

The members of the Independent Commission of Experts

The Independent Commission of Experts is composed as follows:

Chair:

Dr Ronald Rohrer, former Vice President of the Supreme Court of the Republic of Austria;

Members:

Bruno Hersche, engineer, consultant in safety, disaster and crisis management,

Prof. Winifried V. Kern, chief physician of the Center for Infectious Diseases and Travel Medicine at the University Hospital of the University of Freiburg,

Dr Nicole Stuber-Berries, lecturer, Co-Director of the Tourism Competence Center of the Institute of Tourism of the University of Lucerne,

Prof. Alexandra Trkola, Director of the Institute for Medical Virology at the University of Zurich,

Prof. Karl Weber, former professor of the Institute of Public Law, Constitutional and Administrative Law at the University of Innsbruck;

The Regional Government's commission

The Tyrolean Regional Government, at its session on 14/05/2020, at the behest of Governor Günther Platter and with the subsequent overwhelming support of the members of the Tyrolean parliament, decided on the following commission:

“Independent experts chaired by former Vice President of the Supreme Court Dr Ronald Rohrer will be commissioned to prepare a report in order to provide a comprehensive, transparent and independent evaluation of the management of the COVID-19 pandemic in Tyrol.

Mr Bruno Hersche will participate in the report as an expert in crisis management. The Chair may freely select other experts in order to exclude any interference and to guarantee complete independence. In the selection of other experts, attention must be paid to ensure that experts from the fields of virology, the economy, staff work and administrative or constitutional law are included in compiling the report. The experts will work independently and completely free from political influences. The experts should, where possible, be internationally recognised and there should be a gender balance in their selection. The experts themselves will establish the schedule and working methods.

In particular, the experts will be provided the fullest possible access to all relevant files within legal bounds. The work of the experts should be comprehensively supported by the members of the Regional Government in particular, by the Office of the Tyrolean Regional Government and the state operation control, by the district administrative authorities and the district operation controls and by the municipalities and municipal operation controls in the interests of the transparency of the relevant processes and ensuring a comprehensive evaluation of the actions of the Tyrolean crisis management. This also applies to all tourism organisations that were included in the crisis management measures.

The experts should undertake a meaningful work-up and evaluation of the crisis management of the COVID-19 pandemic in Tyrol. In doing so, they should address the following processes in particular:

1. The date and information basis for the establishment of the state operation control and the composition of the state operation control.
2. All measures taken by the Governor, the Regional Government and the district administrative authorities in the context of the crisis management due to the spread of COVID-19 in terms of
 - a. their necessity.
 - b. their timeliness.
 - c. their design.
 - d. their implementation.
 - e. the monitoring of their implementation.
 - f. the internal and external communications.
 - g. their legal basis.
 - h. their completeness.
 - i. their proportionality.
 - j. their effects.
 - k. their comparability with other regions and states.
 - l. their coordination with relevant federal ministers and/or the federal government.
3. 1 January to 14 May 2020 is specified as the reporting period.

The experts must present their report to the Tyrolean state parliament upon completing their investigations and make it available to the public. This presentation should take place in the October state parliament if possible. The experts themselves must maintain secrecy about their activities until the report is presented to the Tyrolean state parliament.”

The legal nature of the Independent Commission of Experts

The Independent Commission of Experts is not a court or public authority. Unless appointed as such by the state parliament, which cannot review indirect federal administration, it is also not a commission of inquiry in the sense of Article 23 paragraph 8 of the Tyrolean Landesordnung. The Independent Commission of Experts is given the status of an expert committee appointed by the Regional Government. Its task is to gather facts, to analyse them in accordance with the commission given to them and to evaluate their usefulness and appropriateness.

No examination of fault

It was and is not the task of the Independent Commission of Experts to discuss the fault of institutions or individuals in the realisation or non-realisation of measures in the context of combating the pandemic. It therefore does not do that in its report.

