

EUROSAI TASK FORCE ON MUNICIPALITY AUDIT
EXTERNAL AUDIT SYSTEM OF MUNICIPALITIES

IN Austria (Please insert the name of your region here)

Name of the regional external public sector audit institution: **Regional Court of Audit/City Court of Audit**

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I. GENERAL INFORMATION

1. Describe the system of local government in your region:

1.1. What are the types of local government units (municipalities or other), their number;

Austria is a federation of states made up of nine federate states (including Vienna which is the federal capital city, a state and a municipality). Each federate state has a regional institution that has been set up to perform external audits in the public sector (Regional Court of Audit/City Court of Audit). There are currently 2,098 municipalities in Austria.

The organisation of municipalities as self-governing, regional administrative bodies is regulated by the federal constitution (1929 Federal Constitution Act (Bundes-Verfassungsgesetz, B-VG 1929)).

Municipalities are subject to external auditing (in principle, those with a population of at least 10,000 inhabitants are audited by the (national) Austrian Court of Audit, and those with a population of fewer than 10,000 inhabitants are audited by the Regional Courts of Audit).

1.2. What is the framework of activities and responsibilities of municipalities, their functions, the role of central government at municipal level;

A municipality is responsible for performing local authority tasks (its own area of responsibility) such as managing the municipality (appointment of municipal institutions, human resource management and organisation), raising its own taxes, construction, regional planning, the local police force, and managing local traffic areas within the municipality. They are also responsible for nursery school education, the water supply, sewage and waste disposal and other things, although the arrangements vary somewhat between the federate states. Municipalities operate autonomously in these areas.

In addition, they also execute tasks on behalf of the federate states or the federation. These tasks fall within their delegated areas of responsibility. They must comply with instructions from the superordinate authorities in these matters. This may involve matters relating to citizenship, the registration of births, marriages and deaths, voter registration and records, specific social responsibilities, and assisting in tax management, for example.

1.3. What is the structure of the municipality, main institutions (legislative, executive etc.), their formation principles and powers.

The supreme body is the municipal council (local council), which is elected by the citizens in the municipality. It is an executive organ but not a legislative body; it is also responsible for supervising the other institutions in the municipality.

Parish councils and mayors are other executive organs.

The mayor is elected (by the people or the municipal council). The mayor manages municipal affairs. The mayor also has the right to instruct the municipal administration (professional civil servants).

The municipality acts as the legal entity in matters involving private law. It can own and manage assets and operate economic enterprises, which are then represented by the mayor.

The legal bases for the organisation, duties and responsibilities of the municipalities are included in separate legislation issued by the federate states (municipal code and municipal law).

2. Describe the legal framework of audit and control system at municipal level, i.e. how it is organized and which entities (institutions, departments or other) participate in it (additional illustrations or schemes are also welcome):

2.1. What entities participate in the administrative and financial supervision as well as in the budgetary control (planning and execution of municipal budget) of local authorities? How do they participate?

- The municipal council (local council) is responsible for supervising the executive activities of the other municipal institutions within the municipality. The audit committee plays an important role here. See next item
- According to the municipal code (municipal law), the federate state is responsible for supervising municipalities with respect to legal compliance and financial management. This includes the obligation for municipalities to submit certain transactions, measures or legal acts to the supervisory authority for approval, as well as the supervisory authority's obligation to monitor the municipalities' financial management on a regular basis (annual budget/estimate and final accounts) or periodically (ongoing financial management).
- Federal government oversight takes the form of indirect federal administration and is carried out by the institutions in the federate states (governor/head of the federate state government).
- Municipalities have official procedures for the appeals process at administrative courts. These review the official decisions (rulings).
- The (National) Court of Audit and (most) Regional Courts of Audit are entitled to use their professional judgement when deciding to inspect the financial management of the municipalities or any other legal entity that falls within their sphere of influence. The municipalities (that are subject to auditing by the Court of Audit) must also submit their budgets (annual budget/estimate) to the Austrian Court of Audit.

2.2. Is there an audit committee in the municipality? If yes, what are its functions and role in the audit system at municipal level?

Each municipal council must set up an audit committee.

This committee is responsible for supporting the municipal council in its supervisory role (the municipality's financial management, which also relates to companies, trusts and funds, etc.).

In most federate states, it must inspect the final accounts as well as auditing the financial management every three months (twice a year in the federate state of Vorarlberg, for example).

In some states, state governments decree the rules of procedure for the audit committees (in Vorarlberg, for example, audit committees can draw up their own rules of procedure).

2.3. How is the internal audit system of local government organized? What is its relationship with the external audit system?

The audit committee for the municipal council carries out audits on its own account. However, it acts on the findings of external audit bodies (federate state's supervisory authority or Courts of Audit) and factors these into its audits.

Almost all Austrian municipalities with a population of more than 20,000 have their own audit offices that are usually answerable to the mayor.

The audit findings of the external audit bodies are addressed by the municipal council. The state supervisory authority has a monitoring procedure to examine whether actions have been decided and the appropriate measures have been taken.

The work performed by the audit committee is subject to (external) auditing by the Courts of Audit.

