

## MANAGING ACROSS LEVELS OF GOVERNMENT

## AUSTRIA

## 1. Institutions and authority

## 1.1 Structures

*Description of levels*

Austria is a federal republic consisting of 9 states (*Länder*) and 2 355 municipalities (*Gemeinde*) at the local level. Both the federal and *Länder* levels have law-making authority. The Federal Constitution (*Bundesverfassung*) provides that the municipalities have an area of jurisdiction of their own as well as one delegated from the federation or the *Länder*. The city of Vienna is both a municipality and a *Land*. *Länder* administrations are divided into districts (*Bezirke*), and some municipalities which do not have a charter fall under the administration of a district. If special *Land* authorities do not exist, the *Land* government devolves most of its administrative tasks to the districts.

Table 1. Area and population of sub-national governments (1995)

Number	<i>Länder</i>		Municipalities	
	9		2 301	
	Area (km <sup>2</sup> )	Population	Area (km <sup>2</sup> )	Population
Largest	19 173 <sup>(1)</sup>	1 539 849 <sup>(2)</sup>	46.688 <sup>(3)</sup>	1 539 848 <sup>(2)</sup>
Smallest	2 004 <sup>(4)</sup>	270 880 <sup>(5)</sup>	0.011 <sup>(6)</sup>	50 <sup>(7)</sup>
Number of municipalities and population distribution				
	Population size		Number of municipalities	
	up to 1 000		623	
	1 000-5 000		1 528	
	5 000-10 000		130	
	10 000-50 000		62	
	50 000-100 000		17	
	over 100 000		7	
1. Lower Austria.	3. Sölden.	5. Burgenland.	7. Gramais.	
2. Vienna.	4. Vorarlberg.	6. Rattenberg.		

Source: Austrian Central Statistical Office (*Österreichisches Statistisches Zentralamt, ÖSTAT*).

The total area of Austria is 83 000 square kilometres and the total population in 1994 was 8 031 000. The eight *Länder*, excluding the city of Vienna, are very unequal in terms of both area and population (see Table 1). The average number of inhabitants per local authority is about 3 215.

#### *Central government at sub-national levels*

At the district level administrative affairs are carried out by a specially-appointed federal government official, the district commissioner (*Bezirkshauptmann*) and his office. For all matters to be executed by the district authorities (*Bezirkshauptmannschaften*), the district commissioner is responsible to the *Land* Governor (*Landeshauptmann*). Appeals against the district authorities are also dealt with at the *Land* level.

In sectors where the federal government retains some administrative responsibility (e.g. labour, taxation), these tasks are carried out by field offices of the ministries concerned.

#### *Creation, elimination and restructuring*

The *Länder* are laid down in the Federal Constitution. Any creation, restructuring or suppression of *Länder* is, therefore, impossible without a change to the Constitution.

The legal position of the municipalities has also been laid down in the Federal Constitution. The *Länder* are responsible for restructuring local authorities within their boundaries. Territorial reform took place at the local level in the 1970s -- when some smaller municipalities were merged, reducing their number by 1 200 from around 3 500. Nevertheless the number of municipalities has continued to evolve; and in a few of the municipalities where unification took place, there has been re-separation.

The Federal Constitution provides for the creation of local and municipal government associations for co-operation in providing basic infrastructure.

#### *Control bodies*

Several means of judicial control exist in Austria:

- Control of the administration lies with the Constitutional Court where constitutional matters are concerned. To safeguard the complex lines of competence between federal and *Länder* lawmakers, the respective governments were authorised to challenge the laws of competing territorial bodies before the Constitutional Court. Otherwise responsibility for control lies with the Administrative High Court, in the field of administrative law; and with the Independent Administrative Boards (*Unabhängige Verwaltungssenate*) established in 1991 in each *Land*. The latter deal with administrative criminal matters, petitions against acts of immediate command and compulsion, and some civil law cases.
- The Court of Audit (*Rechnungshof*) controls the entire federal administration, the *Länder* administration, municipalities with more than 20 000 inhabitants, and other public bodies and

public enterprises on behalf of the Federal Parliament. Recently the *Länder* have created *Länder* audit courts, and their findings are presented to the *Länder* parliaments annually.