Technical details

The Independent Commission of Experts heard from 53 respondents in the period between 22/06 and 14/08 in a total of 4 multi-day sessions. The hearings were

recorded for a total of 40 hours and 55 minutes using audio equipment and have been transcribed onto 703 pages. The documents submitted by the state and those additionally provided by the Commission comprise 5798 pages, including those parts of the criminal file provided to the Commission by the state of Tyrol, which is entitled to access it. All minutes, documents and documented procedures were stored in an electronic file. This currently comprises 357 business cases.

Abbreviated extract from the report of the Independent Commission of Experts on questions frequently asked by the media.

The WHO was informed of cases of pneumonia of unknown cause in Wuhan, China on 31/12/2019. On 7/01, the Chinese authorities identified a novel coronavirus, which was subsequently referred to as the "Covid-19 virus". The finding that the virus is transmitted from person to person became known on 20/01. On 11/03, the WHO declared the outbreak of a pandemic. This was about a week after the district administrative authorities in Landeck had learned of the infection of Icelandic guests. According to scientific analysis of genome data, the viruses found in infected guests from Ischgl matched the mutation profile of the viral strains of cases in a French ski resort, to which a guest from Singapore, who had been in contact with a Chinese person from Wuhan, had travelled in late January 2020.

Leaders and staff of the authorities of the state of Tyrol dealt with a huge workload in this unprecedented crisis both at state level and at district level, often under great time pressure. One district then saw some serious misjudgements. All decisions of the leaders of the relevant district administrative authorities and their respective chronology were, like the approach of the state governor, made on their own initiative and without pressure from a third party. All actions were based on the assumption of proceeding in line with the appropriate procedure set out in the Epidemics Act 1950.

The leaders of the Landeck district administrative authority initially reacted promptly to the infection of the Icelandic guests who had returned from Ischgl, of which they were informed on 5/03 and 6/03, with broad-based testing and contact tracing.

From 8/03, a correct assessment of the course of infection would have led to proceeding with the closure of the "Kitzloch" après-ski bar in Ischgl and to end the operation of the cable cars and ski buses, order the closure of all après-ski bars and prohibit gatherings of people over the course of 9/03. The watchful waiting with the order to end ski operations by 12/03 was incorrect from an epidemiological perspective.

The state governor's announcement of the end of the ski season across all Tyrol from the weekend of 14 and 15/03 at the 13/03 press conference was, in respect to the ski resorts outside of the Ischgl and St. Anton a. A., correct and appropriate.

The state information provided on 5/03 and 8/03 that characterised contagion in Tyrol as unlikely was incorrect. This was taken seriously by tourist enterprises and guests as it was official information.

The announcement of the imposition of the quarantine in Paznauntal and St. Anton a. A. by the Austrian Chancellor came as a surprise and without due regard to the necessary substantial preparations. There was a lack of communication and inclusion of the solely-responsible Landeck district administrative authority.

Controlled departure management should have been planned and implemented from the point when the risk of infection was recognisable. The unclear announcement made by the Chancellor should have prompted the leaders of the Landeck district

administrative authority to immediately provide information via the tourist offices that the departure of foreign guests can and must be done in a staggered and controlled way rather than immediately.

The Federal Ministry of Social Affairs, Health, Care and Consumer Protection, which was indirectly responsible within the federal government, did not publish the revised pandemic plan despite early knowledge of the risk of infection. The obsolete Epidemics Act 1950 was neither – in a manner recognisable to the subordinate authorities – assessed for its applicability in tourist areas, nor were steps taken in time to adapt the law to the circumstances of today's mobility. Workable design options of the law were also not taken into account. This means the district administrative authorities were not supported in their decision making and that the necessary rapid intervention was hindered.

The entire report of the Independent Commission of Experts on the management of the COVID-19 pandemic in Tyrol, including the appendices, will be available for download as of the end of the press conference at the following link:

www.tirol.gv.at/commissionofexperts

Dr. Ronald Rohrer