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Municipal Police in Austria: History, Status Quo, and Future

Aside from the nation-wide corps of the Federal Police, municipal police services (“Gemeindesicherheitswachen”) constitute a relevant pillar of law enforcement in Austria. Even though the number of forces has shrunk over the past decades, there are still 37 agencies in six out of nine provinces. Most of Austria’s major cities, including the Capital of Vienna, Graz, Linz, Salzburg or Innsbruck, are secured by the Federal Police. According to the Federal Constitution, municipal police departments must not be established in a city with a Federal Police authority. Municipal police agencies are mostly found in “medium sized” cities or smaller towns and villages. Each municipal police service has between one and 45 employees and varies in terms of organization, equipment, competencies, and availability.



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1. INTRODUCTION TO AUSTRIA

Austria¹ is a democratic republic at the crossroads of Central Europe.² The head of state is a publicly elected Federal President, the head of government is the Federal Chancellor. Austria numbers over 8.4 million inhabitants³; the territory with a total size of almost 84,000 km² is divided into nine autonomous provinces (“states”): Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg, and Vienna. Due to the country’s federalist structure powers are split between the federation and the provinces.⁴ The federal provinces have their own authority in certain legislative matters (through the provincial parliaments) and administrative matters (with the provincial governments being the highest authority).⁵ While the provinces enjoy specific executive influence, they do not maintain any police competencies. According to Art. 10 (1) 7

of the Federal Constitution, “[t]he Federation has legislative and executive powers in the following matters: [...] the maintenance of peace, order, and security including the extension of primary assistance in general, but excluding local public safety matters; the right of association and assembly; matters pertaining to personal status, including the registration of births, marriages and deaths, and change of name; foreign police and residence registration; matters pertaining to weapons, ammunition and explosives, and the use of firearms; [...]”. The exception of “local public safety matters” (in German “örtliche Sicherheitspolizei”, literally translated as “local security police”) is key when further discussing the role of municipal police forces in Austria.

2. HISTORY OF LOCAL POLICING

Local policing in Austria can be traced back to late medieval times. It was usually

up to a city council or a convention of citizens to introduce the appropriate security measures in their respective settlements. Cities and towns began to maintain public order and safety by employing guards and watchmen. Outside cities and towns, legal and economic powers were usually under the control of a Lord of the Manor.⁶ In the 19th century, the term “policing” received a narrower profile⁷ and local policing became more professional. Various municipal police departments in Austria date back to this time; one example is the Baden City Police, which was officially created in 1811.⁸ At the same time, state-directed law enforcement and centralized security efforts gained increasing importance though they came along with censorship and severe surveillance measures imposed by State Chancellor Prince Klemens Wenzel von Metternich. After the revolutions of 1848, new approaches for law enforcement and the control of public order were sought. One of the consequences was the introduction of the “Gendarmerie”⁹ in the whole Austrian empire in 1849.¹⁰ Patrolling the rural areas was one of the initial priorities to ensure and reassure safety in the countryside. The idea of local public safety matters (“örtliche Sicherheitspolizei”) in the sense of the old Imperial Municipal Act of 1862 (“Reichsgemeindengesetz”)¹¹ encompassed those aspects of public security policing (in German “allgemeine Sicherheitspolizei”, literally translated as “general security police”), which were mainly or entirely in the municipality’s own interest and could be dealt with by the municipality within their confines and with their own means. Meeting this definition was not always easy as it depended on the capabilities of the individual municipality. Besides, it was sometimes challenging to draw the line between merely “local” and entirely “public” safety matters.¹² At the beginning of the 20th century, a broad va-

riety of municipalities still maintained their own police force. Some were tiny, others were relatively big and well equipped. In addition, federal law enforcement services were on the rise: Over the past decades, the Gendarmerie had been reshaped and strengthened; the first corps of federal police officers (“Sicherheitswache”) was created in Vienna in 1869¹³; the first “Imperial and Royal Criminal Investigations Institute” was erected in 1872.¹⁴ After the end of the Habsburg Empire and the foundation of the 1st Republic, the Constitutional reforms of 1920, 1925, and 1929 brought about a new concept of state administration and shifted the focus of law enforcement even more clearly to the federal level. After the end of World War II the number of municipal police departments constantly shrunk. As of 1 January 1992, 45 municipalities still maintained their own local police service. Art. 151 (1) of the Federal Constitution was amended in 1999 in order to emphasize that the existence of these 45 forces was officially recognized.¹⁵ Although the amendment was not intended to “save” these departments forever, it mended a legal gap which had been caused by the 1991 Constitutional reform¹⁶: With the abolishment of a provision in the Constitution Transition Act (“Verfassungs-Überleitungsgesetz”), the municipal police had temporarily lost their legal basis and were forced to operate in a legal grey zone for about eight years.

