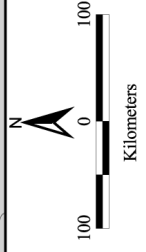


Republic of Austria

Population: 8.2 Million
(2008 est.)

Capital: Wien (Vienna)
Population: 8.2 Million
(2008 est.)



Boundaries and place names are representative only and do not imply official endorsement.

Sources: CIA World Factbook;
Times Atlas of the World; ESRI Ltd.

Republic of Austria

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“The measure of things therefore is man, not humanity, society, nation or the state. As man is small also his institutions – family, enterprise, tavern, hospital, village, city, singing club – remain relatively small, in order not to squeeze him,” writes Salzburg-born philosopher Leopold Kohr, promoting “the human measure of things.”¹ This sentiment seems to reflect his country of birth. In Austria 42,248 municipal councillors perform their mostly unsalaried duties in 2,357 municipalities for 8.3 million inhabitants. Thus, with one councillor for every 196 citizens, or 5.1 councillors per 1,000 inhabitants, local officials are within easy reach of the electorate. This small structure is an intrinsic feature of Austria, and the small size of many municipalities is rarely questioned. Indeed, in 2007 the federal government declared its intention to amend the Federal Constitutional Act (*Bundes-Verfassungsgesetz*, or B-VG) in order to further protect the existence of small municipalities and also its intention to facilitate intermunicipal cooperation in order to improve citizens’ services, achieve economies of scale, and provide expertise. After the collapse of the governing coalition in the summer of 2008, this unchallenged initiative was reintroduced as an objective for the legislative period 2008–13.

Local government implements federal and *Land* legislation and employs one-third of all civil servants. Opinion polls show that the highest rates of citizen trust and confidence are in mayors (74%), the federal president (68%), municipal councillors (64%), and *Land* governors and governments (61%).² The figures for other federal and European politicians range between 45% and 28%. A December 2005 survey confirmed the high esteem for local government (68%) and *Land* governments (64%), clearly ahead of that for the federal Parliament and the federal government, with 40% each, and for the European Union Commission, with only 19%.³

Given the long tradition of representative democracy, public institutions and political parties are the main actors. Awareness of individual citizenship (*Staatsbürgerlichkeit*) is not highly developed, and demonstrations by

the general public are rare. Democratic life in Austria gets its momentum mostly from social partners, organized civil society, and political parties. Momentum rarely comes from individual citizens.⁴ This lack of individual political initiative is compensated for by the commitment of numerous Austrians to associations and clubs, many of which are indispensable to social existence and public life in the municipalities. They offer sports as well as social and cultural activities, preserve traditional customs, run voluntary firefighting and rescue services, and much else. The number of registered associations as of 31 December 2007 was 111,282, thus also showing very small structures, with one association or club for every seventy-five citizens.⁵ Austrian sports associations alone accounted for 3.36 million members (40.4% of the population). Despite decreasing voter participation and the decline in people willing to stand for mayor, volunteer community services remain attractive. Among Austrians older than fifteen years, 44% engage in organized or informal unsalaried activities, to which they contribute on average 3.9 hours per week.⁶

Austria is a democratic republic and federal country, consisting of the nine autonomous *Länder* of Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg, and Vienna.⁷ Although the federal Constitution assigns most competences to the federation, most federal laws are implemented by *Land* authorities, a system called indirect federal administration. As political authorities and administrative units, the municipalities are the third order of government entrenched in the federal and *Land* constitutions.⁸

Austria covers 83,871 square kilometres in the eastern part of the Alps and had 8,342,746 residents in October 2008. Austria's population is rather homogenous. The official languages spoken are German (88.6%) and, in parts of the territory, Croatian (1.6%), Hungarian (0.5%), and Slovenian (0.3%). Religious belief does not play a major role in public life, but in the 2001 census 73.6% of the population identified as Roman Catholic, 4.7% Protestant, 4.2% Muslim, 0.1% Jewish, and 12% without religious belief.

After Luxemburg, 38.6% of whose residents are foreign, Austria has the second highest proportion of foreign residents (9.4%) in the European Union (EU), followed by Germany with 8.9%. The four largest groups (as of 1 January 2008)⁹ were from Serbia and Montenegro (133,692), Turkey (109,716), Germany (124,088), and Bosnia and Herzegovina (85,215). The proportion of foreign residents ranges from highs of 18.7% in Vienna and over 12.8% in Vorarlberg and 12.3% in Salzburg to lows of 6.2% in Carinthia, 5.7% in Styria, and 4.5% in Burgenland.¹⁰ Within Land Salzburg's municipalities, the number of foreigners ranges from 0.6% to 35.7%. These statistics show that problems can arise regionally because 15% or more of foreigners are a challenge for municipalities with respect to integration, schooling, and tolerance.¹¹

The 2007 gross domestic product (GDP) of €270.8 billion (US\$371.2 billion) amounted to approximately €32,570 (US\$44,645) per capita.¹² In 2006 *Land* disparities per inhabitant ranged from €20,500 (US\$25,749) in Burgenland to €34,800 (US\$43,710) in Salzburg – not taking into account the special situation of Vienna as the capital, with €41,500 (US\$52,125). The rate of economic growth over the past few years has been stable, as has been the economic outlook. The International Monetary Fund's *World Economic Outlook, October 2008* showed a real growth of GDP for 2006 of 3.4% and 2007 of 3.1%. The outlook for 2008 was 2.0% and for 2009 it was 0.8%. These figures are slightly higher than the ones reported and expected for the EU-area, with 2.8% and 2.6% in 2006 and 2007 and 1.3% and 0.2% in 2008 and 2009 respectively.¹³

The rules of the European Economic and Monetary Union keep the deficits of public budgets relatively low: 0.5% of GDP (2007) in Austria compared to 0.9% in the twenty-seven EU member states (EU-27). Public debt as a percentage of GDP (2007) amounts to 59.1% in Austria and 58.7% in the EU-27.¹⁴ This is one of the results of the involvement of the *Länder* and municipalities in the Austrian stability pact (described below).

The Austrian legal system is based on civil law. Public life is governed by representative democracy, proportional representation, and self-government. The 183 members of the National Council (Nationalrat), the 448 members of the nine one-chamber *Land* parliaments, called *Landtage*, and the 42,248 members of municipal councils are elected directly, as are the federal president and the mayors in six of the nine *Länder*. The members of the second federal chamber, the Federal Council (Bundesrat), are elected by the *Land* parliaments after a *Land* holds its election. The continual turnover of its present 62 members means that the Federal Council has no legislative period. The number of seats per *Land* may be adapted according to decreases or increases in the population.

The executives are either appointed – for example, the members of the federal government by the federal president and backed by the National Council – or elected, as are the governor (*Landeshauptmann*) and the members of the *Land* executive by the respective *Landtag* and the members of a municipal executive (the municipal board) by the respective municipal council. The mayors in three *Länder* are also elected by the municipal councils.

Until 2006 the National Council was elected every four years. From the beginning of the twenty-fourth legislative period – due to early elections in September 2008 instead of October 2010 – an extension to five years was introduced. The mandates for *Land* legislators and municipal councillors last, according to the respective *Land* legislation, for five or six years.

Austria also has a high degree of sector self-government. This comprises, among many others, the chambers of labour (*Arbeiterkammern*), economic

chambers (*Wirtschaftskammern*), chambers of agriculture (*Landwirtschaftskammern*), Austrian National Union of Students (*Österreichische Hochschülerschaft*), and the social security sector, to mention just a few policy areas of civil society.¹⁵

Until 2006 the spectrum of political parties was rather stable. The two major parties, the SPÖ (Sozialdemokratische Partei Österreichs) and the ÖVP (Österreichische Volkspartei), garnered 35.3% and 34.3% of the vote respectively in the federal election in October 2006, and they formed a coalition government. Politicians of these two parties then held 74% of the seats in the National Council and 88.7% of those in the Federal Council. The election of the National Council of 28 September 2008 led to a significant change of the political landscape, cutting the SPÖ to 29.3% (minus 6%) and the ÖVP to 26% (minus 8.3%), together accounting for 55.6% of the votes and 59% of the seats. The far-right FPÖ (Freiheitliche Partei Österreichs) gained 17.5% (plus 6.5%) and the populist rightist BZÖ (Bündnis Zukunft Österreich, or Alliance for the Future of Austria) 10.7% (plus 6.6%). This seems to mark the end of the traditional two-party system, at least in the federal arena.

In the *Land* parliaments, as of January 2008, the SPÖ and the ÖVP respectively had 183 and 168 seats, which is 78.3% of the total of 448 seats. Municipal councils are also dominated by these two parties; together they account for 79% of all councillors.¹⁶ Hence no landslide changes like those seen in the federal arena are expected in *Land* and municipal governance.

The FPÖ represented a nationalist element and consequently gained support. After carrying an SPÖ-led minority government of Chancellor Bruno Kreisky in 1970, the FPÖ entered into a federal coalition government with the SPÖ from 1984 to 1986 – under Chancellor Fred Sinowatz (SPÖ) and Deputy Chancellor Norbert Steger (FPÖ). In 1993, after internal disputes, the FPÖ split into a nationalist part (FPÖ) and a liberal part (Liberales Forum). In April 2005 the FPÖ split again, and the BZÖ, led by Jörg Haider until his death in a car accident on 10 October 2008, emerged as a new populist movement using the colour orange, a deliberate association with the unexpected democracy process in the Ukraine, which was followed with great attention in Austria and all of Europe. From February 2000 until January 2007, first the FPÖ, and then the newly created BZÖ, was in a federal coalition with the ÖVP – under Chancellor Wolfgang Schüssel (ÖVP) and Deputy Chancellor Susanne Riess-Passer, succeeded by Deputy Chancellor Hubert Gorbach under party leader Jörg Haider (FPÖ/BZÖ). The Greens entered the political scene during the 1970s and are represented in all *Land* parliaments and several municipal councils.

After the federal elections on 1 October 2006, an SPÖ-led coalition government with the ÖVP was sworn in on 11 January 2007. It collapsed in the summer of 2008 mainly due to a dispute over Austria's future EU policy

and the clearly visible distrust of the SPÖ in its chairman and chancellor, Alfred Gusenbauer. For the period 2008–13, a SPÖ-led coalition government with the ÖVP was sworn in on 2 December 2008. The *Land* governments were led in late 2008 by nine governors: four SPÖ, four ÖVP, and one BZÖ.

