



## Local Government in Austria: Sharing Responsibilities

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Municipalities are the smallest self-governed political entities, administrative units, and autonomous economic actors of Austria's eight *Länder*. Vienna is an exception, as it is both a *Land* and a municipality. The average size of Austrian municipalities, at 3,400 inhabitants, is rather small. About half of the municipalities count less than 2,500 inhabitants. Nevertheless, the number of municipalities has risen from 2,300 in 1976 by 2.5 percent to 2,358 in 2006. The strength of municipalities is seen as essential for high levels of involvement and participation by citizens and for strong, democratic accountability of politicians.

The political actors of a municipality are the mayor, the municipal or city council, and the executive board. The municipal council is elected directly by the local population. Since the 1990s, six *Länder* adopted constitutional provisions that allow for direct election of the mayor. In general the combination of elements of a presidential system with a parliamentary one is not widely appreciated, although politically irreversible.

The strong legal position and the important role of the municipalities in public life in Austria date back to 1849, when the free municipality was proclaimed the basis of the free state created by the revolution of

March 1848. Already then, provisions stipulated that the municipalities were free to cooperate with each other, both in their autonomous and delegated jurisdictions.

The federal constitution acknowledges a functional division of tasks between federation, *Länder* and municipalities. Based on the principle of subsidiarity, the municipalities enjoy a high degree of autonomy enhanced by a constitutional amendment in 1962 and mirrored in the constitutions of the *Länder*: the jurisdiction of a municipality comprises everything that exclusively or mostly concerns the local community that can be performed by the community within its local boundaries. This also reflects the principles of subsidiarity and democracy.

The Austrian Association of Municipalities – *Österreichischer Gemeindebund*, and the Austrian Association of Cities and Towns – *Österreichischer Städtebund*, and their respective *Länder* organizations represent the interests of the member municipalities vis-à-vis the federation and the *Länder*, and are acknowledged by the federal constitution.

The financial equalization scheme, a federal law adopted for four to five years, following negotiations of the federal government with the *Länder* and municipalities, was often undermined by subsequent unilaterally-imposed responsibilities unaccompanied by funding. This led to new and unforeseen administrative and financial burdens for the *Länder* and municipalities.

A federal constitutional law of 1998 gave the two Associations a mandate to conclude agreements with the federation and the *Länder* on behalf of the municipalities in order to establish a consultation mechanism for new legislation and to sign stability pacts. An agreement followed in 1999 that obliged both the federal and the *Länder* governments to inform the other partners about draft legislation and its expected administrative and financial impact on other governments. After they are informed, a consensus must be reached in negotiations. Without consensus or if the consultation process is not properly followed, the offending government, whether federation or *Land*, must bear the cost of the legislation.

Austria's membership in the European Union (EU) in 1995 significantly changed the legal environment for municipalities in the areas of services of general interest, contracts, budgetary restrictions, etc. Within the framework of the Economic and Monetary Union, measures had to be taken to ensure that Austria met the EU requirements regarding the allowed maximum deficit of all public accounts of 3 percent of the Austrian Gross Domestic Product (GDP). The first Austrian stability pact of 1999, aimed at coordinating budgetary policies at all three levels, assigned the largest

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share of 2.7 percent to the federation, the remaining 0.3 percent were shared by the *Länder* and the 2,358 municipalities. The current pact from 2005 until 2008 stipulates that the federation, the *Länder* and the municipality must contribute to achieving the Austrian goals set out in the European stability pact. The federation has to reduce its budgetary deficit from 2.4 percent of GDP in 2005 to 0.75 percent in 2008; the *Länder*, including Vienna, will contribute with a surplus between 0.6 percent in 2005 and 0.75 in 2008 and the municipalities with balanced budgets per *Land*. Tradeoffs between the partners are possible.

In the 1960s and 1970s, four *Länder* amalgamated municipalities on a large scale. Lower Austria reduced the number of municipalities from 1,652 to today's 574. In Burgenland and Carinthia, however, many of these were separated again after several years. Ever since, federal and *Länder* governments have undertaken measures to safeguard the structure of municipalities. In its coalition agreement of January 2007, the new federal government announced further guarantees for the existence of municipalities to be contained in an amendment to the federal constitution: changes to the structure of the municipalities will hereafter only be possible with the agreement of the population of the concerned municipalities and all municipalities shall continue, regardless of their size, to have the same rights and responsibilities. In order to safeguard adequate performance and good governance despite the small size of some municipalities, the legal opportunities for inter-municipal cooperation will be enhanced, also across *Länder* borders. Federation, *Länder*, and municipalities will be able to create joint institutions for economic activities in order to accelerate processes and bundle specialist competencies for greater customer service and to cooperate when acting as public authorities.

Local governments perform their own autonomous functions as well as tasks delegated by the federation and the respective *Land*. They are also responsible for a wide range of public services involving the provision of infrastructure, kindergarten, senior citizens' homes, etc. Within their own jurisdiction, they are subject to supervision but cannot be given instructions by federal or *Land* authorities. For example, the *Länder* and the federation have, depending on the circumstances, the right to information, the right of repeal of illegal local orders, the right to approve local ordinances, and – hardly ever applied – the right to dissolve the local assembly. The *Länder*, moreover, oversee the budgets of municipalities with reference to economy, profitability, and expediency. The standards of supervision vary considerably between the *Länder*. For delegated responsibilities, however, the municipalities are bound by instructions given by federal or *Land* authorities.