## 1.2 Powers

### *Nature of sub-national institutions*

Each *Land* has its own constitution, parliament and government.

*Legislative bodies:* *Länder* parliaments (*Landtag*) are the legislative bodies of every *Land* except Vienna. In Vienna, the city council (*Gemeinderat*) also fulfils the functions of a *Land* parliament. These parliaments elect, by proportional representation, a collegial governing body (*Landesregierung*) with two to nine members (nine to fifteen in Vienna) and its head -- the Governor (*Landeshauptmann*).

Each municipality has a council which acts as a deliberating body, and has supreme decision-making power as well as supervisory functions. The members of the council (varying from 11 to 60 according to the number of inhabitants) are elected, usually for a period of five years, on the basis of proportional representation. Citizens are entitled to vote if their main residence is within the municipality. Decisions to be made are prepared by committees (e.g. finance, and social and cultural affairs), formed by members of the council.

*Executive bodies:* The *Land* government exercises executive power in fields of specific *Land* responsibilities, and on behalf of the Federation when no relevant federal authorities exist at the *Land* level. Unless there are separate federal authorities, the *Landeshauptmann* and the *Land* authorities subordinate to him are the executive bodies of the Federation within the area of the *Länder* (indirect federal administration). The *Landeshauptmann* is the sole recipient of directives from the Federal Government or from individual federal ministries concerning matters of indirect federal administration.

An executive committee (*Gemeindevorstand*) is elected from the local council or, in bigger municipalities, from the *Stadtsenat*. This committee makes decisions on various minor matters. The mayor is also elected by the council. He represents the local authority (as the ceremonial head), has decision-making power on all minor current affairs, and is the formal head of the local administration. The direct election of the mayor by the citizens in the municipality is currently being discussed at the political level. In three *Länder* the mayor is already directly elected.

### *Type and degree of autonomy*

Legislative and administrative responsibilities are divided between the Federation (*Bund*) and the *Länder* according to provisions of the Federal Constitution. The Federal Constitution leaves legislative and executive powers to the *Länder* in all matters which are not expressly attributed to the federal level. Under the system of "indirect federal administration" mandatory instructions ("directives") can be issued by the Federal Minister in charge. These directives have to be followed and significantly affect the opportunities of the lower-level authority to act independently. A list of areas in which the Federal Parliament may legislate is specified in the Constitution. Areas not mentioned are considered to be the responsibility of *Länder* parliaments. These latter exercise their power of legislation in areas such as social welfare, nature conservation, building regulations and regional planning.

*Länder* are active in legislative procedures at the federal level through the *Land* Assembly (*Bundesrat*), which represents the federal principle in the legislative system. The members of the *Bundesrat* are elected by the *Land* parliaments, their numbers being in proportion to the population of the individual *Länder*. The *Bundesrat* may object to any legislation approved by the national parliament (*Nationalrat*), but this has only a delaying effect.

Municipalities have a right to self-administration. Their function is administrative and they have no power to pass legislation, but they can regulate local affairs (their “own domain”) within the legal framework established by the higher levels of government and the Federal Constitution. The Federal Constitution grants local authorities the right to undertake commercial activities. They may own assets of any kind, operate enterprises or participate in them. The question of whether they may undertake commercial activities to the same extent as private legal entities is disputed. Some *Länder* restrict such activities to areas which cannot be operated equally well by private business enterprises, but the constitutionality of such limitations is disputed.

Each level of government is entitled to raise its own taxes. Joint taxes (which accrue jointly to the Federation, *Länder* and municipalities) have also been provided for by the Constitution.

The organisational authority of the *Länder* is considerably weakened by some special provisions in the Federal Constitution. *Land* laws amending or revising the organisation of general public administrative authorities in the *Länder* may be promulgated only with the consent of the federal government. This restriction affects the most important *Land* authorities, i.e. the *Land* governments and the chief district administrative authorities (*Bezirkshauptmannschaften*) and is mainly due to Austria’s transition from a decentralised unitary State, the Austro-Hungarian monarchy, to a federal State. Limitations such as these are unusual in federal systems. The existence of an indirect federal administration in the *Länder* contributes to the considerable influence of the federal government on the administrative organisation of the *Länder*. From a federal point of view, it is difficult to justify that the chief executive of the *Land* is paid by the federal government, is subject to directives by the highest federal executive bodies and may be held responsible at *Land* level by the federal government with the possibility of losing his official functions. Indirect federal administration nevertheless enables the *Länder* to exert administrative influence in some areas of federal administration and thus to increase their political weight.