The constitutions of the *Länder* may not contain provisions inconsistent with the federal Constitution. They cannot be changed unilaterally by the federal legislature, and any revision of the principle of federalism, including the role of the *Länder*, would be subject to popular approval by a constitutional referendum. Conflicts between the federation and the *Länder* must be settled by the Constitutional Court (Verfassungsgerichtshof). This is very much in line with Austria's highly developed system of judicial review of actions of government, including legislative Acts. The federation can, however, influence the role of the *Länder* through its power to decide the allocation of powers and by adopting federal constitutional laws. The role of the Federal Council in this context is legally and politically limited. It is worth mentioning that the Federal Constitutional Act (B-VG) is not the classic systematic codification of all federal constitutional law, as is the German Basic Law (Grundgesetz). The latter demands in Article 79, paragraph 1, that all amendments to the constitution must be incorporated into the Basic Law. In the preparation for the Austrian Convention,¹⁷ set up in 2003 to present a proposal for a fundamental reform of Austria's federal system, experts identified 451 constitutional provisions in regular federal laws adopted between 1923 and 2003.¹⁸

The unicameral legislative assembly (*Landtag*) of each *Land* is elected every five to six years on the basis of universal suffrage. It then elects the governor (*Landeshauptmann*) and the *Land* government (*Landesregierung*), which comprises between six (Burgenland) and fifteen (Vienna) members. *Land* legislative responsibilities include the *Land* constitution, municipal laws, supervision of the municipalities, regional planning and zoning, policy for rural areas, building laws and regulations, youth, hospitals, nature conservation and protection of the countryside, care of farm animals, national parks, tourism, hunting and fisheries, culture, sports, laws pertaining to various professions (e.g., schools for ski instruction, dancing schools, and workers' rights in agriculture and forestry), electoral laws for the *Land* and its municipalities, the staff code for the public sector (civil servants and agents of the *Land* and municipalities), and very limited taxation.

HISTORY, STRUCTURES, AND INSTITUTIONS OF LOCAL GOVERNMENT

Local government is constitutionally enshrined as the third order of government after the federation and the *Länder*. It refers to the smallest territorial

entity with its own political structure – an elected assembly and an executive. Local government comprises the municipalities and the activities they perform, either as individual municipalities or jointly in cooperative structures based on public or private law.

The provisional municipal law (*provisorisches Gemeindegesetz*), adopted on 17 March 1849, established modern local government. The municipality, even then, was responsible for autonomous tasks and for implementing public administration delegated by the respective *Land* and the national government. The main autonomous tasks were hygiene, health, poverty policy, roads, fire, markets, public decency, and building regulations. The mayor (*Bürgermeister*) represented the municipality and had to implement the decisions of the municipal committee (*Gemeindeausschuss*) in accordance with the budget. He also had to manage the municipal staff, publish and implement the laws and decrees of other authorities, collect direct taxes, and support the recruitment of soldiers.

In the course of establishing the constitutional monarchy, a new municipal law of 1862 further developed the principles of the 1849 law. It confirmed the autonomous and the delegated spheres of action. The autonomous sphere covered the areas where the municipality could act “in free autonomy” (Art. 5: “nach freier Selbstbestimmung”) while still respecting the central state and *Land* laws.

The republican federal Constitution of 1 October 1920 established public administration in the *Länder* according to the principle of autonomy (*Selbstverwaltung*) of local and district municipalities (*Orts- und Gebietsgemeinden*) with a mayor, a municipal council, and a municipal office (*Gemeindeamt*). All further details were left for the *Länder* to legislate, with the provision that they respect the principles of the federal Constitution. These constraints led to rather uniform municipal legislation among the *Länder*. The concept of district municipalities, comparable to the German *Kreise*, was not developed.

Municipal autonomy was significantly curtailed from the time of the authoritarian regime, the *Anschluss*, to the end of the Second World War (1934–45).¹⁹ After the reestablishment of Austria in 1945, the federal Constitution was amended extensively on 12 July 1962, introducing new responsibilities and rights for municipalities. The mayor was defined as an organ of the municipality, being responsible to the municipal council for all conduct in the autonomous sphere of action. In all delegated fields, the mayor acts on behalf of the federation or the *Land* and is bound by its instructions. He or she may delegate, when appropriate (e.g., in matters of the autonomous sphere), certain tasks to other members of the municipal executive, who remain accountable to him or her. The 1962 amendment was interpreted by the Constitutional Court to mean that mayors had to be elected by the municipal councils. In a constitutional amendment in 1994,

the *Länder* obtained the right to introduce the direct election of mayors. Six *Länder* have made use of this option.

All *Länder*, except Vienna, consist of municipalities, and all parts of the Austrian territory must form part of a municipality. This applies also to state infrastructure and military training grounds, and there is no direct federal or *Land* rule in any geographical area. Neither the federal nor *Land* constitutions make provision for metropolitan areas or regions. The special case of Vienna being a *Land* and a municipality is discussed below. Within the *Länder*, eighty-four district authorities (*Bezirkshauptmannschaften*), led by civil servants of the *Länder*, implement federal and *Land* legislation. The districts are administrative units without political bodies and encompass the territories of several municipalities.

By 2008 local government comprised 2,357 municipalities: 15 cities (towns with their own statutes), 198 towns (*Stadtgemeinden*), 759 markets (*Marktgemeinden*), and 1,385 villages (*Ortsgemeinde*). The constitutional concept of the “uniform municipality” (*Einheitsgemeinde*) does not allow for the attribution of different tasks to municipalities according to their territorial size, financial strength, status (city, town, market, or village), or population. *Land* legislation sets the criteria for designation as a market (municipality of significant importance) or town (municipality of outstanding importance).²⁰ The designation has no further legal consequences but indicates the role, functions, and services of the municipality. Historic city rights, like those of 1289 for Radstadt, Salzburg, with 4,800 inhabitants, and those of 1393 for Rattenberg, Tyrol, with now only 550 inhabitants, remain in place. Exceptions from the concept of the “uniform municipality” are Vienna, as a *Land* and a city, and the other fourteen cities with their own statutes. A municipality with more than 20,000 inhabitants and of outstanding importance can apply to the *Land* government for its own statute (*Stadtrecht*), passed by the *Land* parliament, and then, after approval of the *Land* parliament and with the consent of the federal government, also perform functions as a district authority. The statute thus implies additional responsibilities for the municipality.

The number of municipalities increased by 2.5% from 2,300 in 1976 to 2,357 in 2008. In rural areas 178 municipalities have fewer than 500 inhabitants, and two-thirds (1,528) of all municipalities have between 501 and 2,500 inhabitants. Over half of Austria’s population (55.6%) live in municipalities of up to 10,000 inhabitants;²¹ hence the average size is only 3,539 inhabitants.

Municipalities enjoy constitutional guarantees. In individual cases, however, and under certain conditions, like regional public interests, a *Land* parliament can decide to amalgamate or separate municipalities. The municipalities concerned have to be consulted prior to any changes of municipal boundaries, and a people’s consultation can be demanded by the *Land*

parliament or the municipality. When the boundaries of municipalities are changed, a decree of the *Land* government is sufficient if the municipalities in question agree. If not, the respective *Land* parliament has to adopt a law. If a change of the boundaries of municipalities affect the boundaries of a *Land*, identical constitutional laws of the federation and the *Land* or *Länder* concerned are required. In the 1960s and 1970s four *Länder* amalgamated municipalities on a large scale. Lower Austria reduced the number from 1,652 to today's 574.²² In Burgenland and Carinthia, however, many of these amalgamations were again split up after several years.

Given the large number of small municipalities, intermunicipal cooperation has been a feature of local government. Article VII of the Reichsgemeindegesetz of 1849 stipulated that municipalities were free to cooperate with each other in respect of both their autonomous and delegated competences. Since then, they have developed various forms and patterns of cooperation, although always limited by the borders of the *Länder*, as there is no common supervisory *Land* authority for municipalities from different *Länder*.

Intermunicipal cooperation respects the identity and political structure of all participating municipalities and aims to provide the necessary economies of scale and expertise that individual municipalities might lack (e.g., staff skills, information-technology solutions, and size of wastewater treatment plants). Flexible federal²³ and *Land*²⁴ constitutional frameworks have proven very effective by not specifying in too much detail cooperation arrangements under public or private law. The legal system provides for the establishment of intermunicipal cooperation under public law (associations of local and regional authorities and administrative associations), under private law (nonprofit associations, corporations such as limited liability companies or public limited companies, partnerships such as limited partnerships, and commercial limited partnerships or noncommercial partnerships), as well as by agreement (contracts of services and cooperation agreements).

Frequently, cooperation initiatives originate from the municipalities, but approval by the *Land* is required. Voluntary intermunicipal cooperation is also promoted by the *Länder* in granting funding for intermunicipal projects. Additionally, new socio-economic areas have emerged, which do not follow old municipal and administrative boundaries. With respect to regional-development planning, therefore, *Land* ministries fix indicators and minimum or maximum benchmarks for public services or infrastructure to be delivered by the municipalities, such as local government administration buildings, compulsory schools, municipal roads, kindergartens, homes for senior citizens, wastewater facilities, waste-removal centres, music schools, and public pools. In some cases, cooperation may be imposed by legislation, such as the determination of school districts, districts for awarding citizenship, and waste-management associations.

By the end of 2007 there were 1,429 registered intermunicipal cooperation structures involving schools, public welfare, water supply, environment, health, and others. They employed 13,636 staff and had a total expenditure of €3.15 billion (US\$4.34 billion).²⁵ A growing area is public transport, where federal, *Land*, and municipal bodies cooperate with increasing numbers of privatized – formerly publicly owned – service suppliers. Presently, the federal Constitution permits such associations to serve only one purpose. However, there is political consensus for future reforms to address the possibility of establishing associations of local and regional authorities that would serve various purposes at the same time, thus making better use of synergies.