3. FEDERAL POLICE

In 2005, all federal law enforcement agencies, i.e. the Federal Gendarmerie (“Bundesgendarmerie”), the Federal Security Corps (“Bundessicherheitswache”), and the Federal Corps of Criminal Investigators (“Bundeskriminalbeamtenkorps”) were merged into the new “Federal Police” (“Bundespolizei”), which serves as the nation-wide police service in Austria.

According to Art. 10 (1) 14 of the Constitution, “[t]he Federation has legislative and executive powers in the following matters: [...] organization and command of the Federal Police; regulation of the conditions pertaining to the establishment and organization of other corps with the exception of the municipal corps; regulation of the conditions concerning the arming of corps and their right to make use of their weapons. [...]“ Over 20,000 officers are part of the Federal Police. The corps is regionally split into nine provincial police directorates (each with a traffic division, a criminal investigations division, an operations division etc.).¹⁷ Approximately 1,000 police stations can be found all over the country. Despite the name Provincial Police Directorate (“Landespolizeidirektion”), said authorities form part of the Federal Police since there is no legal basis for provinces to maintain their own police forces. This is a considerable difference to other federalist countries such as Canada, Germany, Switzerland, or the United States. On 1 September 2012, the structure of Austrian law enforcement authorities (“Sicherheitsbehörden”) was significantly reorganized by reducing the number of authorities from 31 to 9.¹⁸ This reform was the latest in a row of organizational changes in the past decade: In 2002/03, a wide-spread restructuring of the Federal Ministry of the Interior took place; in 2003, the system of police special units was reorganized and brought under the roof of the renowned anti-terror unit “Cobra”; in addition, the “Bundeskriminalamt” (Federal Criminal Police Office; also referred to as “Austrian Criminal Intelligence Service”) and the “Sicherheitsakademie” (literally translated as “Security Academy”¹⁹) were created. In 2004/05, Customs Enforcement (“Zollwache”) was integrated into the Federal Ministry of the Interior; soon afterward, the amalgamation of the three

different federal law enforcement corps to form the new Federal Police took place. In 2008, a fundamental reform of Austria’s Criminal Procedure Law redefined the role of police officers and law enforcement authorities in the criminal justice system.²⁰ Pre-trial investigations are now carried out by the public prosecutor in conjunction with the police.²¹

4. MUNICIPALITIES IN AUSTRIA

Pursuant to Articles 115 to 120 of the Federal Constitution, the municipality (“Gemeinde”) has its own area of influence as well as an area of influence assigned by the federation or province. Hence, the municipality is both an administrative body with the right of self-government and an administrative district for the province and the federation.²² There are currently 2,354 municipalities in Austria. This comparatively high number has given rise to smoldering debates for some time.²³ The Austrian legal system is coined by the principle of “uniformity of municipalities”²⁴: The same basic rights and duties should apply to all municipalities, no matter how big or small they are. As described above, the maintenance of peace, order, and security is a federal competence if it does not affect local public safety matters (in German: “örtliche Sicherheitspolizei”), as stated in Art. 10 (1) 7 of the Federal Constitution. The term “örtliche Sicherheitspolizei” (literally translated as “local security police”) is further defined in Art. 15 (2) of the Federal Constitution: “In local public safety matters, that is the part of public security policing which exclusively or preponderantly affects the interests of the local community personified by the municipality and which, like preservation of public decency and defence against the improper creation of noise, can suitably be undertaken by the community within its local boundaries, the Federation has

authority to supervise the conduct of these matters by the municipality and to redress any observed shortcomings by instructions to the Governor (Art. 103). Inspectoral authorities of the Federation can for this purpose be delegated to the municipality; in each and every case the Governor shall be informed hereof.”

Art. 118 (3) of the Federal Constitution picks up the threads in defining the scope of self-government of municipalities and providing their legal basis for carrying out “local security policing”: “A municipality is guaranteed official responsibility in its own sphere of competence, in particular for performing the following matters: [...] 3. local public safety matters (Art. 15 para 2), local events control, 4. administration of municipal traffic areas, local traffic police, 5. crops protection police, 6. local market police, 7. local sanitary police, especially in the field of emergency and first aid services as well as matters pertaining to deaths and interment, 8. public decency, 9. local building police) [...]”.