Municipal administration is organised homogeneously (except that local authorities with very few staff have no formally structured administration). It is headed by a chief administrative officer and is usually divided into five departments: the chief administrative officer’s department; the Treasurer’s department; and those for legal matters; building, planning, and civil engineering; and for social and cultural services. Internally, these departments tend to be organised hierarchically.

### **1.3 Responsibilities**

#### *Distribution of responsibilities*

*Länder* have general competence for all fields not covered by the Federal Constitution. Most federal administrative tasks are delegated to the *Länder*. Exceptions, where the federal government retains some administrative responsibility, are labour affairs, taxation, security and military matters. In these areas field offices of ministries fulfil the administrative tasks.

The Federal Constitution allows for administrative execution of federal tasks by the *Länder* through the *Landeshauptmann* (indirect federal administration). The Federal Constitution also provides for mandatory administration by the *Landeshauptmann* of specific federal economic affairs such as the planning, construction and administration of highways, and official buildings.

Local authorities perform traditional public tasks such as health inspection, local planning, policing and various infrastructure provision functions such as water, sewerage, waste disposal, electric power generation, and roads. In addition, most local authorities run various social and health care services, primary education, culture and leisure activities. These basic public tasks must be provided by every local authority. The infrastructure provision tasks and other services become more specialised and more developed when the size of the municipality increases and/or when there is a more diversified economic structure.

The following functions have been guaranteed to the local authority by the Federal Constitution: local security, traffic and market police; administration of municipal parking areas; local sanitary, building and fire inspection; and regional planning. Local authorities also run a great variety of commercial enterprises ranging from gasworks, and power stations, to swimming pools, gravel pits, cinemas, poster companies, brickworks and abattoirs. In addition municipalities execute some tasks on behalf of the federation (e.g. elections), or of the *Länder* (e.g. citizenship procedures).

#### *Mandatory, optional and shared responsibilities*

The municipalities, as self-governing bodies, have responsibility for dealing with all matters “within their own domain” falling under the exclusive or overriding interest of the local community. As an administrative district of the *Land* administration, subordinate to the Federal and *Land* administrative authorities, they must also attend to functions “within the delegated domain” which are allocated to them by Federal legislation or the laws of the respective *Land*. Towns with more than 20 000 inhabitants may also be given those functions of the Federal and *Land* administration which are otherwise allocated to the chief district administrative authority.

Within the general description of “own domain” the Federal Constitution stipulates the principle of the “uniform community”. This means that all matters which are generally in the interest of, and can be dealt with by, the local community itself must be qualified as falling within its “own domain”. The Federal Constitution stipulates that Federal and *Länder* laws must expressly describe matters complying with the preconditions for being dealt with in the community’s “own domain” as being of that domain. This does not apply to local authority’s activities in the private sector of the economy and is guaranteed by the constitution directly.

This assignment of functions according to the principle of the “uniform community” may cause excessive demands to be made on individual local authorities in terms of the functions they are expected to fulfil. The Federal Constitution therefore allows that, if requested by a local authority, individual matters within their “own domain” may be assigned to a *Land* authority.

Although functions within the local authority’s “own domain” predominate in both a qualitative and quantitative sense, functions in the delegated domain are also very numerous. These include keeping the registers of births, deaths, marriages and citizenship; participating in the implementation of elections; dealing with water control and water protection, meat and livestock inspection; helping with population,

civil status and industrial censuses and with statistical surveys; participating in the implementation of laws promoting livestock breeding, and laws on real estate transactions.