Due to demographic developments, social expenditure is increasingly burdening municipal budgets. Concurrently, the shift of revenue from taxes in favour of the federal government is curtailing the resources available to municipalities (especially the very small ones). The transfer of tasks in recent years (e.g., afternoon supervision in schools and waste management) is also increasingly tying up municipal funds. Along with serious budget problems, the increasing complexity of municipal responsibilities motivates enhanced intermunicipal cooperation. Furthermore, with specialization and the number of legal provisions on the increase, and a general call for more efficiency in providing services, stepping up cooperation is becoming imperative. In economic terms, municipalities are frequently faced with having to make investments they cannot handle on their own. Circumstances require that they join forces with other state institutions to raise the quality of life of people living in their areas. Economies of scale can be achieved by the various cooperation models. Equally, size does not matter in relations with the federation and the *Länder*, as the municipalities negotiate general affairs via their umbrella organizations in the federal and *Land* arenas.

CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

The role of the municipalities and their significant autonomy date back to March 1849, when, following the revolution of March 1848, Article 1 of the Reichsgemeindengesetz proclaimed the “free municipality the basis of the free state.” The republican Constitution of 1920 and a substantial reform in 1962 developed this concept further. Based on the principle of subsidiarity, municipalities enjoy a high degree of autonomy. According to Article 118, paragraph 1, of the Federal Constitutional Law, and mirrored in the constitutions of the *Länder*, the jurisdiction of a municipality comprises everything that exclusively or mostly concerns the local community and that can be performed by the community within its boundaries. The

municipalities are thus granted autonomy within their own sphere of action. This is the practical application of the principle of subsidiarity. However, municipalities are also functional implementation units of the federal and *Land* administrations and are bound by their respective instructions.

Articles 115 to 120 of the B-VG are the main constitutional bases for entrenching local self-government and municipal institutions. Autonomous and delegated responsibilities and requirements for amalgamation are defined, as well as the legal personality of municipalities and their capacity to acquire property. With its ratification of the Council of Europe's Charter of Local Self-Government on 23 September 1987,²⁶ Austria also acknowledged these international standards. The *Land* constitutions are bound by the principles laid down in the B-VG but enjoy a certain freedom in developing their own municipal systems, such as with regard to direct election of mayors, supervision of municipalities, salaries of mayors, and remuneration of councillors, to mention a few.

Unlike the *Länder* in the Bundesrat, the municipalities are not represented directly in a federal legislative chamber. The Austrian Association of Cities and Towns (Österreichischer Städtebund) and the Austrian Association of Municipalities (Österreichischer Gemeindebund), however, enjoy constitutional acknowledgment as consultative partners in negotiations on draft legislation of the federation and the *Länder*.²⁷ The Austrian Convention, a representative forum established to draft proposals for the substantial reform of the federal Constitution, was unable to reach consensus on a proposal that several *Länder* and a certain number of municipalities be given the right to introduce legislative proposals for discussion in the National Council.²⁸

POWERS, FUNCTIONS, AND GOVERNANCE OF LOCAL GOVERNMENT

The constitutional status and powers of municipalities are substantial and widely accepted. Examples of their autonomous competences are the election of their organs, limited taxation, employment and supervision of staff, local policing in matters of security, management of municipal roads, traffic policing, enforcement of the protection of the landscape (*Flurschutzpolizei*), market policing, local health and sanitary policing, burials, public decency, building regulations, and local zoning. Tasks within the autonomous sphere must be identified explicitly and defined clearly in the relevant federal or *Land* laws. To provide the necessary expertise in complex matters, the federation and the *Länder* offer the possibility of delegating some autonomous municipal competences to a *Land's* district administration.²⁹ This is frequently used for administrative procedures involving building permits.

In addition to their autonomous tasks, the federation and the *Länder* delegate further tasks to municipalities, including the organization of elections (e.g., lists of candidates, authorities, counting, and reporting) for the federal president, the National Council, the *Land* parliament, and the European Parliament; the organization of referenda; popular consultations and initiatives; and maintenance of the lists of citizens, marriages, births, and deaths. Also included are the protection of water, civil protection in case of floods, measures in case of animal diseases, and a variety of statistical reporting.

Several important tasks of the municipalities are not covered by constitutional provisions because they constitute neither clearly public administration nor private economic activity. It is considered a public task of municipalities to provide their citizens with services of general interest (*Daseinsvorsorge*) at affordable prices, available in all parts of the municipality and of the same quality. Private contractors are frequently used to deliver these services on behalf of the municipalities. Municipalities also often establish their own enterprises to deal with, for example, water, gas, transport, and waste disposal. Municipalities are increasingly providing services (e.g., schools, water, transport, social services, facilities for senior citizens, kindergartens, daycare, leisure facilities, sports, and cultural activities), in addition to the traditional functions of public administration (e.g., building permits, taxation, and policing).

The municipalities are important both politically and economically. Excluding the City of Vienna, they employ 18% of all civil servants, a figure that increases to 35% if Vienna is included – leaving the federation with 35% and the *Länder* (without Vienna) with 30%. Municipalities account for 13.6% – or €2,278 (US\$2,862) per capita, including Vienna – of all public expenditure. The federation accounts for 71%, or €13,455 (US\$16,902) per capita, whereas the *Länder* (without Vienna) account for 15.4%, or €3,264 (US\$4,100) per capita.

The key areas of municipal expenditure are general services, at 33%, or €771 (US\$969) per capita; education, leisure, sport, and science, at 13.9%, or €326 (US\$410) per capita; own institutions and administration, at 12%, or €284 (US\$357) per capita; social welfare, at 9%, or €216 (US\$271) per capita; roads, transport, and water, at 9%, or €216 (US\$271) per capita; healthcare, at 7%, or €168 (US\$211) per capita; and miscellaneous smaller items.³⁰

When it comes to hiring personnel, the standards of supervision in the different *Länder* vary considerably. Some *Länder* accept the staff complement proposed by municipalities as part of their municipal budget; others demand to approve each new contract or promotion of existing personnel.

The political actors of a municipality, as stipulated in Article 117 of the B-VG, are the municipal or city council, the executive board (*Gemeindevorstand* in municipalities, *Stadtrat* in towns, and *Stadtsenat* in cities with their

own statutes), and the mayor (*Bürgermeister*). The municipal council is elected directly by the local citizens according to the same electoral principles applied to elections for the National Council and the *Land* parliaments. All Austrian residents over the age of sixteen can vote. After some *Länder* reduced the voting age from eighteen to sixteen years for *Land* and municipal elections in 2004, the federation also reduced the voting age for federal elections to sixteen years in 2007. As the electoral provisions of the *Länder* may not be more restrictive than the federal ones, the remaining *Länder* adapted their laws accordingly. Under a European directive,³¹ this right to vote extends to EU citizens resident in Austria. This can lead to the anomalous situation where young EU citizens enjoy more rights in their host country than they would in their country of origin. EU citizens, however, may not be elected as mayors, and some *Länder* reserve the position of deputy mayor and membership on a municipal executive board to Austrian nationals.³²

With regard to all delegated powers, the mayor carries out the executive function. Matters within the sphere of autonomous powers are the responsibility of the mayor – up to certain financial limits – acting together with the executive board. The municipal council is, however, the final decision-making body on matters falling within the autonomous sphere. The composition of the municipal executive mostly mirrors the political composition of the council. Many decisions are prepared in committees and then adopted by the council. The municipal office, under the mayor's supervision, implements the decisions of the council.

Since 1995 the *Länder* have been permitted to adopt constitutional provisions allowing for the direct election of mayors. Thus far, this has been applied by six *Länder* with different experiences. Immediately after the introduction of direct elections, the declining turnout in the local elections was slowed, but this was not a lasting phenomenon. In general, however, combining elements of a presidential system with a parliamentary one is not widely appreciated, notably by political parties. Direct election of a mayor can lead to majorities in the municipal council and the municipal executive that are not in the hands of the mayor's party. A directly elected mayor may have to govern "against" a majority in the council. This is not an easy situation. Also problematic is that mayors sometimes focus much more on their own campaigns than on those of their political parties. In the six *Länder*, however, the media would not support an initiative to return to the council-elected system, so initiatives to this end in the *Land* parliaments are unlikely. By contrast, in Lower Austria, Styria, and Vienna, there is no movement to directly elect mayors.

All plenary meetings of municipal councils are open to the public. Before implementing local planning schemes, municipalities must consult widely, publish the proposed decisions locally, and inform the citizens concerned. To allow for public involvement, most municipalities have their own websites,

organize public meetings to discuss projects or initiatives, send official newsletters to all citizens, and use local media for information purposes.

From 1984 onward, the *Länder* developed different forms of direct participation of citizens in municipal affairs, sometimes applicable only in big cities:³³ citizens' vote (*Bürgerabstimmung*), citizens' initiative (*Bürgerbegehren*), and consultation with the citizens (*Bürgerbefragung*). These are not used frequently, and turnout is generally below 40%.

Citizens' votes are conducted whenever the council or the mayor so decides. Official resolutions subject to a citizens' vote do not enter into effect until there is a positive vote. If the result is negative, the resolution cannot be executed because the result is binding on the municipal authorities. In Land Salzburg, for example, mandatory votes have to be held to approve a municipal council's decision to apply for the status of a city or town. In 2000, 35.9% of the citizens of Oberndorf, Land Salzburg, participated in the vote, and 78.7% favoured the proposal.

In principle, a citizens' initiative can be introduced by 10% of the voters. An exception is the City of Salzburg, where, for example, a citizens' initiative needs to be signed by only 2,000 petitioners, or only 1.3% of the population. If a majority of yes-votes calls for a specific resolution of the municipal organ, the respective body has to debate and decide on the matter. It has no further binding effect. A recent example was an initiative voted on 20 October 2006 to keep contemporary art out of the historic old town of Salzburg for five years. This provocative initiative of artists attracted a turnout of only 1.9%, producing a 90.8% yes-vote.³⁴

Consultation with citizens is the oldest form of participation, and it exists in all *Land* legislation on municipalities. It applies to matters within the competence of the municipality with some exceptions, such as taxes, fees, and matters concerning individual citizens and municipal staff. The intention is to determine the citizens' opinion on future decisions concerning the municipality, especially planning. Either the municipal council or the mayor can decide to conduct a consultation. However, the executive authorities of the municipality are not bound by the result of the consultation. Examples are the consultation about the future of a primary school in a district of Graz, Styria, on 11 September 2005, with a turnout of 24.2%, producing a 99.3% yes-vote,³⁵ and a consultation on whether the City of Salzburg should apply to host the Olympic Winter Games of 2014, which was held in April 2005 with a turnout of 28.8%, producing a yes-vote of only 39.5%.³⁶

The Special Case of Vienna

Vienna covers an area of 414 square kilometres, has 1.6 million inhabitants, and has all the attributes of the Austrian *Länder* as well as municipal

constitutional and administrative orders; it is one of the nine *Länder*, Austria's largest municipality with its own statute, and the federal capital. Vienna's double function as a *Land* and a municipality is also recognized in the financial equalization scheme, where it receives its share both as *Land* and as municipality. No specific rights arise from its role as the national capital, except that all supreme federal institutions have their seat in Vienna.