Art. 118 (6) of the Federal Constitution further stipulates that “[t]he municipality is entitled in matters pertaining to its own sphere of competence to issue on its own initiative local police ordinances for the prevention of imminently to be expected or existent nuisances interfering with local communal life as well as to declare non-compliance with them an administrative contravention. Such ordinances must not violate existing laws and ordinances of the Federation and Province. [...]”

The enforcement of such local ordinances and other acts of self-government comes under the umbrella of the municipal

administration. However, the power to fine and arrest somebody according to the Austrian Administrative Penal Act (“Verwaltungsstrafgesetz”) is not automatically given to every municipal officer; specific authorization is required to exercise such powers. From a legal standpoint, an easy way is the deployment of a Municipal Police Corps, which can be used in the municipality’s own administrative sphere as well as to enforce other laws and regulations for the provinces and the federation – provided there is an individual, suitable legal basis for such acts.

5. MUNICIPAL POLICE

According to the Austrian Federal Constitution, Austrian municipalities are entitled to set up municipal police departments in charge of policing matters within the confines of their very jurisdiction. Their names may vary from “Gemeindegewaltwache” or “Gemeindepolizei” to “Städtische Sicherheitswache” or “Stadtpolizei” (in larger municipalities with a city status²⁵). The most common overall term for all municipal police services is “Gemeindegewaltwachen”. 37 municipalities in six provinces²⁶ currently maintain municipal police services with over 300 employees including sworn officers, traffic agents, and other civilians. The biggest police force is Baden with 45 employees, the smallest departments have only one employee. The creation and organization of municipal services is no federal competence (see 5.2.). Organizationally speaking, municipal police departments are subordinate to the mayor of a municipality and all members are municipal employees. Their actions, however, are not only of local relevance. In fact, they are always related to the laws according to which they operate in a specific situation. They serve as “assisting agents” (“Hilfsorgane” or “Exekutivorgane”) for different

administrative and security authorities or authorities of criminal justice.

Large municipal police forces are on duty 24 hours a day and 7 days a week providing a wide array of law enforcement services. Aside from regular patrol work and the enforcement of local ordinances, they respond to calls according to the Security Police Act²⁷, carry out traffic duties, and even do investigative work. Some forces have motorcycles, radar enforcement groups, bicycles, e-bikes or rollerblade patrols. A few departments use police dogs though canine services usually provided by the Federal Police. In contrast, smaller forces with merely one or a few officers usually have only limited powers. They merely enforce municipal ordinances, conduct parking enforcement and uphold local public order, not interfering in police matters pursuant to the Security Police Act.

5.1. Two Categories

According to the Federal Constitution, only bigger municipal police squads with the status of a “corps” (in German: “Gemeindefachkörper”) are entitled to exercise the full range of possible competencies. The special status of a corps is not unique to issues concerning the municipal police. According to Art. 78d (1) of the Federal Constitution, “Corps are armed or uniformed or otherwise militarily patterned ‘squads’ with tasks of a police character. Not to be considered as corps are particularly the following: Guard personnel established for the protection of certain branches of soil cultivation such as agriculture and forestry (field, crops, and forest protection), for mining, hunting, fishing or other licensed water usage, market inspection officials, and fire brigades. [...]”.

Therefore, a municipal department carrying out tasks of police nature has to be armed and/or uniformed and a squad

organized along military lines in order to be considered a “Gemeindefachkörper”. As the word “squad” (in German “Formation”) indicates, the force has to be of a certain size to be a true body. This is crucial as the system of the Federal Constitution only mentions the corps and no other types of municipal police.

A corps (“Wachkörper”) acts on behalf of the respective authority (“Behörde”) and on the basis of specific laws. A corps is a mere “assisting body” receiving its rights from the authority. The duality of authorities and corps has a long tradition in Austrian law enforcement.²⁸ Accordingly, a municipal police corps can act for a variety of different authorities, both on the provincial and federal level and for the municipality itself. Art. 118a (1) of the Federal Constitution prescribes that “[f]ederal or provincial laws may provide that with the approval of the municipality the members of a municipal police corps may be empowered to perform executive services for the competent authority”. This empowerment is realized by different kinds of authorizations, which are laid down in the specific acts the police corps enforce. These authorizations are granted upon individual application by the municipality.