## 2. Management functions

### 2.1 Policy-making and co-ordination

#### *Coherence, consultation and conflict resolution*

The primary role of the Federation is to legislate. The *Länder* have the right to protest to the Constitutional Court if any federal legislation appears to encroach on their authority. As far as legislation by the *Bund* and the *Länder* is concerned, the Federal Constitution of 1920 makes provision for a balanced mutual participation of bodies which represent the interest of the *Bund* and the *Länder*. All enactments of the *Land* parliaments (*Landtage*) should, immediately after they have been passed, be notified to the Federal Chancellery prior to their publication. The Federal Government can, within eight weeks from the day of an enactment's receipt at the Federal Chancellery, object to a *Land* parliament enactment on the grounds that it jeopardises Federal interests.

The *Bund* and the *Länder* may conclude agreements on matters within their respective spheres of competence. Agreements between the *Länder* can only be made on matters pertaining to their autonomous sphere of competence and must, without delay, be made known to the federal government. This instrument has proven effective in, for instance, the field of hospital financing.

Each *Land* is independently responsible for its own administrative tasks, but for delegated federal administrative tasks the *Land* authorities are bound by the federal government and are accountable to it. The Governor is bound by the minister in charge and accountable to him. Matters pertaining to both the *Land* administration and the indirect federal administration are shared among the members of the *Land* government. For matters of indirect federal administration, members of the *Land* government are as much bound by the instructions of the Governor as is the latter by instructions from the federal level. The Governor cannot give directives to the members of the *Land* government concerning the conduct of business in other areas. To assist with their administrative functions, *Land* governments are supported by the Office of the *Landesregierung*, which is staffed by civil servants.

Many of the smaller local authorities co-operate for the provision of basic infrastructure services such as sewerage and water purification plants, and to do so they form joint authorities. This form of inter-municipal co-operation is generally subsidised by federal and *Länder* governments.

Local authorities are responsible for safeguarding the interests of the local community and for this purpose they have the right to participate in the administrative legal process and to be heard in the relevant proceedings. Other laws grant municipalities the right to send members to certain committees.

#### *Formal and informal mechanisms*

In 1974 a provision was introduced to the Federal Constitution concerning agreements between the Federation and the *Länder* or among the *Länder*. This has become important in formal co-ordination

(both multilateral and bilateral), particularly in the field of economic development and in establishing joint bodies.

As all territorial authorities are under obligation to maintain a balanced budget, there is a need to co-ordinate budgetary plans and decisions. Some informal institutions meet regularly with federal officials, e.g. the Conference of the *Länder* Governors and the Conference of the *Länder* Financial Heads.

For co-ordination and the common interest of the *Länder* a “Liaison Office of the *Länder*” was set up in 1951, now with a subsidiary in Brussels. The tasks of the Liaison Office include to:

- ensure a permanent link among *Länder* and between the *Länder* and the federal government;
- co-ordinate the views of the *Länder* in matters relating to their responsibilities;
- act as “post office”, i.e. to distribute federal government comments, Bills, etc., among the *Länder*;
- act as a secretariat to the *Land* Governors’ Conference, the Conference of Directors-General of the *Land* Governments, and the Conferences of Experts.

The *Land* Governors’ Conference aims at harmonizing the interests of the *Länder* vis-à-vis the *Bund*. This co-ordination is reflected in the decisions taken by the Conference, which in turn are based on the unanimous decisions of the individual *Land* governments. In this manner, catalogues of demands by the *Länder* were developed, in which the *Länder* requested the improvement and strengthening of their position. The meetings of the Conference are prepared by the conference of Directors-General of the *Land* Governments. Items for the agenda are suggested by individual participants. The Conference of Directors-General draws up the recommendations for the decisions of the *Land* Governors’ Conference. There are also various “Conferences of Experts” at both the political and administrative level.

In addition to these instruments there is the Austrian Conference of Regional Planning (ÖROK) which helps to co-ordinate regionally-relevant planning projects and policies among the corporate territorial authorities according to the “transcompetence” character of Austrian regional planning law.

The Austrian Association of Towns also plays a crucial role in developing the constitutional foundations for municipalities and in the financial protection of their economies. Currently some 215 municipalities are affiliated, accounting for more than half of the inhabitants of Austria.