Vienna's political and administrative system has a double legal structure but is staffed by the same actors.³⁷ The most senior politician is simultaneously *Land* governor (*Landeshauptmann*) and mayor. The 100 Vienna municipal councillors also perform a double function in the municipal council and in the *Land* parliament (*Landtag*), according to the sphere of competence of the political or administrative Act they are adopting or implementing. The city's civil service, the so-called *Magistrat*, is simultaneously also the administration of the *Land* government.

The mayor, elected by the municipal council, represents the city, heads the municipal administration, and works with the executive city councillors, the twenty-three municipal-district chairpersons (*Bezirksvorsteher*), and all municipal staff. The executive board of the city is the *Stadtsenat*, composed of the mayor, two deputy mayors, six executive city councillors (*amtsführende Stadträte*), and five city councillors without portfolio (*nicht amtsführende Stadträte*). They are elected by the municipal council. There is no federal supervision over the municipal tasks, and the mayor and the members of the executive cannot be dismissed.

The governor is elected *uno actu* by the *Land* parliament and is sworn into office under the federal Constitution by the federal president. As Vienna is both a municipality and a *Land*, a direct election of the mayor (who is also the governor) is not envisaged by Article 117, paragraph 6, of the B-VG. The governor represents the *Land*, forwards laws adopted by the *Land* parliament to the federal government, chairs the *Land* government, and as a member of the *Land* government, is entrusted with the principal administrative duties of the *Land*. In this respect, he or she is responsible to the *Land* parliament while, as a representative of the indirect federal administration, being accountable to the federal minister in charge. The *Land* government (*Landesregierung*) consists of the governor, two deputy governors, and six members, all elected by the *Land* parliament. In matters of federal implementation, the federal government can file a suit in the Constitutional Court, just like any other *Land*.³⁸

The portfolios are divided into eight groups, each of which is headed by an executive city councillor. These groups comprise seventy municipal departments in total as well as the enterprises Wiener Krankenanstaltverbund (hospital association), Wiener Wohnen (housing), city MUSEUMS, Wiener Stadtwerke (utilities), and Vienna Holdings. The chief civil servant's directorate (*Magistratsdirektion*) and the internal audit, as well as the municipal

district offices (Magistratische Bezirksämter), do not fall under the supervision of an executive city councillor.

As a municipality, Vienna is also a political district subdivided into twenty-three municipal districts, each having its own district council (Bezirksvertretung) with certain competences and headed by an elected district chairperson.

Large cities, like Vienna, are active on the international scene in twinings, partnerships, and networks like METREX and EUROCITIES, as well as in cooperative forums with neighbouring regions. Vienna, as a *Land* and municipality, has developed a specific policy for external relations³⁹ and promoted, among others, the establishment of CENTROPE, a cooperation platform of three Austrian *Länder* and regions from the Czech Republic, the Slovak Republic, and Hungary.⁴⁰ Hosting offices of several international organizations (including the United Nations, OPEC, and the EU's Fundamental Rights Agency), it enjoys the federation's special support, which is not questioned by the other *Länder* or municipalities.

FINANCING LOCAL GOVERNMENT

The Financial Constitutional Law (Finanz-Verfassungsgesetz), a constitutional law adopted on 21 January 1948 (last amended in 2003), stipulates that the federation, the *Länder*, and the municipalities bear the cost of implementing their assigned tasks. Legislation about taxation principles, taxing rights of the federation, the *Länder*, and in part the municipalities, and shared federal taxes are all federal competences. Funding for the budgets of the three orders of government is negotiated every four or five years by the federation, the *Länder*, and the umbrella organizations of the municipalities, and each government's share of the joint federal taxes is then laid down in the financial equalization law (*Finanzausgleichsgesetz*),⁴¹ adopted by the federal parliament by a simple majority.

The *Länder* and municipalities are predominantly financed by their share of the joint federal taxes (*Gemeinschaftliche Bundesabgaben*). These taxes account for 79.4% of all Austrian taxes, compared to 9.0% exclusive federal taxes and 5.4% *Land* and municipal taxes.⁴²

After the federation deducts all transfers to the *Länder* and municipalities (e.g., for salaries and pensions of teachers in primary schools, housing, and the environment), its share of the joint federal taxes is 57.2%, whereas 21.1% goes to the *Länder* (without Vienna), 9.8% to the municipalities (without Vienna), 8.5% to Vienna (as *Land* and municipality), and 3.4% to the EU. The latter contribution is shared among the federation (75.48%), the *Länder* (20.79%), and the municipalities (3.73%).⁴³

Transfer payments within the public sector, including social security and health insurance, amounted to €33 billion (US\$41 billion) in 2004, about one-third of all levied taxes and charges and social security contributions.

The largest amount of €12 billion (US\$14.9 billion) is transferred to the *Länder*, partly as a consequence of shifting tasks from the federation to the *Länder* and partly for onward relay to municipalities. Federal and *Land* transfers to municipalities are often linked to specific expenditures, such as homes and care for senior citizens and the disabled, primary schools (for ten to fourteen year olds), hospitals, water supply, and wastewater treatment.⁴⁴

Land taxes (without Vienna) play a minor role and accounted for only 1.46% of all taxes in 2003, whereas municipal taxes (without Vienna) amounted to 5%.⁴⁵ In 2007 the most important ones were the municipal tax (*Kommunalsteuer*), which totalled €2.24 billion (US\$3.07 billion) (or 3.1% of all taxes), and property taxes, which totalled €555 million (US\$760.4 million) (or 0.4% of all taxes). The municipal tax, introduced in 1993 by federal legislation,⁴⁶ is a levy of 3% on the salaries of all employees working in enterprises in a municipality; this is levied annually by the employer. Since 2005 the federal finance authorities have collected the tax and refunded the relevant amounts to the municipalities concerned.⁴⁷

On the basis of the transfers in terms of the Financial Equalization Act 2008 and the municipal taxes, municipalities are able to conclude agreements with other municipalities about joint investment in developing industrial or commercial areas and, subsequently, about the share of the municipal tax raised there. When disputes arise from such agreements, it is not the supervising authority that decides but the regular civil courts. A recent example concerned a cross-border business area between two municipalities in Upper Austria and two in Land Salzburg.⁴⁸

The budgets of the municipalities (excluding Vienna) are funded by shared federal taxes (38%), fees and service charges (22%), own-source taxes such as the property tax and municipal tax (21%), federal and *Land* transfers and other income (14%), and economic activities (5%). In the case of Vienna, the revenue sources are 38% from shared federal taxes, 12% from fees and service charges, 11% from own taxes, 37% from federal and other public transfers, including that for the Vienna underground system, and 2% from economic activities.⁴⁹

The exclusive municipal taxes, as laid down in the Financial Equalization Act 2008, are the property tax, municipal tax (salary levy), tax on secondary residences, amusement tax, tax for owning dogs, market fees, use of public land and public air space (e.g., for advertising),⁵⁰ fees for using municipal facilities, and parking fees. *Land* legislation may authorize the municipal councils to fix the percentages of most of these taxes within prescribed margins. These exclusive municipal taxes account for only about 40% of all own-source revenue.

The financial strength (*Finanzkraft*) of a municipality is calculated on the basis of the amount of its property tax, municipal tax, joint federal taxes, and other revenue in relation to the population size of the municipality.

The average expenditure of municipalities in 2007 amounted to €2,481 (US\$3,399) per inhabitant.⁵¹ Low financial strength entitles municipalities to additional transfers from the federation and the respective *Land*. It is assumed that bigger municipalities also fulfil central functions for the surrounding area, which causes additional costs. Bigger municipalities, therefore, receive a larger share of the joint federal taxes.

Loans are permitted for capital investment expenditures only if the municipality is able to repay the debt and the stability criteria are met (see below). Operational expenditure has to be covered by regular receipts from taxes and fees. The debts of municipalities in 2007 rose by 0.7% to €11.05 billion (US\$15.14 billion), which is €1,705 (US\$2,336) per capita. Vienna improved its situation in the past few years to €834 (US\$1,134) per capita.⁵² *Länder* generally require that municipalities levy the taxes assigned to them properly, and to the optimal degree, before granting them funds for larger-scale projects.

Austria's fiscal equalization system is complex, but there still is, due to its participatory and consensus-oriented approach, an efficient horizontal outcome. Broad acceptance of the system suggests that the balance between regional equalization (solidarity) and performance incentives could be maintained. However, the weak tax competences of the *Länder* are not appropriate to the federal character of Austria.

SUPERVISION OF LOCAL GOVERNMENT

Supervision of municipalities is exercised by several institutions of the federation and the *Länder* and of the municipalities themselves. Supervision can range from superficial coaching to strict control, with restrictions on local autonomy impacting democracy. Within their autonomous sphere of action, municipalities are not bound by the instructions of the federation or of the relevant *Land*. However, all municipal actions may be scrutinized for compliance with legislation, as well as against criteria of thrift, efficiency, and expediency.⁵³ The mayor has to report to the *Land* within three months regarding the measures that were taken to comply with the supervision report compiled by the *Land* authorities.⁵⁴ In case of noncompliance, the *Land* may invalidate Acts, demand their proper legal implementation, and if the municipality does not act, implement the measure on behalf of the municipality. Mayors and members of municipal executives may be fined up to €2,000 (US\$2,741) for violating official duties.

The federal Court of Auditors (Rechnungshof) supervises the budgets of the twenty-four municipalities with more than 20,000 inhabitants, the municipal enterprises controlled by these municipalities, and the associations of municipalities. On demand of a *Land* government, the federal Court of Auditors can also audit the budget of municipalities with fewer than

20,000 inhabitants. Annually, the mayors submit municipal budgets and financial statements to the Court of Auditors and the relevant *Land* government. The Court of Auditors reports to the municipal council, the *Land* government, and the federal government, and the court publishes its reports. These contain recommendations but no binding directives. Due to their publication, and to the review of whether earlier recommendations have been taken into account by the municipalities, the reports are generally followed.