The following examples may illustrate the wide-spread possibilities: Basically all municipal police forces are entitled to enforce the provisions of the Administrative Penal Act (“Verwaltungsstrafgesetz”)²⁹, which allows them to impose fines or use arrest powers within the administrative system. Authorization is given by the respective district or county administration (“Bezirksverwaltungsbehörde”). According to the Road Traffic Act (“Straßenverkehrsordnung”)³⁰, municipal police officers can enforce traffic laws for the

district or county administration, for which a decree by the Provincial Government is a prerequisite. In order to enforce provisions of the Motor Vehicle Act (“Kraftfahrzeuggesetz”)³¹, a decree by the Provincial Governor is required. In order to apply the full range of police duties – similar to officers of the Federal Police – municipal officers can be authorized to enforce the Security Police Act (“Sicherheitspolizeigesetz”); a decree of the respective Provincial Police Director is necessary. This major step in Austrian legislation (“1999 Security Police Amendment Act”)³² clearly changed the perception of municipal police forces in Austria and subsequently helped them evolve into equivalent partners³³ when it comes to the relationship with the Federal Police.

The relevant provision is § 9 (3) of the Security Police Act, which reads as follows: “At the request of a municipality, members of its municipal police corps, with their consent, may be placed under the supervision of the district administrative authority to provide security police services (§ 5 para. 3). Subordination shall be effected by decree issued by the Provincial Police Director and shall define the scope of individual tasks conferred (§ 19 to § 27a), taking into consideration the resources of the respective municipal corps. Subordination shall be restricted or repealed by the Provincial Police Director at the request of the district administrative authority if the municipal police corps fails to fulfil the tasks conferred.” Today, most of the bigger municipal police forces are authorized to enforce security police laws for the competent district administration. In accordance with § 18 of the Criminal Procedure Act³⁴, municipal police corps, which were authorized to enforce the Security Police Act, are also entitled to carry out criminal investigations and act

on behalf of the criminal justice system.³⁵ Municipal police forces not qualifying as a “Wachkörper” are technically called “simple municipal guards” (“schlichte Gemeindewachen”).³⁶ As described above, their set of duties and competencies is rather limited and focused on local public safety matters.

5.2. Setting up a Municipal Police Corps

According to Art. 10 (1) 14 of the Federal Constitution, “[t]he Federation has legislative and executive powers in the following matters: [...] organization and command of the Federal Police; regulation of the conditions pertaining to the establishment and organization of other corps with the exception of the municipal corps; regulation of the conditions concerning the arming of corps and their right to make use of their weapons.” This means that law enforcement corps can only be set up by the federal state – with one exception: The municipal police corps. Since all executive and legislative powers not expressly assigned to the federation remain with the provinces (Art. 15 of the Federal Constitution), legislation regarding municipal police departments falls into their sphere.

Art. 118 (8) of the Federal Constitution prescribes: “The establishment of a municipal police corps or a change in its organization must be notified to the Federal Government.” It is noteworthy that the Federal Constitution did not grant the Government a bigger role in the creation of a municipal police force. While the Constitution does not explain the exact legal clothing for the establishment of a municipal police corps, it is prevailing doctrine that a formal decision (ordinance) by the municipality is required.³⁷ Since Art. 10 (1) 14 of the Constitution confers the legislative power for municipal police

matters to the provinces, it appears logical that an appropriate provincial act is needed as an initial basis for such a municipal decree. Some provincial governments stated they would first consider the enactment of a law on municipal police services before creating any new police corps.³⁸ However, other opinions were voiced in recent literature and by the Constitutional Service of the Federal Chancellery expressing the view that a municipal decree on establishing a local police corps could be passed directly on the grounds of the Federal Constitution, without the previous enactment of suitable provincial laws.

5.3. Constitutional Limits

Art. 78d (2) of the Federal Constitution stipulates that “[n]o other regional authority may set up a corps within the area of a municipality in which a Provincial Police Directorate serves as the security authority of first instance. These municipalities were the seats of the former Federal Police Directorates, which were established in the following cities: Eisenstadt (also in charge of Rust), Graz, Innsbruck, Klagenfurt, Leoben, Linz, Salzburg, Sankt Pölten, Schwechat, Steyr, Villach, Wels, Wien, and Wiener Neustadt. For historical reasons, mainly to prevent competition between local and federal police corps, no municipal police force can be set up in any of these major cities. This means, for instance, that the Vienna City Council is prohibited by constitutional law to form a municipal police force in the capital of Austria.