## 2.2 *Financial management*

### *Sources of revenue*

In 1995 the income of the federal government totalled about 576.9 million schillings, the income of the *Länder* about 167.2 million schillings and that of the municipalities about 157.7 million schillings. Overall, 74 per cent of gross revenues (including social security contributions) go to the federal government. Conversely the *Länder* and municipalities can rely to only a small extent on “own” revenue sources of finance. Consequently, most of the *Länder* revenues and 30 per cent of municipal revenues are received from the federal level (see Table 3). These consist either of fixed shares of the major revenues collected centrally (see Table 2), or of transfers -- some of which are earmarked for specific responsibilities (e.g. compulsory education, housing) carried out by the *Länder*. The revenue-sharing

process is rather complex -- the percentage of tax revenues passed onto the *Länder* and municipalities is negotiated for each tax separately and laid down in a federal law. As a result, the proportion of their gross revenue which the *Länder* can spend at their own discretion rises to about 40 per cent -- a degree of "self-financing" which is quite low compared with other federal countries. The municipalities, on the other hand, have a relatively high ratio of their revenues coming from "own" taxes and central revenue shares. Transfers from other levels of government constitute less than 10 per cent of their revenues (see Table 3). The transfer procedure is guided by two principles: productivity, based on regional/local tax revenues; and demography, based on the number of inhabitants.

**Table 2. The sharing of joint federal revenues (1985, 1995)**

(Per cent shares of total revenue by tax)

Tax	Sch billion		Per cent					
	Revenue		<i>of which going to:</i>					
	1985	1995 <sup>(1)</sup>	Federal government		<i>Länder</i>		Municipalities	
	1985	1995 <sup>(1)</sup>	1985	1995	1985	1995	1985	1995
Taxes on income and property	87.4	182.3	54.7	59.2	24.8	22.2	20.5	18.6
<i>of which:</i>								
Income tax	19.2	20.6	42.2	46.1	30.8	29.1	27.0	24.8
Wage tax	66.6	135.1	58.6	63.2	23.2	20.6	18.2	16.2
Capital gains tax	0.7	3.8	10.0	19.9	15.0	13.3	75.0	66.8
Interest income tax	--	21.5	--	53.0	--	27.0	--	20.0
Inheritance and gift tax	0.9	1.3	70.0	70.0	30.0	30.0	--	0.0
Other taxes	152.3	233.8	69.2	69.2	18.4	18.4	12.4	12.4
<i>of which:</i>								
Value-added tax	125.7	186.7	69.4	69.4	18.8	18.8	11.8	11.8
Mineral oil tax	15.9	29.3	88.6	88.6	8.6	8.6	2.8	2.8
Real estate tax	2.6	5.5	4.0	4.0	--	--	96.0	96.0
Motor car taxes	4.8	9.3	50.0	53.8	50.0	46.2	--	--
Beverage taxes	3.3	3.0	36.4	38.6	36.4	33.9	27.2	27.5
Other revenues	0.6	1.3	--	--	--	--	--	--
TOTAL tax revenues	240.3	417.4	63.8	64.8	21.0	20.1	15.2	15.1

1. Estimated revenue.

Source: Austrian Ministry of Finance (1986, 1995).

The Austrian system of "linked" taxation between the Federal Government, *Länder* and municipalities is designed to enable each community -- irrespective of which tax sources it is able to use itself -- to have a certain minimum available.

The municipalities have various sources of revenue including payroll (*Kommunalsteuer*), commercial, real estate, beverage and entertainment taxes. Other sources are dog licenses; fees and charges for local infrastructure and other services; participation in "fiscal liaison". Through the latter local authorities receive a share of the most important federal taxes [wage and income tax: tax on investment income turnover (VAT), beer, wine, real property acquisition and mineral oil; and levies on gambling establishments]. Apart from this revenue from taxation, there are special grants or subsidies (incentives) for special functions, e.g. to cover expenditure for hospitals. About 20 per cent of the income

share of municipalities is reserved for compensation arrangements in favour of financially weaker municipalities. Given the rather clear constitutional regulations and the consensus policy pursued between the Federal, *Land* and municipality levels, local autonomy is relatively well protected.