Article 148a-i of the B-VG further requires that municipalities, like the federal and *Land* authorities, may have to justify their administrative acts to the so-called Commission for Complaints from the Public (Volksanwaltschaft), a three-member ombudsperson board. The three commissioners are elected by the National Council on the basis of nominations by the three largest political parties.

All *Länder* have established independent courts of auditors for control of *Land* administration, although only in Burgenland, Upper Austria, and Salzburg can the *Land* court of auditors also examine the budgets and the administration of municipalities, on demand of the *Land* government. In such a case, however, the court is not independent, and the results of the examination and the recommendations are not made public. Aiming at changing this legal basis, the presidents of the *Land* courts of auditors have proposed an amendment of the federal Constitution allowing them to examine the books of municipalities and recommend improvements. A draft constitutional amendment presented in July 2007 envisaged that the *Land* parliaments would be entitled to decide whether *Land* courts of auditors could get this responsibility. In the fall of 2008 a decision was still pending.

Most supervision of the municipalities is carried out by the *Land* governments. One or two members of a *Land* government are responsible for this portfolio. The levels of supervision or service and advice respecting municipalities vary significantly among the *Länder*. Standards for reservation clauses for contracts, the approval of loans, establishment of enterprises, and control of the legality of actions vary significantly. The degree to which municipal personnel matters are supervised also greatly varies. In some *Länder* (e.g., Salzburg) every post, promotion, and the like must be approved by the *Land* government. In other *Länder* municipalities present their staffing plans, together with their annual budget, for approval. A broad spectrum of limits for the approval of loans by *Land* authorities also exists.

According to Article 119, paragraph 4, of the B-VG, members of the municipal executives – except in Vienna – can be dismissed by the *Land* governor on behalf of the federal government in cases of gross negligence in the implementation of federal law or by the *Land* government with regard to the administration of *Land* laws. *Land* legislation regulates the criteria for

dissolving a municipal council in the case of its continued inability to make decisions. Where a council is dissolved, the *Land* government can establish a commissioner for the municipality until the next election of the municipal council. This constitutional provision has, however, not been applied often.

The supervision of municipalities includes verifying compliance by the municipality with a federal and *Land* law. If a municipality feels that the *Land* supervision interferes with its autonomy, it can defend its rights in the federal administrative courts or the Constitutional Court.⁵⁵

Many bigger cities have their own internal audits or City Court of Auditors, like Graz, Austria's second largest city. These auditors, established by the special statute of those twenty-four cities, are independent and responsible to the city council. They supervise the municipal budgets, including those of municipal enterprises. All municipal councils have to establish control and screening commissions for their own control of the municipal administration. These are established by *Land* legislation, which also grants rights of scrutiny to opposition parties.

In general, the supervision rights over municipalities and the practices of the federation and the *Länder* are seen as "municipality friendly," and proposals for further limitations of these rights by a federal constitutional amendment have been tabled.⁵⁶ Local autonomy is much more threatened by being hollowed out financially and by the extension to municipalities of federal and *Land* policies – for example, in regional planning, schools, and social policy.⁵⁷ Municipalities have conferred upon them more and more mandatory tasks with financial burdens, like social welfare. This narrows their ability to act and to implement their own priorities. Intermunicipal bodies and local government associations actively lobby the *Länder* and federal institutions in this respect.

INTERGOVERNMENTAL RELATIONS

The Austrian Association of Cities and Towns (Österreichischer Städtebund) was established in 1915, and the Austrian Association of (formerly Rural) Municipalities (Österreichischer [Land]Gemeindebund) followed in 1947. The vast majority of Austrians live in the 2,346 municipalities represented by voluntary membership of the associations. Each association (including *Land* organizations) employs around thirty people, and their administrative capacity is thus rather limited. However, the president of the Association of Cities and Towns is the powerful mayor and governor of Vienna, which strengthens the position of this association. The Association of Cities and Towns has 247 cities and towns as members and is organized into nine *Land* branches. The members of the Austrian Association of Municipalities are nine *Land* associations. Six *Länder* have one association each. Burgenland and Lower Austria, however, have one for Christian Democrat and another for Social

Democrat municipalities or municipal councillors respectively. This has not yet been a problem because the vast majority of councillors and mayors have been members of these parties. Given developments in both the *Land* and federal arenas, where the main two political groups have around 35% representation each and a further two parties have around 11% each, the two-party construction of representation in Burgenland and Lower Austria will have to be reconsidered for the future.

The associations of municipalities are – with exceptions in two *Länder* – not affiliated with political parties. This is considered one of the reasons for their success, as they represent the common positions of the vast majority of the political spectrum. In 2006 more than 90% of all mayors (2,124 out of 2,357) had an ÖVP or SPÖ background.

A second reason offered for their success is that they generally present proposals agreed upon among themselves, taking into account the needs of urban areas as well as those of the small municipalities in rural areas. This facilitates negotiations with the federal and *Land* governments, as a compromise among the municipalities is already achieved. The consultative involvement of the municipalities in federal and *Land* lawmaking has led to a better understanding of the needs of local government without slowing the former's legislative processes. It seems to be an Austrian tradition to find political solutions by consensus rather than to go to court and have judges make political decisions.

The associations have long been involved in informal consultations. In 1954 the Federal Chancellery invited all ministries, the Court of Auditors, and the management of the Federal Post and of the Austrian Federal Railways to inform the two associations about important draft laws and regulations that concern the interests of municipalities and to give them, rather than only the authorities of the *Land* governments, an opportunity to bring the interests of the municipalities to bear on proposed legislation. The federal government and the *Land* governments have been consulting with local government for quite some time via the two associations, particularly on financial questions. It took a long time, however, before the municipalities were mentioned constitutionally as partners in consultation processes. In 1988 the two associations were mentioned in Article 115, paragraph 3, of the B-VG as representatives of local authorities. Even before this clarification in the Constitution, about 150 draft bills were submitted each year to them for comment.

When Austria joined the European Union, the participation rights of both the *Länder* and the local authorities were enhanced substantially. One reason for this was the need for the support of the subnational governments for Austria's entry into the EU. The federal government wanted to avoid losing the referendum on membership; therefore, it involved the most important political organizations, which included the local authorities. The 1995 referendum on EU membership returned a two-thirds yes-vote.

Consultation Mechanism and Stability Pact

With Austria's EU membership in 1995, it was already clear that, under the framework of the Economic and Monetary Union, measures had to be taken to ensure that Austria met the EU's requirements regarding public deficits. At this time, the *Länder* and municipalities were not satisfied with the state of fiscal relations with the federation following the agreement on the financial equalization scheme, a federal law adopted after negotiations with the *Länder* and the associations of municipalities over a period of four years. The financial equalization law often unilaterally imposed unfunded mandates, causing new and unforeseen administrative and financial burdens for the *Länder* and especially for the municipalities. In the new EU context, they therefore strove for a new quality of financial relations, and a consultation mechanism and an Austrian stability pact were thus developed. A federal constitutional law of 1998 gave the two associations of municipalities a mandate to conclude agreements with the federation and the *Länder* on behalf of the municipalities in order to establish a consultation mechanism (*Konsultationsmechanismus*) for new legislation and to sign stability pacts.⁵⁸

After negotiations, an agreement between the federation, the nine *Länder*, and the municipalities (represented by the Austrian Association of Municipalities and the Austrian Association of Cities and Towns) entered into force on 15 January 1999, obliging the federation and the *Länder* to inform the other partners – including the municipalities – about draft legislation and the expected administrative and financial impacts of its implementation on other governments.⁵⁹ After a deadline for all partners to comment on a draft, a consensus has to be reached in negotiations. Without consensus, or if the consultation process is not followed properly, the offending government, whether the federation or *Land*, must bear the cost caused by the legislation.

Between January 2000 and December 2003, individual *Länder*, as well as the municipal associations, demanded negotiations in the consultation board with regard to some eighty draft federal laws and regulations. In more than thirty cases, the demands were withdrawn after negotiations, and some demands were presented too late.⁶⁰ In 2004 the *Länder* initiated the consultation mechanism in twenty-two cases, and the federation did so in four cases. The associations of municipalities initiated the mechanism in six cases against *Land* legislation and in four against the federation. The experiences have been generally positive, but procedural problems remain. Often the financial impact of draft legislation is not calculated properly, and the deadlines of one week to comment on government initiatives and of four weeks within a regular consultation period irrespective of the volume and impact of legislation are considered too short.⁶¹ In most cases,

however, the demand for negotiations has led to adaptation (or abandonment) of the federal proposals after the objections of the concerned *Land/Länder* or associations have been taken into account. This shows that awareness of costs and transparency on the side of the legislating federation and the *Länder* has increased substantially. It also means an important step toward cooperation and a culture of negotiation in the federal system. Demands for negotiation have been made in relation to a federal law governing family subsidies, budgetary laws, and road-traffic regulations, to mention a few.

The first stability pact of 1999, aimed at coordinating the budgetary policies of the three orders of government, shared the maximum deficit quota of 3% of GDP between the federation (2.7%), the *Länder* without Vienna (0.11%), Vienna as *Land* and municipality (0.09%), and the 2,357 municipalities (0.1%). It was followed by pacts for the years 2001–04 and 2005–08. A new pact for the period 2008–13 was concluded stipulating the following contributions as percentages of GDP: maximal deficit quota (-) for the federation, minimum budget surplus (+) for the *Länder*, and balanced budgets of the municipalities within the *Länder* (table 2.1). Trade-offs between the partners are possible.

Relations become most intense where the *Länder* deal with the municipalities (and their *Land* associations) in co-financing municipal projects. The legislative competences of the *Länder* for spatial and urban planning, protection of nature, social affairs, and municipal provisions in general are issues for discussion and negotiation. Usually, the relations are constructive and cooperative. When it comes to grants and subsidies, the municipalities are often competitors and, therefore, in favour of guidelines and criteria determined by the *Länder* for financial incentives and so on.

Within the governments of the *Länder*, one member is usually responsible for municipal affairs, including budgets, subsidies, and supervision. A remarkable division of tasks is practised in Upper Austria and Styria, where one member of the *Land* government is responsible for municipalities with an ÖVP mayor and another member for those with an SPÖ mayor.