In principle, municipal police departments are only in charge within the confines of their very municipality. This means that they cannot be drawn upon by other municipalities, be it by ad-hoc request, by contract, or by forming an association of municipalities.³⁹ Since the

Federal Constitution regards a municipal police corps as a body deriving from a municipality, a strong link exists between the municipality’s individual territory and the corps’ operations. Although the municipal police can be authorized to take up other duties for provincial or federal authorities, these tasks are always derivative and connected with individual cases assigned to them by a specific act. These authorizations do not enlarge the municipal territory and, generally speaking, do not allow them to serve as police officers in other municipalities. § 14 (4) of the Security Police Act provides for an exception: “Members of a municipal police corps subordinate to the district administrative authority to provide security police services may perform security police acts on its behalf within the framework of the order to confer duties outside the territory of the municipality if otherwise the required measures cannot be taken in time. The district police command shall be notified of such official acts without delay.” This provision, however, mainly focuses on cases of emergency and a limited time span.

5.4. Other City Guards and Watches

As described above, not too many Austrian municipalities can draw upon their own police departments when performing security tasks. A variety of municipalities therefore set up local guards or watches with limited duties or announced plans for their introduction.⁴⁰ Some maintain public order at weekends or large scale events, others carry out night patrols in shopping areas or certain neighbourhoods. In many cases, these guards or watches are merely contracted private security firms paid by the respective city council. Despite their appearance in uniforms (occasionally resembling those of police officers), their members do not enjoy any law enforcement powers or rights to arrest.⁴¹ They are

not armed or only authorized to carry a gun under the strict conditions of the Austrian Firearms Act.⁴² In fact, an increasing number of private security officers are contracted by municipal governments to work in public space. Only some cities chose a different path and established full time public order guards or traffic enforcement services, which are considered part of the city administration and whose members are directly employed by the municipality or hired by a privatized company owned by the city. Even in these cases, such wardens must not be confused with a municipal police department. For historic reasons, a few of these units are called “Ortspolizei”⁴³ or “Örtliche Sicherheitswache” (basically “Local Police”) though they are no real police services. Some large Austrian municipalities such as Graz or Linz founded a city-run “Ordnungswache” (in English “Public Order Guard”) or “Ordnungsdienst” (in English “Public Order Service”) since a municipal police corps was prohibited due to the presence of a Federal Police Directorate (now a municipality in which a Provincial Police Directorate serves as the security authority of first instance). Further details on the creation of such guards depend on the respective province and municipality. For instance, the legal basis for the Public Order Guard of the City of Graz is the Styrian Public Order Agent Act of 2007⁴⁴. The “Ordnungswache Graz” consists of unarmed agents who are in charge of enforcing provincial and local security laws (public urinating, aggressive begging, leashless dogs, playing music in public places, etc.).⁴⁵ In this context they are entitled to stop persons and check their identities, to caution, and to issue warnings and citations. They do not interfere in any police work and do not pursue any crimes.⁴⁶ Debates whether the Mobile Surveillance Group of the City of Innsbruck (“Mobile Überwachungs-

gruppe – MÜG”) might come close to an armed police corps due to its uniforms and pepper spray equipment ended with a clear message from the Constitutional Service of the Federal Chancellery: The MÜG does not qualify as a “corps” in the sense of Art. 78d of the Constitution.⁴⁷

6. Co-operation

Today’s municipal police departments work closely with the Austrian Federal Ministry of the Interior and the Federal Police, respectively, in a broad variety of matters. New municipal officers and supervisors receive the same basic training as officers of the Federal Police. Municipal and federal officers are taught together in classes of the “Security Academy”; the municipal police officers’ training is paid by the individual municipalities. Advanced training is also regularly offered to municipal police officers, for example in operational tactics or investigative techniques. Municipal police departments are authorized to access most of the police databases in use by the Federal Police or the Federal Ministry of the Interior. They are also connected by the same radio network and dispatchers of the Federal Police Communications Centers can direct Municipal Police officers in cases of emergency.⁴⁸ Joint patrols of municipal and federal police officers are a common picture, particularly in the larger forces in the western part of Austria. Regular contacts between a municipal police department and the local station of the Federal Police in a city or town allow a vivid exchange of information. The competencies between the Federal Police and the municipal officers are usually clearly defined so that parallel responses can be avoided. In many cases, municipal police corps authorized to enforce the Security Police Act only deal with criminal offences not exceeding one year of imprisonment.⁴⁹ After the Federal

Police merger of 2005, most municipal police departments agreed to adapt their uniform⁵⁰ and car designs to the patterns of the Federal Police in order to create a similar appearance. Slight differences on the uniforms⁵¹ and on police car decals (local coats of arms instead of the federal eagle) still make it possible to quickly distinguish the different police corps.