2.4. How is the external audit system of local government organized? What entities participate in it (SAI, regional/local audit institutions, private auditors etc.)?

- The federate state supervisory authority (government agency) audits the municipalities in terms of how they execute the duties that fall within their own area of responsibility. In principle, this authority to audit does not include municipalities' economic enterprises. However, municipal codes stipulate that these enterprises can fall within the scope of the supervisory authorities' auditing responsibilities.
- Federal and federate state administrative authorities have the right to issue instructions and to scrutinise in terms of the execution of the delegated duties (indirect administration by municipalities).
- The Austrian Court of Audit has the right to audit municipalities with a population of at least 10,000 inhabitants on a discretionary basis and, under certain circumstances, can also be instructed to audit smaller communities.
- (Most) Regional Courts of Audit have the right to audit municipalities with a population of fewer than 10,000 inhabitants on a discretionary basis and, under certain circumstances, can also be instructed to audit larger communities.
- Private audit firms do not carry out any of the auditing tasks, apart from the statutory audits required for corporations that are owned by municipalities.

3. Was any analysis, audit or other research of the external audit system of municipalities carried out in your country (by SAI, other institutions or organizations)? If yes, please outline the main findings of such a research.

No, a system analysis has not been carried out in Austria.

The Regional Courts of Audit inspect the federate state supervisory authorities within the scope of their auditing responsibilities (e.g. reports from the Styrian Court of Audit/2017 or the Upper Austrian Court of Audit 2018).

4. Describe if there are any ongoing changes or plans to improve the existing external municipal audit system in your country.

At the moment, there are no plans to make fundamental changes to the external audit system for municipalities.

In the federate state of Upper Austria, they are considering reorganising municipal auditing in the supervisory authorities.

However, the spokespersons for public sector auditing share the opinion that all Regional Courts of Audit should be granted the right to audit municipalities with fewer than 10,000 inhabitants on a discretionary basis. Seven out of eight Regional Courts of Audit have this right since March 2018.

II. ROLE OF REGIONAL AUDIT INSTITUTIONS IN EXTERNAL MUNICIPALITY AUDIT

1. Describe the legal framework and provide general information about the regional external public sector audit institution:

- 1.1. Which authority establishes this institution, appoints its heads, employs staff and provides funding?

The federal constitution of Austria permits the federate states to set up Regional Courts of Audit.

The Regional Courts of Audit are established according to the constitution of the respective state. In some cases, there are supplementary legal provisions. They are part of the state parliamentary bodies and therefore part of the legislative authority.

The head is elected by the state parliament and has the same legal responsibilities as the members of the state government.

As a general rule, the head of the Regional Court of Audit has authority over staff matters. A state parliamentary body has this authority in isolated cases.

The budget is provided by the state parliament.

- 1.2. Which authority is the institution accountable to? How is the accountability organized (by submitting annual reports etc.)?

The Regional Courts of Audit are solely accountable to the relevant state parliament as the legislative body, and report to this parliament. Reporting takes the form of annual activity reports and reports about individual audit projects.

In individual federate states, it has been stipulated that, in isolated cases, the Regional Court of Audit only reports to the municipal council when auditing municipalities.

2. Define the mandate of the regional audit institution prescribed by law in what concerns the auditing of municipalities:

- 2.1. What types of local government entities may be audited by the audit institution (including municipality-owned enterprises etc.)?

The Regional Court of Audit audits:

- Financial management in municipalities with fewer than 10,000 inhabitants
- The financial management of these municipalities' trusts, funds and institutions
- The financial management of economic enterprises where these municipalities have more than a 50% share in the nominal capital, the capital stock or the capital itself, or which are effectively controlled by the municipality (the investment limit stands at 25% in individual federate states)
- The financial management of public bodies holding these municipalities' funds (in most federate states)

The Regional Court of Audit can also be appointed to carry out similar audits in municipalities with at least 10,000 inhabitants, under certain circumstances.

2.2. What types of audits may be carried out (performance, financial, compliance etc.)?

All types of audits can be carried out. However, performance and compliance audits are paramount.

2.3. What is the scope (subject matter) of each type of audit (municipal budget execution, financial statements, use and management of municipal assets etc.)?

The audits relate to all municipal areas and responsibilities (the entire financial management), for example:

- Organisation
- Budgeting, the budget, the final accounts and financing
- Delivery of services (schools, childcare, infrastructure, water supply, sewage disposal and the maintenance of roads and buildings, etc. ...)
- Investments and procurement
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Compliance with applicable laws and guidelines is also investigated in the individual areas.

3. Describe how the regional audit institution implements the audit mandate in practice according to the type of audit:

3.1. Financial audit:

- 3.1.1. Describe the main aspects of planning and organizing the financial audit in municipalities;
- 3.1.2. Is the financial audit carried out in all local authorities of the region or only in selected ones? Is the financial audit performed annually? What is the approximate number of financial audits per year?
- 3.1.3. Is the financial audit performed separately or together with the compliance (or other) audit?
- 3.1.4. What types of documents does the audit institution prepare for reporting the result of the financial audit (audit report, opinion etc.)? Which are the entities these documents are submitted to?