As a characteristic of federalism, the responsibility of the *Länder* for most of the legislation on municipalities leads to different solutions within a relatively small territory; this is frequently criticized by representatives of the economic sector. In February 2007 mayors of municipalities at the border between Upper and Lower Austria complained that citizens had to travel extremely far to get a *Land*-funded social benefit. Senior citizens from Ennsdorf, a little border village in Lower Austria, have to use Lower Austrian senior citizens' residences in municipalities up to 40 kilometres away, whereas the closest one 2 kilometres across the border in Upper Austria has the necessary capacity and houses people they know from their neighbourhoods. The reason lies in the responsibility of *Länder* to

Table 2.1

Austria: Percentage stipulated contributions of GDP, 2008–13

	Federation	<i>Länder</i> + Vienna	Municipalities	Austria
2008	- 1.33	+ 0.45	0	- 0.88
2009	- 0.68	+ 0.49	0	- 0.19
2010–13	- 0.14	+ 0.52	0	+ 0.38

fund social services jointly with the municipalities in their jurisdictions. To solve the problem, many older people also register in the neighbouring municipality across the *Land* border, thereby becoming eligible for a place in a senior citizens' residence in that municipality, which is closer to their former hometown.

Kindergartners, too, experience different systems. Lower Austria, being the only *Land* with free kindergarten attendance, attracts youngsters from municipalities in neighbouring *Länder*. Parents register their children with Lower Austrian relatives and friends, and the children return to their parents' hometowns outside Lower Austria every afternoon.

Similar examples can be found along all *Land* borders, says Gottfried Kneifel, member of the Federal Council.⁶² A transparent calculation of public costs should lead to free choice of public services by citizens in selected areas. *Länder* or municipalities would then be able to develop equalization schemes for services so rendered. However, such a solution based on citizens' needs requires an amendment to the federal Constitution.

The federal portfolio for municipalities' affairs lies with the Ministry of the Interior. Other ministries, whose functions are delegated to the municipalities, also maintain contact with the municipalities directly and with their associations. A deputy minister (*Staatssekretär*) in the Federal Chancellery deals with administrative reform and e-government, thus having regular contact with the municipalities and their associations. The associations represent municipalities in all federal bodies dealing with municipal issues.

Municipal relations with the federation – via the federal associations without mediation of the *Länder* – deal mostly with constitutional matters and finances but primarily with matters of delegated powers, whereas the *Länder* are involved with the development of legal provisions or policies in the municipalities' autonomous sphere of action.

For the coordination of spatial planning – a *Land* competence – the federation, the *Länder*, and the municipalities have established the Austrian Conference on Spatial Planning (*Österreichische Raumordnungskonferenz*).⁶³ The executive body, chaired by the federal chancellor, comprises most federal ministers, the *Land* governors, and the presidents of the two municipal associations. The office was established in the Federal Chancellery, and its

studies, projects, and research are carried out by committees and working groups involving all partners. Every ten years, the conference publishes the Austrian spatial development plan, detailing the plan's impact on *Länder* and local governments.

The rather homogenous structures of the representation of the municipalities facilitate relations with the federation and the *Länder*, and both the federation and the *Länder* take the municipalities seriously. The presidents of the associations – Michael Häupl, mayor of Vienna (SPÖ), and Helmut Mödlhammer, mayor of Hallwang in Land Salzburg (ÖVP) – are influential beyond their own political parties. According to the constitutional provisions, only the federation and the *Länder* possess legislative competences. The municipalities are merely partners at the negotiation table, even though they are greatly affected by both federal and *Land* legislation. Sometimes, therefore, the expression that “two and a half partners” are involved is used by municipal representatives. Exceptions are the consultation mechanism and the stability pact, where municipalities are full partners and signatories.

POLITICAL CULTURE OF LOCAL GOVERNANCE

The municipal political spectrum is similar to the federal and *Land* spectrums. However, citizens' lists or groups with single local issues are a particular feature of municipal mandates. Traditional political parties are organized into municipal groups and, in bigger towns, also into districts or constituencies.

Voter participation in elections is continually decreasing. The turnout in elections for the National Council fell steadily from 94.3% in 1945 to a low of 78.5% in 2006 and 78.8% in 2008. Turnout in elections for members of the European Parliament fell from 67.7% in 1996 to 49.4% in 1999 and 42.2% in 2004. Participation in the election of the federal president declined from 96.8% in 1951 to 71.6% in 2004.⁶⁴

At approximately 80%, the average turnout in municipal, *Land*, and federal legislative elections held between 1990 and 2008 does not show any significant variation between the different governments. Average participation ranges between 82.9% for the National Council, 79% for *Land* parliaments, and 78.2% for municipal councils, with a downward tendency for all three.⁶⁵

In 2005 a large majority (63.6%) of the 2,358 mayors were members of the ÖVP. The SPÖ had 26.5%, the FPÖ 1.7%, and independent lists 8.2%. Like the federal and *Land* governments, with 2,124 mayors, the SPÖ and ÖVP together account for 90.1% of the municipal leaders. The 42,248 councillors in the 2,358 municipal councils again mirror the predominance of the ÖVP (44.6%) and SPÖ (34.5%), followed by the FPÖ (5.2%), Greens (1.5%), KPÖ (Communist Party) (0.06%), and independent lists (5.3%).⁶⁶

Most municipal councillors are men. The number of female mayors increased from forty-five in 2003 to seventy-three in 2005, a significant increase, but still only a 3.1% share of the leadership positions.⁶⁷ Political parties and the *Länder* as well as the municipalities hold seminars to encourage women to stand for election. The results, however, have not yet been impressive, although more women are coming into political positions. In *Länder* with a higher share of minority groups, some mayors come from these groups. In Burgenland, for example, about 6 of the 171 mayors belong to the biggest minority group, the Burgenland-Croatians.

Many politicians start their careers in municipal government before moving to *Land* or federal careers. Günther Platter, for example, federal minister for defence until 2007 and minister for the interior in 2007 and 2008, served as mayor of his Tyrolean hometown from 1989 to 2000, before becoming a member of the Tyrol *Land* government and later federal minister and then returning as *Land* governor of Tyrol in 2008. In 2005, 56.3% of the 183 members of the National Council had had municipal mandates before or during their federal ones. A similar rate of 62.9% applied to the sixty-two members of the Federal Council.⁶⁸ Members of the *Land* parliaments also often have a municipal background and serve as councillors or mayors. These positions are not incompatible, and thus can be held concurrently, although salaries earned from public positions are limited by federal legislation.⁶⁹

The Federal Constitutional Act (B-VG) stipulates that membership of municipal councils and other general representative assemblies (e.g., National Council and *Land* parliament) is incompatible for the following positions: federal president;⁷⁰ member of the federal Supreme Court, Court of Auditors, and constitutional and administrative courts; and ombudsperson.⁷¹ In principle, members of a federal or *Land* executive consider an additional municipal executive mandate to be incompatible with their positions, although no laws prohibit that explicitly, unless the post of mayor in larger municipalities is considered to be a gainful occupation. Siegfried Ludwig (Lower Austria, ÖVP) was mayor from 1957 to 1981 and also member of the government of Lower Austria from 1968 to 1981, before becoming governor in 1981, and Karl Schlögl (Lower Austria, SPÖ) was mayor from 1989 to 1997 and also deputy minister (*Staatssekretär*) in the Federal Chancellery from 1995 to 1997. Both held posts as mayors while serving in government. Double mandates in general happen only where one mandate is municipal and the local government background is considered helpful and valuable, facilitating contacts between the levels.

Most *Land* parliaments decide the salaries of mayors, but Vorarlberg leaves it to the municipal councils to vote the mayor's salary within fixed margins. Mayoral salaries for municipalities under 500 inhabitants range from €11,967 (US\$16,403) per year in Burgenland to €21,910 (US\$30,033) in

Tyrol, and for cities over 20,000 inhabitants from €88,536 (US\$121,360) in Lower Austria to €110,670 (US\$151,700) in Upper Austria. Most mayors are paraprofessionals: 85% of them work full time in their civilian professions. On average, they dedicate about thirty-three hours per week to their political mandates, in addition to their regular professions. The unsatisfactory social benefits provided for mayors make it less and less attractive to stand for the position. Mayors have no right to a municipal pension, no unemployment insurance, and none of the other rights that employees usually enjoy.⁷² As 59% of the mayors have responsibilities for children, this insecurity is a considerable hindrance for many, says Helmut Mödlhammer, president of the Austrian Association of Municipalities.⁷³ In the election of 2004, 20% of the mayoral candidates in Land Salzburg stood unopposed.

The turnover of mayors can be considered low, and most serve two to three terms. There are extraordinary examples of mayors serving longer, like Hermann Kröll, mayor of Schladming, Styria, from 1975 to 2005; Kurt Schagerer of Pitten, whose forty-three-year term from 1962 to 2005 marks the longest mandate in Lower Austria; and Valentin Deutschmann of Grafenstein, Carinthia, who retired on 30 September 2008 after holding the post for more than fifty years.

Local party organizations are well embedded in the structures of the party in both the district and the *Land* arenas, often receiving technical support, coaching, seminars, and training. *Land* parties are exceptionally influential with regard to recruitment and topical issues in *Land* capitals. Most political parties oblige their politicians who receive a salary or remuneration for posts flowing from their political positions to pay contributions of between 10% and 20% thereof to the respective level of the party organization. Due to the small size of municipal and *Land* structures, most of the actors know each other, which facilitates contacts between the different levels. Members of the *Land* governments and parliaments and members of the federal government and the federal Parliament frequently participate in district and *Land* party meetings and so are within reach in a “friendly” environment.

TRENDS AND DEVELOPMENTS

The main challenges for municipalities arise from the development of an aging society and the needs for healthcare and nursing. Initiatives of the federal government, such as a limit of twenty pupils per classroom, free kindergarten for the year before elementary school, and a new scheme of care for the elderly, cause additional municipal expenditures, which cannot be borne without changing the financial equalization. Mödlhammer has called for a substantial reform and clarification of tasks in the federal system but has confirmed the willingness of municipalities to perform their duties. A prerequisite for doing so, however, is an adequate financial basis.