In recognition of a rising desire for police presence directly in small communities, the Federal Ministry of the Interior has not only increased the co-operation with municipal police forces but recently started to deploy Federal Police officers in rural communes without a police station on a permanent basis. After a pilot stage in the Burgenland in early 2013, the Ministry and the Austrian Federation of Municipalities launched the joint initiative “Safety in our communities” on 1 May 2013. Federal police officers will be in certain small towns and villages at fixed times to serve as “local security managers” and reinforce community policing. They will also show up at regular meetings and participate in municipal networks.⁵²

7. FUTURE

While the number of municipal police forces has gradually shrunk over the last decades, they still constitute a relevant pillar of law enforcement in Austria. Over the past twenty years, the legislator has taken numerous steps to ensure equality under public law to a large extent. In addition, various forms of co-operation between municipal departments and the Federal Police have been developed. Municipal corps have become “important partners” for the Federal Police when maintaining law and order.⁵³ Nevertheless, in times of budget cuts and financial tension, municipal police departments find themselves under increasing pressure:

Large municipal police corps⁵⁴ are on duty all the time, that is 24 hours a day, seven days a week, and 365 days a year. The smallest forces with one officer or just a few employees can only guarantee local police presence for a limited time each week. However, with shrinking personnel numbers, rising overall costs, and an increasing workload, even some of the bigger municipal departments have difficulties to maintain a full time service.⁵⁵ Financial aid from other entities than their own municipalities is rare; only Vorarlberg subsidizes the ten local police departments within its provincial confines. Since the creation of a municipal police force is entirely up to the very city or town (see 5.2.), there is no obligation of either the provincial or the federal government to provide financial support.⁵⁶ The province of Upper Austria even voiced doubts whether maintaining a municipal police department was still affordable in these days and suggested that vacancies should not be filled any longer.⁵⁷ The Neunkirchen City Administration in the province of Lower Austria unveiled plans to close its municipal police by 2021 as officers leaving (mostly due to retirements) would not be replaced.⁵⁸ The city council of Bruck an der Mur in the province of Styria unanimously decided to dissolve its city police and presented the details at a press conference on 14 February 2012⁵⁹. In the meantime, Bruck only has a local watch in order to handle local public safety issues; law enforcement matters are exclusively dealt with by the Federal Police. The neighbouring city of Kapfenberg, in contrast, stated that it would not follow Bruck’s example but keep its 18-member municipal police corps.⁶⁰ In a newspaper report of 28 February 2012, the mayors of Baden and Amstetten in the province of Lower Austria emphasized the importance of maintaining separate municipal police forces.⁶¹

Despite today's solid legal basis for their work and well-established contacts with the Federal Ministry of the Interior and the Federal Police, a growing number of municipal police corps seems to struggle with financial burdens. At the same time, the introduction of private security services in public space is on the rise.⁶² However, such security guards cannot replace a full-fledged police department as they usually do not have more rights than a regular

citizen.⁶³ The value of municipal police forces in Austria is beyond dispute as they have strong roots in their very community, provide additional police presence, and their tasks regularly complement and exceed those conducted by the Federal Police. The continuation of municipal police departments, especially of the smaller ones, will therefore be a significant challenge of the forthcoming years.

¹ The basis of this article is a talk which was given by the author during the conference "Public Safety, Legal and Organizational Functioning of Municipal Police in Europe" on 10 October 2011 in Cracow, Poland. The text was extended and updated for publication in the *SIAK-Journal*.

² Hausmaninger 2011, 1.

³ http://www.statistik.at/web_de/presse/059977 (01.09.2013).

⁴ Art. 2 of the Federal Constitution.

⁵ http://www.statistik.at/web_en/classifications/regional_breakdown/federal_provinces_laender/index.html (01.09.2013).

⁶ E.g. a feudal landlord or the abbot of a monastery.

⁷ Details on the development of the term "Polizei" are discussed in Wenda 2008, 479–482.