**Table 3. Revenue structure of *Länder* and municipalities (1985, 1993)**

(Percentage of total revenues)

	1985		1993	
	<i>Länder</i>	Municipalities <sup>(1)</sup>	<i>Länder</i>	Municipalities <sup>(1)</sup>
Own taxes	1.9	15.7	1.8	14.4
Federal revenue shares	44.3	28.9	44.9	27.9
Transfers from other public authorities	48.3 <sup>(2)</sup>	10.9	48.4 <sup>(2)</sup>	10.0
Debt raised	3.6	3.8	2.5	4.8
Public charges	--	5.3	--	6.0
Other revenues	1.9	35.5	2.5	36.9
TOTAL	100.0	100.0	100.0	100.0

1. Including Vienna.

2. Earmarked transfers for housing subsidies, cost defrayal for teachers' salaries, community contribution to *Länder*.

Source: Austrian Central Statistical Office (*Österreichisches Statistisches Zentralamt*, ÖSTAT), 1995.

#### *Expenditure responsibilities*

In 1995 federal expenditures comprised about 692.9 million schillings, the expenditure of the *Länder* about 169.7 million schillings and those of the municipalities about 169.5 million schillings.

Gross public expenditure is concentrated in the hands of the central government to a much higher degree than in other OECD federal countries (almost half -- see table 4). This is only partly explained by the relatively substantial transfers from the *Bund* to lower levels of government. This central dominance is mostly at the expense of the *Länder* -- the expenditure share of municipalities being similar to that of other federal countries.

The most important categories of expenditure, representing approximately two thirds of the total, are salaries and wages and investments (mainly in infrastructure).

**Table 4. Gross public expenditure by level of government (1980, 90, 93)**

(Percentage of total)

	1980	1990	1993	1993 (Sch. bill.)
Federal government <sup>(1)</sup>	46.5	48.7	47.7	822.2
<i>Länder</i> <sup>(2)</sup>	12.8	11.8	11.6	220.5
Municipalities <sup>(3)</sup>	17.4	15.5	16.6	285.4
Chambers	1.5	1.7	1.5	25.0
Social security	21.8	22.3	22.6	389.0
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>1 722.1</b>

1. Including federal government funds.

2. Excluding Vienna.

3. Including Vienna.

Source: OECD Economic Surveys: Austria, OECD, 1994.

*Balance between discretion and control*

The Federal Constitution obliges all territorial authorities to strive for equilibrium in the overall economy in operating their budgets.

Municipal services are generally financed from local resources (47.2 per cent), transfers from the federal government (45.7 per cent) and the *Land* (7.1 per cent). In principle, *Land* governments are financially self-supporting, but there is no constitutional provision which specifies the distribution of tax powers. Instead, a special federal law, the Finance Equalisation Act, is negotiated between the Federation and the *Länder* for a period of several years, although it can be modified unilaterally by the federal legislator. A system of inter-governmental transfers has also been established for covering the costs of special *Land* and municipal projects.

The distribution of financial resources to the local authorities through "fiscal liaison" is carried out in two stages, starting with a distribution to the individual local authorities within a *Land*. This follows various criteria, the most important being the number of inhabitants. Even if consultation between different levels of government under the Financial Equalisation Act is considered a weak form of co-operation in a federal state, the outcome is relative stability in fiscal transfers. Nevertheless there is a trend towards centralisation and the share of local taxes in the total tax receipts of local authorities has reduced since the 1970s.

The fiscal potential of local authorities is quite considerable. The share of local government expenditure (including the city of Vienna) in total public expenditure was about 22 per cent in 1986, whereas the federal share was approximately 60 per cent. With regard to investment expenditure, however, the share of local authorities (including the city of Vienna) was about 60 per cent; that of the federal level was only 29 per cent.

### 2.3 *Performance management*

The reports of the Court of Audit are published following their presentation to the Lower House of Parliament (*Nationalrat*) or the *Land* parliament (*Landtag*) and the local council (*Gemeinderat*). The *Länder* parliaments are entitled to initiate an audit. The focus is now shifting from regularity audits to performance audits. In March 1991 there was a call for a “more effective means of monitoring the regularity and efficiency of the public budgets and public enterprises” to develop, in particular, the idea that the audit procedure should be structured in the same way on all territorial levels.