In their 2007 municipal summer talks,⁷⁴ mayors opposed the undifferentiated introduction of international standards for public-private partnerships (PPP), which may have proven successful in metropolitan areas but do not take into account the specific small structures in Austria. International tenders of €50,000 (US\$67,415) and above often exclude local suppliers, although contracting with a regional enterprise would create taxes and employment in the region with positive effects on municipal budgets.

A key trend for local government is the impact of Austria's EU membership, which has resulted in limitations on autonomous decisions with regard to tendering and budget discretion, partly introduced by international agreements. The EU represents its member states in negotiations of the General Agreement on Trade in Services (GATS) and in the World Trade Organization (WTO). The municipal umbrella organizations and the *Länder* have adopted several resolutions seeking to exempt from the GATS negotiations the opening-up of the markets for public services, such as water, health, educational audiovisual services, urban transport, and social services, which are often provided by *Länder* or municipalities. European and global associations of municipalities, such as the Council of European Municipalities and Regions (CEMR) and United Cities and Local Government (UCLG), serve as platforms to reduce the negative impact of globalization on local government. EU membership brings not only new quasi obligations to co-finance EU-funded projects in the region but also new possibilities to cooperate across borders and to develop projects with partners from the other twenty-six member states. The European Commission involves local and regional actors more and more in its policies, and the Committee of the Regions has established a subsidiarity monitoring network for municipalities on employment and growth. This has led to a significant increase in expertise and international exchange for municipal politicians and administrators as well as to new and unprecedented solutions.

Although local self-government is not a competence of the EU, many policies and a large range of EU legislation must be implemented by local authorities. *Länder* and municipalities therefore strove for an early involvement in Austria's EU politics – even before it obtained membership in 1995. Since 1989 two representatives of the municipal umbrella organizations have had a seat on the Council for Matters of the Austrian Integration and (since 2001) Foreign Policy,⁷⁵ a consultative body of the federal government.

An agreement between the federation and the *Länder* about participation in EU matters, signed on 12 March 1992,⁷⁶ also included the rights of municipalities to comment on these proposals after coordinating views within their umbrella organizations. Although the comment of the municipalities is not legally binding and has to be considered only by the federal

government, the *Länder* are able to bind the federal government in negotiations at the level of the Council of Ministers in matters of *Land* legislative competence. The *Länder* (in 1994) and the municipalities (in 1996) made use of a provision in this agreement allowing them to second, at their own cost, staff to the Austrian Permanent Representation to the EU in Brussels. The full integration of one officer from each association allows access to nearly all documents passing through the permanent delegation on their way to the national capital. This is the basis for networking with other national or European associations of municipalities to jointly lobby national and European decision makers.

An amendment to the federal Constitution in 1994 introduced the relevant provisions for EU membership. A new Article 23d, paragraph 1, of the B-VG stipulates that the federation has to inform the *Länder* and the municipalities about all projects within the framework of European integration, in so far as their own sphere of competence or other important interests of the municipalities are affected. The municipalities are represented by their two umbrella organizations. These were granted the right to nominate three of the twelve Austrian representatives to the Committee of the Regions and, most important, the right to comment on all EU issues of significance for local government. Representatives of the local authorities' associations and the *Länder* are regularly invited to participate in all the national preparatory meetings. In reality, involvement depends largely on the working capacity of the associations, as meetings in the ministries on EU-related matters take place as often as once a week.

The federal government acknowledged the important role of the municipalities in the integration process in its 1995 White Paper outlining the key elements of Austria's EU policies.⁷⁷ It advocated respect for the principle of local autonomy in the debates and negotiations for a constitution or a reform treaty for the European Union.

Municipal Involvement in the European Arena: CLRAE, CoR, and Euro-regions

The Council of Europe was the first European institution to set up a body for matters concerning the regions and local authorities. It started in 1952 with the Parliamentary Committee for Local and Regional Questions, followed in 1954 by the Committee for Local Affairs. In 1957 the Conference of Local and Regional Authorities was set up. The establishment of the Congress of Local and Regional Authorities of Europe (CLRAE) in 1994 as a consultative organ of the Council of Europe marked a breakthrough. Its 315 full and 315 substitute members work in a Chamber of Regions and a Chamber of Local Authorities and represent – being directly elected local and regional politicians – the 200,000 local and regional authorities in the Council of Europe's forty-seven member states.

Each member state has the same number of seats in the Congress as it has in the Parliamentary Assembly. Austria nominates three members and three alternate members in each of the two chambers. A standing committee, comprising representatives of all the national delegations, meets during the autumn and spring sessions, alongside the other committees (i.e., Institutional Committee, Committee on Culture and Education, Committee on Sustainable Development, and Committee on Social Cohesion). Key tasks are the monitoring of the application of the European Charter of Local Self-Government, the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities, and the Convention on the Participation of Foreigners in Public Life at Local Level;⁷⁸ the observation of local and regional elections; and advice to the Committee of Ministers on municipal and regional issues. The Congress also addresses member states of the Council of Europe with resolutions and monitoring reports. In 2007 it focused on an additional protocol to the Charter of Local Self-Government and a proposed legal instrument on regional democracy.

National delegations must reflect the geographical and political composition of local and regional authorities in their countries and embody a fair balance between women and men. The CLRAE is also organized in political groups. The three members and three alternate members in the Chamber of Local Authorities (mandate 2006–08) represent municipalities from Tyrol and Lower Austria and from Upper Austria, Salzburg, and Styria respectively. Nominations by the umbrella organizations follow the strength of the political parties, with three representatives of both the SPÖ and the ÖVP.⁷⁹

The Committee of the Regions (CoR) is the EU counterpart of the CLRAE. The CoR became operational in 1994. After enlargement on 1 January 2007, its members increased from 317 to 344. As about three-quarters of EU legislation is implemented locally or regionally, the local and regional representatives should have a say in the development of new EU laws. The CoR works through six commissions, and preparatory work is done in the national delegations and political groups.

The European Commission must consult the Committee of the Regions whenever new proposals are made in areas that have regional or local repercussions, and the Council of Ministers and the European Parliament may do likewise. The Maastricht Treaty (in force from 1 November 1993) sets out five such areas: economic and social cohesion, trans-European infrastructure networks, health, education, and culture. The Amsterdam Treaty (in force from 1 May 1999) added another five areas – employment policy, social policy, the environment, vocational training, and transport – which now cover much of the range of the EU's activity. In addition, the Commission, the Council, and the European Parliament may consult the CoR on a proposal involving issues with significant regional or local implications. The

CoR can also draw up an opinion on its own initiative, which enables it to put issues on the EU agenda. The CoR and the CLRAE have established a contact group, consisting of three members from each of them, to coordinate views on key issues and to support each other.

Local authorities participate in the Austrian delegation to the CoR, where their associations jointly nominate three members and three alternate members.⁸⁰ For the CoR term 2008–10, the six municipal representatives came from Lower Austria, Salzburg, Upper Austria, Vorarlberg, and Vienna and had SPÖ and ÖVP backgrounds. Three of them were also members of the CLRAE. The nine *Länder* nominate one member and one alternate member each.⁸¹

Institutional involvement in the Council of Europe and the EU by municipal politicians assisted by their experts from the municipal associations in Vienna and Brussels have created the capacities necessary for dealing with these issues once they arrive in the domestic arena. Cooperation between the federation, the *Länder*, and the municipalities in European affairs has improved significantly since EU membership, just as the bigger municipalities and the two associations have gained significant experience and professionalism.

EU membership also brought other developments. The two municipal associations have supported local governments in the new democracies in central and eastern Europe, particularly by intensifying municipal partnerships, regularly holding conferences on specific municipal topics, and pursuing cross-border cooperation. This intensive cooperation between the associations and the local authorities of the central and eastern European countries not only paved the way for an intensified transfer of know-how but also increased cultural and economic interaction. These local activities call for the citizens of both sides to come closer together.

Many municipalities cooperate across national borders, sometimes with complicated legal bases or without such bases. Effective from 1 August 2007, a new legal instrument of the European Union, called the European Grouping for Territorial Cooperation (EGTC),⁸² provides a formal cross-border legal structure for the cooperation of EU member states, *Länder*, regions, municipalities and their associations, and bodies governed by public law. If legally compatible, neighbouring non-EU countries are also eligible to cooperate. The EGTC facilitates cooperation in Euro-regions, which presently, unless bilateral agreements provide accordingly, do not provide for a single legal personality accepted on the other side of the border. The euRegio Salzburg – Berchtesgadener Land – Traunstein, established in 1995, with member municipalities from Land Salzburg, Upper Austria, Tyrol, and German Bavaria, for example, will be able to abandon the present three-pillar structure of private-law associations in favour of a single common one. The EGTC will extend intermunicipal cooperation beyond national borders and

also stimulate cooperation between municipalities in different *Länder* or regions within member states. Fields of action include infrastructure, sports facilities, public transport, and common development strategies, to mention a few. As of late 2008, the required one federal and nine *Land* laws, needed in order to transpose the EGCT regulation, were still in preparation for parliamentary deliberations and adoption.

CONSTITUTIONAL REFORMS AHEAD

In the past twenty years, federal and *Land* governments have undertaken measures to safeguard the small structure of municipalities. The federal government, sworn in on 11 January 2007, but serving for fewer than two years, stated in its coalition agreement that it would guarantee the existence of municipalities through an amendment to the Federal Constitutional Law in the legislative period 2007–10. This initiative was not questioned and appeared again in the government program for the period 2008–13.⁸³ The amendment shall make changes to the structure of the municipalities possible only with the agreement of the population in the respective municipalities, and all municipalities will continue, irrespective of their size, to have the same rights and responsibilities. To safeguard adequate performance and good governance despite the small size of the municipalities, the legal scope for intermunicipal cooperation will be enhanced. *Länder* as well as towns and municipalities shall be able to create joint institutions for economic activities subject to civil law, as well as for the implementation of public law, in order to accelerate processes and bring together specialist competencies with a view to achieving greater customer orientation. The remaining limitations to intermunicipal cooperation across *Land* borders will also be abolished. Both in private economic activities and in public law, the creation of joint institutions and authorities shall be made possible by the above-mentioned constitutional amendment. To this end, public-law contracts allowing a joint authority to be set up that extends beyond the bounds of local responsibilities will be permitted. The setting-up of appropriate legal procedures for possible conflicts resulting from such public law contracts will thus be imperative.