⁸ The City Police celebrated the 200th birthday on 2 July 2011 with a large public event, see: Wenda 2011a, (http://www.bmi.gv.at/cms/BMI_OeffentlicheSicherheit/2011/09_10/files/Baden.pdf).

⁹ The term "gendarmerie" stems from the French "gens d'armes" (i.e. "men-at-arms"). In *Napoleonic Times*, the "Gendarmerie", which was formed along military lines, gained importance as a police

body and was introduced in a variety of European countries.

¹⁰ Hesztera 2005.

¹¹ "Reichsgemeindegesezt" of 5 March 1862, *RGBl* Nr. 18.

¹² Jäger 1990, 8.

¹³ Sabitzer 2005a.

¹⁴ Sabitzer 2005b.

¹⁵ Federal Law Gazette *BGBl*. I Nr. 8/1999.

¹⁶ Abolishment of Art. II § 2 of the Constitution Transition Act (*BGBl*. Nr. 565/1991).

¹⁷ www.polizei.gv.at (01.09.2013).

¹⁸ http://www.bmi.gv.at/cms/BMI_OeffentlicheSicherheit/2012/07_08/files/Behoerdenreform.pdf (01.09.2013).

¹⁹ The former Police and Gendarmerie Schools were pooled together to form a new, unified academy structure for all federal law enforcement services and members of the public safety administration. Hence, the neutral term "Security Academy" was born.

²⁰ http://www.euro-justice.com/member_states/austria/country_report/1361/ (01.09.2013).

²¹ Austria's criminal justice system, [http://www.justice.govt.nz/publications/global-publications/a/alternative-pre-trial-and-trial-processes-for-child-witnesses-in-](http://www.justice.govt.nz/publications/global-publications/a/alternative-pre-trial-and-trial-processes-for-child-witnesses-in)

[new-zealands-criminal-justice-system/appendix-c-austrias-criminal-justice-system](http://www.justice.govt.nz/publications/global-publications/a/alternative-pre-trial-and-trial-processes-for-child-witnesses-in-new-zealands-criminal-justice-system/appendix-c-austrias-criminal-justice-system) (01.09.2013).

²² http://www.statistik.at/web_en/classifications/regional_breakdown/municipalities/index.html (01.09.2013).

²³ For instance, the province of Styria merged a number of municipalities in 2012/13 and plans the amalgamation of numerous additional ones, <http://steiermark.orf.at/news/stories/2598245/> (01.09.2013).

²⁴ The principle, which is called "Prinzip der Einheitsgemeinde", has been repeatedly stressed by the Austrian Constitutional Court (see Neuhofer 1998, 59).

²⁵ A city ("Stadt") is usually a larger municipality though the size may differ from province to province and is often historically based. There is no general threshold to achieve city status. According to the Austrian Association of Cities and Towns ("Österreichischer Städtebund"), more than 50 % of the Austrian population live in urban areas and 44.5 % live in cities with 10,000 and more inhabitants.

²⁶ Lower Austria: Amstetten, Baden, Gmünd, Neunkirchen; Upper Austria: Bad Ischl, Braunau, Gmunden, Ried im Innkreis, Schärding, Traun, Vöcklabruck;

Salzburg: Hallein; Styria: Bruck an der Mur (not much longer), Fürstenfeld, Kapfenberg, Weiz; Tyrol: Hall, Imst, Kirchberg, Kitzbühel, Kufstein, Landeck, St. Anton am Arlberg, Schwaz, Wattens, Wörgl, Westendorf; Vorarlberg: Bregenz, Bludenz, Dornbirn, Feldkirch, Götzis, Hohenems, Kleinwalsertal, Lustenau, Rankweil, Schruns.

²⁷ Sicherheitspolizeigesetz, BGBl. Nr. 566/1991.

²⁸ Demmelbauer/Hauer 2002, 15–16.

²⁹ Verwaltungsstrafgesetz 1991, BGBl. Nr. 52/1991.

³⁰ Straßenverkehrsordnung 1960, BGBl. Nr. 159/1960.

³¹ Kraftfahrgesetz 1967, BGBl. Nr. 267/1967.

³² Federal Law Gazette BGBl. I Nr. 146/1999.

³³ Wenda 2011c.

³⁴ Vogl 2010, 26–27.

³⁵ In practice, most municipal police corps do not intervene in any criminal cases for which the law prescribes punishment of more than one year in prison.

³⁶ Hauer/Keplinger 2011, 102, commentary on § 5.