For the moment quality standards are not used within the public administration. But this is becoming a main issue of the Austrian administrative reform programme at the federal level, with the intention of building up a system of performance measurement data.

### 2.4 *Human resource management*

*Statutory distinctions:* An important element of the Austrian administration is the distinction between public employees who are civil servants (*Beamte*), linked with their employer for life by their “appointment”; and contracted staff employed on the basis of a bilateral contract of private law. This distinction is made at every level of government. Teachers in *Länder* schools are federally-paid *Land* employees.

**Table 5. Public employees by level of government (1990-94)**

	1990 <sup>(1)</sup>	1991 <sup>(1)</sup>	1992 <sup>(1)</sup>	1993 <sup>(2)</sup>	1994 <sup>(2)</sup>
Federal	308 789	308 270	301 630	245 794	247 239
<i>Länder</i>	159 200	145 649	146 183	148 416	143 880
Municipalities	71 269	74 218	76 252	78 222	79 193
Vienna	67 490	62 539	66 797	66 291	67 623
TOTAL	606 748	590 676	590 862	538 723	537 935

1. Posts.

2. Full-time equivalents.

Source: Federal Chancellery, 1995.

Application of the principle of homogeneity results in a certain unity of legislation regarding conditions of service and staff representation for all territorial bodies, although today this homogeneity relates only to the basic structures. Large parts of the federal legislation have been taken over practically intact by various *Land* legislators. In some cases it may be said that the employees of other territorial bodies enjoy better conditions than those of federal employees.

The structure of *Land* legislation, essentially follows the federal example. A standard of legality requires that public service rules should be determined, as a matter of principle, on the Federal or *Land* level. However, legislation through “simple” decisions of the *Land* parliament plays an important role in salary legislation. Austrian legislation links rules concerning public employees in such a way that reform is difficult in Federal and *Land* authorities.

Pay bargaining is an annual process of negotiation between the *Land* secretary in charge of the civil service and contracted staff. Monitoring of staffing levels, pay, recruitment, and dismissal is shared with the Federal Chancellery (co-ordinating pay and, for example, approval of special personnel decisions and support in recruitment) and individual ministries (recruitment, dismissal).

There is almost no mobility between levels of government in Austria.

## 2.5 *Regulatory management and reform*

European Union (EU) membership has had a significant impact on *Länder* responsibilities, notably as regards land purchase and the building sector, and as a result regulations are being, or will need to be, reviewed.

The EU membership has also led to constitutional amendments concerning the participation of the *Länder* in matters of European integration. The *Bund* must inform the *Länder* without delay about all projects within the framework of the European Union which affect the *Länder's* autonomous sphere of competence or could otherwise be of interest to them. It must also allow them the opportunity to present their views via the Federal Chancellery within a reasonable interval to be fixed by the *Bund*. The same holds good for the municipalities concerning their own sphere of competence or when other important municipal interests are affected. Representation of the municipalities is in these matters incumbent upon the Austrian Municipal Federation and the Austrian Federation of Towns.

## 3. Trends in redistributing authority across levels of government

### 3.1 *Evolving tendencies*

1918 saw the evolution of Austria from the constitutional monarchy of the Austro-Hungarian empire to a republic. After a transitional period lasting until October 1920 a Federal Constitution was introduced which established the Republic of Austria as a federal State. After the restoration of the Austrian Republic in 1945, it was decided to re-adopt the parliamentary democracy provided for in the Constitution of 1920. Although details of the Federal Constitution have been adjusted since then, (e.g. the division of responsibilities between federal and *Land* authorities), its fundamental character remains unchanged.

The legal and institutional organisation of local government has remained relatively unchanged for many years. There are few signs of any alteration to the legal and financial foundations of local government activities in the near future. This institutional stability over several decades is remarkable given the social and economic changes which have taken place during this time and is mostly seen as a consequence of the broad and flexible concept of local self-government which leaves considerable scope for adaptation and change.

