections by state can be prohibitively expensive, many businesses follow the rules set by the state with the highest standards, which is currently California. This follows the California Consumer Privacy Act of 2018, subsequently amended by the California Privacy Rights Act of 2020 (Shatz and Chylik 2020). The Californian legislation gives consumers robust protections against businesses holding their data, and many companies, especially those that do business on the internet with clients in California, now follow this standard (Pardau 2018). The California legislation also created the California Privacy Protection Agency, the first state agency dedicated to the protection of consumer privacy rights (Harding et al 2019).

At the federal level, there is the Federal Privacy Council, created by an executive order in 2016 by President Barack Obama. The order requires agency heads to designate a Senior Agency Official for Privacy who must maintain an agency-wide data privacy program. The federal government also has a body known as the Chief Information Officers (CIO) Council, a collection of CIOs who come together to improve IT practices across the federal government (Hyman and Kovacic 2019).

David Hyman and William Kovacic. 2019. "State Enforcement in a Polycentric World." *Brigham Young University Law Review*.

Sanford Shatz and Susan Cylik. 2020. "The California Consumer Privacy Act of 2018." *Business Lawyer*.

Stuart Pardau. 2018. "The California Consumer Privacy Act: Towards a European-Style Privacy Regime in the United States?"

Elizabeth Harding, Jarno Vanto, Reece Clark, Hannah Ji, and Sara Ainsworth. 2019. "Understanding the Scope and Impact of the California Consumer Privacy Act of 2018." *Journal of Data Protection and Privacy*.

Canada

Score 4

Most provinces and the federal government have privacy acts that protect much data. However, there is no generalized data protection office or legislation, as there is in Europe.

Canada does not have a comprehensive federal-level data protection law similar to the European Union's General Data Protection Regulation (GDPR). Instead, it has a patchwork of privacy laws and regulations that govern the protection of personal information in specific sectors and industries.

Most of this legislation applies to the public sector, but the Personal Information Protection and Electronic Documents Act (PIPEDA) extends these protections to private-sector organizations engaged in commercial activities across Canada. It sets out principles for the collection, use, and disclosure of personal information and requires organizations to obtain consent for the collection and handling of personal data. PIPEDA applies to businesses such as banks, telecommunications companies, and private-sector organizations engaged in interprovincial or international trade.

Several provinces in Canada have enacted their own privacy laws for organizations within their jurisdictions. For instance, Alberta, British Columbia, and Quebec have

private-sector privacy laws that apply to organizations operating within those provinces.

The absence of a federal law with broad jurisdiction has led to discussions and calls for reform to enhance privacy protections, especially in light of the evolving digital landscape and increasing concerns about data breaches and online privacy (Canada – Data Protection Overview).

This led to the introduction of Bill C-27, an act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act, and the Artificial Intelligence and Data Act, also known as the Digital Charter Implementation Act, 2022. The bill passed second reading in 2023 and is currently under committee review. It is not yet in effect and may not pass.

The Consumer Privacy Protection Act is Part 1 of the Digital Charter Implementation Act, 2022. The act would repeal parts of the Personal Information Protection and Electronic Documents Act and replace them with a new legislative regime governing the collection, use and disclosure of personal information for commercial activity in Canada. This would maintain, modernize and extend existing rules and impose new rules on private sector organizations for the protection of personal information. The act would also continue and enhance the role of the Privacy Commissioner in overseeing organizations' compliance with these measures. Provisions of the Personal Information Protection and Electronic Documents Act addressing electronic alternatives to paper records would be retained under the new title of the Electronic Documents Act.

Part 2 of the Digital Charter Implementation Act, 2022, includes the Personal Information and Data Protection Tribunal Act. This act establishes a new administrative tribunal to hear appeals of orders issued by the Privacy Commissioner and to implement a new administrative monetary penalty regime created under the Consumer Privacy Protection Act.

Part 3 of the Digital Charter Implementation Act, 2022, the Artificial Intelligence and Data Act, outlines new measures to regulate international and interprovincial trade and commerce in artificial intelligence systems. It establishes common requirements for the design, development, and use of artificial intelligence systems, including measures to mitigate risks of harm and biased output. It also prohibits specific practices with data and artificial intelligence systems that may cause serious harm to individuals or their interests.

(“Department of Justice – Statement of Potential Charter Impacts).

Citation:

DataGuidance. 2022. “Canada – Data Protection Overview.” <https://www.dataguidance.com/notes/canada-data-protection-overview>

Government of Canada, Department of Justice. 2022. “Department of Justice – Statement of Potential Charter Impacts.” https://www.justice.gc.ca/eng/csj-sjc/pl/charter-charte/c27_1.html

Netherlands

Score 4

The Dutch Data Protection Authority (DPA) succeeded the College Bescherming Persoonsgegevens (CBP) in 2016, and simultaneously saw its formal competencies somewhat enhanced by the right to fine public and private organizations that are in violation of Dutch law, or, since mid-2018, European data protection laws (e.g., the General Data Protection Regulation, GDPR). Pursuant to Article 7 of the General Data Protection Regulation Implementation Act, the organization's chair was reappointed (in August 2023) for a term of five years. This was done by royal decree on the recommendation of the minister of justice and security. The independence of the organization seems to be in order, despite the fact that right-wing political parties in particular keep insisting on replacing chair Aleid Wolfsen. So far, this push against independent monitoring has been curbed.

Really effective data protection is practically impossible for a number of reasons. The authority is understaffed, even though the number of staff has increased, and is underfinanced. Hardly any consequential fines have been imposed. "Naming and shaming" appears to work, but comprehensive oversight capacity is lacking. It looks like the DPA is evolving from a supervisory body into a Janus-faced organization that also advises public and private organizations and individual citizens on privacy issues, including on how to deal with personal data in ways that (more or less) comply with ever-changing regulations and interpretations.

Compliance with and enforcement of the GDPR still leave much to be desired. The privacy authority has handed out no more than 36 fines since the GDPR went into effect in 2018. The chances of catching offenders is too low. This is due to the organization's limited number of employees, about 180 in total plus several dozen temporary staff. The authority now has a budget of €35 million euros, but supervision obviously is not keeping pace with digitalization. The number of complaints in the first years of the GDPR quickly rose to 25,590 in 2020, but then began a decline to 18,914 in 2021 and 13,113 in 2022 – "in part because the DPA was forced to reduce the opening hours of the telephone consultation hours," according to a statement from the organization itself. Staff shortages play a role in this. At the end of 2022, a total of 5,723 complaints were still pending at the DPA, which may include complaints from earlier than 2022 that take longer to resolve.

Digital civil rights organization Bits of Freedom is dissatisfied with GDPR compliance at most Dutch government agencies. A survey it conducted last year among the 10 largest municipalities showed that only one (Utrecht) scored "satisfactory." Municipalities appeared to be insufficiently aware of what data they had and how they protected it, and citizens were not given access to their own data quickly enough. Incidentally, citizens themselves are also often ignorant about how to better protect their personal data.

Citation:

Juurd Eijvoogel. 2023. "Foto's niet meer zomaar in de schoolgids – hoe bevalt de AVG?" NRC, May 26.

Rijksbreed AVG. 2022. Deelrapport van bevindingen ministerie BZK, December 6.

Autoriteit Persoonsgegevens. 2023. "Actueel Nieuwsbrief." 5 jaar AVG May 26.

N. Benaissa. 2022. "De staat van privacy bij gemeenten." <https://bitsoffreedom.nl>

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