The role of the municipalities will probably be stronger following the reforms foreseen from 2009 onward. Despite the small structure and the significant differences in size and financial and administrative capacities, the current symmetrical structure with a uniform type of municipality will remain. Specific new regimes for metropolitan areas are not on the agenda, and the status of Vienna as a *Land* and a city will remain unchanged.

Challenges to municipal autonomy are the declining share of own-source financial resources and the rising level of financial transfers that limit municipal autonomy and bring influence from, and dependence on,

Land and federal agencies. Policy extension, especially from the *Länder*, has the same effect. Municipalities also face difficult changes as a consequence of Austria's EU membership, which significantly changed the legal environment for municipalities in the areas of public services, contracts, tendering, budget restrictions, and the like. All Austrian actors, therefore, endorse the provisions in the EU's Lisbon Treaty introducing to international law that EU institutions are bound to respect the national identity of member states, which also extends to local and regional self-government.

The municipalities and their associations are well embedded in the institutional system, and new opportunities have opened for them to participate in Austrian politics. EU membership, the consultation mechanism, and the financial discipline of the federation and the *Länder*, forced by the stability pact, gave the municipalities and their two associations a new role and responsibility, which they have fulfilled satisfactorily.

NOTES

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- 2 Opinion poll conducted by Market Institute Linz, published in *Oberösterreichische Nachrichten*, 27 September 2004, quoted at http://www.market.at/press/index.php/action.view/entity.press_detail/key.257/?PHPSESSID=d938e342b84b691366ddd7ef9154e1e1&sitelang=de&PHPSESSID=d938e342b84b691366ddd7ef9154e1e1 (viewed 7 February 2008).
- 3 "Bürgernähe schafft politisches Vertrauen," *Market Institute News*, no. 29, December 2005, 1–2, http://www.market.at/news/index.php/action.view/entity.news_detail/key.311 (viewed 7 February 2008).
- 4 Ernst Hanisch, "Kontinuitäten und Brüche," in *Handbuch des politischen Systems Österreichs*, ed. Herbert Dachs et al., 11–19 (Vienna: Manz Verlag, 1991), 19.
- 5 Statistik Austria, ed., *Statistisches Jahrbuch Österreichs 2009* (Vienna: Verlag Österreich GmbH, 2008), table 6.21, at 192.
- 6 Federal Ministry for Social Affairs and Consumer Protection, ed., *Struktur und Volumen der Freiwilligenarbeit in Österreich* (Vienna: Statistik Austria, 2008). The key findings are summarized in a press release by Statistik Austria of 21 January 2008, http://www.statistik.at/web_de/presse/029570 (viewed 7 February 2008).
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- McGill-Queen's University Press, 2006); and Roland Sturm, "Austria," in *Handbook of Federal Countries*, ed. Ann L. Griffiths and Karl Nerenberg, 44–57 (Montreal and Kingston: McGill-Queen's University Press, 2002).
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 - 10 Landesstatistik Salzburg, *Salzburgs Bevölkerung 1961 bis 2006 – Stand, Struktur, Entwicklung*, June 2007, 89, http://www.salzburg.gv.at/bevo6_v4oj-langf.pdf (viewed 7 February 2008).
 - 11 *Ibid.*, 39.
 - 12 Ursula Havel and Team, "Bruttoinlandsprodukt 2007 und Revision der vgr-Zeitreihen 1995–2006," *Volkswirtschaftliche Gesamtrechnungen*, 739, http://www.statistik.at/web_de/static/bip_2007_und_revision_der_vgr__zeitreihen_1995_-2006_030434.pdf (viewed 17 September 2008).
 - 13 International Monetary Fund, *World Economic Outlook, October 2008*, "Table 2.1: Advanced Economies: Real GDP, Consumer Prices, and Unemployment," 52, <http://www.imf.org/external/pubs/ft/weo/2008/02/pdf/text.pdf> (viewed 19 December 2008).
 - 14 Figures from EUROSTAT, news release no. 54 of 18 April 2008, http://epp.eurostat.ec.europa.eu/pls/portal/docs/PAGE/PGP_PRD_CAT_PREREL/PGE_CAT_PREREL_YEAR_2008/PGE_CAT_PREREL_YEAR_2008_MONTH_04/2-18042008-DE-AP1.pdf (viewed 17 September 2008).
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 - 16 Barbara Steininger, "Gemeinden," in *Politik in Österreich*, ed. Herbert Dachs et al., 990–1007 (Vienna: Manz Verlag, 2006), 997.
 - 17 Mandate, working documents, composition, and proposals are published on the website of the Austrian Convention (Österreich Konvent): <http://www.konvent.gv.at> (viewed 5 January 2009).
 - 18 The list is published at http://www.parlament.gv.at/K/DE/GRUND-K/GRUND-K_00049/imfname_051333.pdf (viewed 7 January 2009).
 - 19 Roman Häußl, "Vom Meister der Bürger, der Bürgermeister wurde," *Kommunal*, no. 10 (October 2005): 57–60, at 60.
 - 20 For example, § 3 Salzburger Gemeindeordnung (municipal Act), in the version of *Land Salzburg Law Gazette*, no. 8 (2000); or § 13 Vorarlberger Gemeindegesetz (municipal Act), in the version of *Land Vorarlberg Law Gazette*, no. 20 (2004).
 - 21 Statistik Austria, ed., *Statistisches Jahrbuch Österreichs 2008*, table 2.06, 42.
 - 22 Hans Neuhofer, "Landesgesetzgebung und Gemeinden," in *Föderalismus und Parlamentarismus in Österreich*, ed. Herbert Schambeck, 125–36 (Vienna: Österreichische Staatsdruckerei, 1992), 127.
 - 23 B-VG, Article 116a.
 - 24 For example, L-VG [*Land constitution*] Salzburg, Article 51, para. 5.

- 25 Statistik Austria, *Geburungen und Sektor Staat 2007*, part 2 (Vienna: Verlag Österreich GmbH, 2008), table 5.2.3, at 122, and table 5.2.7, at 125.
- 26 Signature, ratification, and entry into force of all Council of Europe treaties can be found at <http://conventions.coe.int> (viewed 5 January 2009).
- 27 Article 115, paragraph 3, of the B-VG came into force on 1 January 1989; see *Bundesgesetzblatt* [Federal law gazette] (1989), 685.
- 28 Statement of the president of the regional parliament of Vienna, Johann Hatzl, in the final session of the Austrian Convention on 28 January 2005, “Minutes of 17th Session,” 51.
- 29 B-VG, Article 118, para. 7.
- 30 Kommunkredit Austria AG, in cooperation with Österreichischer Gemeindebund, *Gemeindefinanzenbericht 2007* (Vienna: Kommunkredit Austria AG, 2007), 31.
- 31 Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections of citizens of the EU residing in member states of which they are not nationals, in *Official Journal of the European Union (OJ)*, L 368 of 31 December 1994, 38–47, amended by Council directives 96/30/EC of 13 May 1996, *OJ*, L 122 of 22 May 1996, 14, and 2006/106/EC of 20 November 2006, *OJ*, L 363 of 20 December 2006, 409.
- 32 Steininger, “Gemeinden,” 995.
- 33 Friedrich Graf-Götz, “Modelle der BürgerInnenbeteiligung in der Gemeinde,” Renner-Institut, 2003, <http://www.renner-institut.at/download/texte/buergerbet.pdf> (viewed 5 January 2009).
- 34 See http://www.stadt-salzburg.at/pdf/Buergerbegehren_12_2006.pdf (viewed 5 January 2009).
- 35 Report about the result of the citizens’ consultation, in accordance with § 176 Steiermärkisches Volksrechtgesetz, to the City Council of Graz of 13 October 2005, GZ: A 18 – K 134/2005–17, published on the website of the City of Graz: http://www.graz.at/cms/dokumente/10039962/cc1af372/a18_K_134_2005_17akt.pdf (viewed 5 January 2009).
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- 38 *Ibid.*, Article 142, para. 2.
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- 40 See presentation in English at <http://centrope.info/baernew> (viewed 5 January 2009).
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- 43 See Hans-Peter Schneider, *Finanzautonomie von föderalen Gliedstaaten und Kommunen: Ein internationaler Vergleich* (Gütersloh: Bertelsmann Stiftung, 2006), 27; and § 9, para. 3, Financial Equalization Act 2008.
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- 49 Kommunalkredit Austria AG, in cooperation with Österreichischer Gemeindebund and Österreichischer Städtebund, *Gemeindefinanzbericht 2008* (Vienna: Kommunalkredit Austria AG, 2008), table 2.1, at 21, table 2.7, at 42. The full report is online at <http://www.kommunalkredit.at/DE/Kommunalkredit/Presse/Gemeindefinanzbericht%202008/Gemeindefinanzbericht+2008.aspx> (viewed 7 January 2009).
- 50 For example, in Vienna: *Gebrauchsabgabegesetz 1966*, actual version in *Wiener Landesgesetzblatt* [Vienna Land law gazette], no. 42 (2003).
- 51 Kommunalkredit Austria AG, in cooperation with Österreichischer Gemeindebund and Österreichischer Städtebund, *Gemeindefinanzbericht 2008*, 30.
- 52 *Ibid.*, 39–41, 43.
- 53 Klaus Berchthold, *Gemeindeaufsicht* (Vienna: Springer Verlag, 1998).
- 54 B-VG, Article 119a.
- 55 Hans Neuhofer, "Gemeinden," in *Handbuch des politischen Systems Österreichs: Die Zweite Republik*, 3rd ed., ed. Herbert Dachs et al., 866–76 (Vienna: Manz Verlag, 1997), 874.
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- 62 “Fische, Kinder, Alte nutzen Schlupflöcher in Landesgrenze,” *Die Presse*, 5 February 2007, 10.
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- 65 Figures from *ibid.*, 498, and my own research drawing on the websites of the *Länder*.
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- 81 Austrian delegation in the CoR, <http://cormembers.cor.europa.eu/cormembers.aspx?critName=&critCountry=AT&critFunction=MEM%7CALT&critGroup=&critDossier=&iaction=Search> (viewed 5 January 2009).
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- 83 See the work program of the federal government sworn in on 2 December 2008, "Regierungsprogramm für die XXIV. Gesetzgebungsperiode 2008–2013," <http://www.bka.gv.at/DocView.axd?CobId=32966>, accessible from <http://www.bka.gv.at/site/3354/default.aspx> (both viewed 6 January 2009).