Nevertheless the relationships between the federal level, the *Länder* and local governments have changed during recent years. This has been due to the growing importance of local government in dealing with the consequences of economic expansion and social change as well as federal and *Länder* concerns with macro-economic management and reduction of social and regional disparities. The pressure for inter-governmental co-ordination has grown as improvements in service delivery, management of the business cycle, supervision over local authorities (e.g. in the field of debt-contracting), and in land-use

planning have been demanded. In addition, central-local relations have become more complicated as regards the allocation of tax revenues.

The possibility of joining the European Union generated a debate which revolved around how *Länder* and municipal interests will be affected and what their role will be vis-à-vis the federal level. One concrete result was the agreement between the Federation and the *Länder* of 1992 on the rights of participation in matters of European integration. This provides obligations to inform the *Länder* and municipalities and to be bound by common decisions of the *Länder*. The main provisions were adopted in the 1994 amendment of the Federal Constitution.

### 3.2 *The current debate*

There is presently a general feeling that joint decision-making within the administrative and political spheres of the three levels of government has become insufficiently productive in several respects including the co-financing of services and infrastructure installations.

The present process of decentralisation is shifting certain functions (e.g. the promotion of housing) from the federal to the *Länder* level, and has caused some distrust on the part of the local authorities. There are demands for further decentralisation at the local level, in order to respond better to needs.

However, there is a contradiction in the present situation. On the one hand, there is concern about unemployment and the need for economic and urban restructuring; hence the mounting pressure from many sides to revive policies at the local level; while, on the other hand, the scope for local government has recently been considerably reduced.

The reform of the federal state has also been the subject of an ongoing discussion since 1987. A commission of experts made several proposals concerning the redistribution of federal responsibilities. These proposals aimed at a more balanced distribution of tasks between the Federation and the *Länder*, with more consideration being given to the principle of subsidiarity and to administrative simplification. Further negotiations between the *Länder* and the Federation led to recommendations for an amendment to the constitution to reorganise the federal structure. These included: distributing responsibilities among levels of government according to the subsidiarity principle; elimination of the system of “indirect federal administration”; restriction of decisions by federal ministers to general topics in the case of mandatory administration; inclusion in the Constitution of “direct federal administrative” competences; delegation of legislative power to the *Länder*; development of the administrative courts in the *Länder*; strengthening of co-operation among the regions; adjustment to mechanisms for distributing revenues; and strengthening the power of the *Bundesrat*.

This proposed amendment could not be adopted because agreement was not reached on changes in the tax distribution scheme and no acceptable mechanism could be found for compensating the *Länder*. The whole discussion about the reform of the federal State and redistributing responsibilities between the federation and the *Länder* originates in problems concerning the distribution of revenues between the levels of government. Serious budgetary problems, partially in connection with entry into European Union at the beginning of 1995, fuelled this debate.

Further negotiations concerning a reform of the fiscal system are planned for 1996, but it is unlikely that fundamental changes will be made to the federal structure. Several reasons suggest this: the

distributional importance of the existing fiscal system (the western part of the country finances the eastern part); severe structural problems prevent the *Länder* from exploring tax revenues; “elimination of the indirect administration” is no longer discussed. As the *Länder* act outside their own budgets when fulfilling tasks under indirect administration, the elimination of this system would result (despite a gain in autonomy) in higher costs for the *Länder*. In spite of the fact that municipalities have to accept the elimination in principle, there remain many unsettled questions.

### 3.3 *Driving forces*

During the years when the system of public finances provided increasing tax receipts and when debt payments by local authorities were low, joint decision-making and central-local relations were harmonious because there was sufficient scope for new initiatives. The situation changed at the end of the 1970s, when economic conditions deteriorated. This was in part manifest by an increasing polarisation between prosperous and peripheral regions. As a result, debate on structural reform and tighter public finances placed stress on the relations between Federal, *Land* and local authorities. The range of activities carried out by local authorities has been markedly reduced and financial conflicts between levels of government have increased.

There appears to be a persistent prejudice that local politics represents only a training ground for politics at a higher level of government. Most local authorities seem not to be ready, or able, to take more responsibility for “reviving politics from below”.

In October 1996 the Federal minister of finance and the Federal minister responsible for co-ordination with the *Länder* decided to introduce a mechanism for consultation on regulations which generate costs at more than one level of government. A consultation group will monitor estimates of the likely costs of all such proposed regulations.