The federate state's supervisory authority is always responsible for carrying out the financial audits (annual estimate and final accounts). It inspects all the municipalities in this regard.

The Regional Courts of Audit examine the accounting within the context of performance audits carried out at the selected municipalities.

3.2. Compliance audit:

- 3.2.1. Describe the main aspects of planning and organizing the compliance audit in municipalities. Is the compliance audit performed separately or together with financial or performance audits?
- 3.2.2. If the compliance audit is performed separately:
 - Does the audit cover one topic in all local authorities of the region or in several of them (horizontal audit), or is the scope of audits limited to one local authority (municipality)?
 - Is the compliance audit performed annually? What is the approximate number of audits per year?
- 3.2.3. What types of documents does the audit institution prepare for reporting the result of an audit (audit report etc.)? Which are the entities these documents are submitted to?

Audits that purely focus on compliance are only carried out in exceptional cases and for specific reasons.

As a general rule, compliance audits are carried out as part of the performance audits.

3.3. Performance (Value for money) audit:

- 3.3.1. Describe the main aspects of planning and organizing the performance audit in municipalities;
- 3.3.2. What are the types of performance audits according to the audit scope:
 - audits that cover one topic in all local authorities of the region or in several of them (horizontal audit);
 - audits whose scope is limited to one local authority (municipality);
 - other.
- 3.3.3. Is the performance audit carried out annually? What is the approximate number of audits per year?
- 3.3.4. What types of documents does the audit institution prepare for reporting the result of the performance audit (audit report etc.)? What are the entities these documents are submitted to?

Performance audits are selected as part of the Regional Court of Audit's audit planning activities. The following factors are taken as a basis:

- The strategic focus of the audits
- A risk-based selection of one or several municipalities
- Activity-related horizontal audits are also carried out
- The key areas for the financial management of a municipality are usually selected (e.g., investment management, the calculation of fees and investment in roads, etc.)
- Audits always focus on aspects of collaboration among local authorities (cooperation or mergers)

On average, the Regional Court of Audit audits two to three municipalities per year. Audits are not carried out at regular intervals due to the large number of municipalities.

Reports are submitted to the municipality (municipal council) and (in most federate states) to the state parliament. The municipality is entitled to provide a written comment about the audit report. The comment is included in the report. The whole report is published.

3.4. Other audits in municipalities (if other than those mentioned in 3.1-3.3 are performed).

3.4.1. Describe the main aspects of planning and organizing the audit;

3.4.2. Is this audit performed annually? What is the approximate number of audits per year?

3.4.3. What types of documents does the audit institution prepare for reporting the result of an audit (audit report etc.)? What are the entities these documents are submitted to?

The Regional Court of Audit can be instructed to prepare an expert report for the federate state's supervisory authority on a case-by-case basis. This supervisory authority will define the content and the scope of the audit task.

4. Describe which entities recommendations can be addressed to after the audit. Can the regional audit institution adopt any measures with regard to the audited municipalities (drawing up administrative acts, starting legal proceedings or other)?

The recommendations are forwarded to the municipal council (a municipality's highest collegial body elected by the people). The political responsibility for implementing the recommendations lies solely with this municipal institution. The Regional Court of Audit does not have the authority or the instruments to enforce the implementation of its recommendations.

5. Is there a practice of evaluation of the quality control systems of the regional audit institution in order to improve it (i.e. is there a legal requirement to appoint institutions to conduct peer reviews, does the regional institution initiate peer reviews and does it invite other institutions to perform this task on a voluntary basis etc.)? Please describe shortly.

External control of the Regional Courts of Audit is not required by law. These Courts are only accountable to the respective federate state parliament. However, they voluntarily use various evaluation and quality control instruments:

- CAF (common assessment framework)
- ISO certification
- NPO label (management excellence certification for non-profit-organisations)
- Peer reviews (sometimes with international partner organisations).

6. Describe other functions of the regional audit institution and types of documents issued within the municipal sphere that are not related to audit
- 6.1. What additional functions (other than auditing) related to municipalities are exercised by the regional audit institution? What documents does the institution prepare in order to implement these functions (for example, an opinion on the draft budget, the findings necessary for the municipality to take decisions regarding taking-out loans etc.)? Are these functions imposed by legal acts or are they carried out upon the initiative of the institution itself?

Regional Courts of Audit do not usually perform any other tasks for municipalities.

- 6.2. What other documents does the regional audit institution prepare in relation to municipalities (landscape reviews, briefings, overviews etc.)?

7. Describe how the independence of the audit institution is ensured: guarantees, legal provisions and procedures that ensure independence and objectivity of the institution's executive duties (funding principles, appointment of heads for terms of office, rotation of auditors etc.).

In essence, the Regional Courts of Audit comply with the EURORAI guidelines on independent, regional institutions responsible for public sector external auditing. This means, for example:

- Linked to legislative authority but independent of the administration
- Audit subjects are selected independently
- The right to publish the results of the audit
- Heads enjoy qualified protection against dismissal (term of office)
- Heads have autonomous responsibility for organisation and resources, and have authority over staffing matters.

Annex: External Public Sector Audit of the Federated States in the Republic of Austria