³⁷ Faber 1999, 830 et seq.; Keplinger 1992, 29 et seq.

³⁸ According to representatives of the Austrian municipal police corps, the province of Vorarlberg is one of them.

³⁹ Around 2007/2008, the municipalities in the Montafon area of Vorarlberg toyed with the idea to start a common municipal force in all ten municipalities. The Constitutional Service of the Federal Chancellery expressed the opinion (GZ: BKA-603.407/0001-V/2/2008, dated 8 April 2009) that such a deployment of a shared municipal police corps was unconstitutional, <http://vbvgv1.orf.at/stories/362655> (01.09.2013).

⁴⁰ Some municipalities in the province of introduced private security guards with

financial support from the provincial government. The responsible member of the provincial government of Carinthia announced on 24 January 2012 that the city of Wolfsberg would be the first to receive assistance of such “private sheriffs”; the cities of Villach and Klagenfurt were said to be next in line (see Friedl/Moser 2012).

⁴¹ Except the “citizens’ arrest” governed by § 80 (2) of the Criminal Procedure Act (Strafprozessordnung 1975, BGBl. Nr. 631/1975).

⁴² Waffengesetz 1996, BGBl. I Nr. 12/1997.

⁴³ For example in the city of Serfaus, province of Tyrol.

⁴⁴ “Gesetz vom 18. September 2007 über die Bestellung von Aufsichtsorganen (Steiermärkisches Aufsichtsorganengesetz)”: http://www.graz.at/cms/dokumente/10199695_4932409/01aca25f/Aufsichtsorganengesetz.pdf (01.09.2013).

⁴⁵ The “Ordnungswache” of the City of Graz was moved under the umbrella of the “Grazer Parkraumservice – GPS” in 2013. While GPS still maintains two separate sections for local order tasks and parking enforcement, the personnel is always drawn from GPS, a private company owned by the City of Graz (<http://www.parken.graz.at/>).

⁴⁶ <http://www.graz.at/cms/beitrag/10199695/4932409/> (01.09.2013).

⁴⁷ Tiroler Tageszeitung, 22.04.2013, <http://www.tt.com/Überblick/6449525-42/persilschein-für-die-müg.csp>.

⁴⁸ Wenda 2011b.

⁴⁹ As based in the respective decree of the competent Provincial Police Director.

⁵⁰ The Baden City Police decided to obtain their uniforms from the Hamburg (Germany) Police. All other municipal police departments purchase their uniforms from the same suppliers as the Federal Police.

⁵¹ Municipal police officers use different local symbols or coats of arms on the shoulder patches and cap badges.

⁵² See the initiative „Safety in our communities“, http://gemeindebund.at/rcms/upload/downloads/Projektbeschreibung_SicherheitinunserenGemeinden.pdf (01.09.2013).

⁵³ Herbert Anderl, former Director-General for Public Safety of the Federal Ministry of the Interior, called the municipal police departments “important partners of the Federal Police” at a municipal police convention in Vorarlberg on 13 October 2011 (Wenda 2011c).

⁵⁴ The largest municipal police department in Austria is the Baden City Police with 45 members.

⁵⁵ The Bludenz City Police had to cancel the night shifts at the beginning of 2012 due to budget cuts (Vorarlberger Nachrichten, Alpenstadt vermietet Stadtpolizei, 13.02.2012, A7).

⁵⁶ The Bad Ischl City Police called for three additional officers and financial support from the province. The city passed a resolution which was submitted to the province of Upper Austria (Kronen Zeitung, Upper Austria edition, 17.02.2012, 28).

⁵⁷ Oberösterreichische Nachrichten, Land will Nachbesetzungen bei Sicherheitswachen unterbinden, 21.09.2011, 33.

⁵⁸ <http://kurier.at/nachrichten/niederoesterreich/4486568-stadtsheriffs-unter-der-finanzlupe.php> (28.02.2012).

⁵⁹ Kleine Zeitung, 15.02.2012 (<http://www.kleinezeitung.at/steiermark/bruckandermur/2948312/stadtpolizeibruck-aufgeloeset.story>).

⁶⁰ Pototschnig 2012.

⁶¹ <http://kurier.at/nachrichten/niederoesterreich/4486568-stadtsheriffs-unter-der-finanzlupe.php>.

⁶² See Terpstra/van Stokkom/Spreeuwiers 2013.

⁶³ See, *inter alia*, Stolzlechner/Horvath 2009 and Stolzlechner/Horvath 2010.

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