

THE CONTROL IN MUNICIPALITY SELF-GOVERNMENT OF THE SLOVAK REPUBLIC

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Abstract: The control system of the public administration of the Slovak Republic is regulated by several laws, on top of which stands the very Constitution of the Slovak Republic. The control activity is carried out by the authorities that are delegated to carry out checks directly from the Act, whose objective is to determine the objective status of the facts, and the management of financial management and other means of public investment. The main objective of the article was to analyze and present effectivity and function of internal control system in the individual municipality size categories in the Slovak Republic.

Keywords: public administration, municipality, internal control system, chief auditor, legislation on municipality control system

1 Supreme Audit Office of the Slovak Republic

The most significant change extending and significantly enhancing the control competence of Supreme Audit Office of the Slovak Republic also to public resources until then excluded from the competence of Supreme Audit Office of the Slovak Republic, was gained by the amendment of the Constitution of the Slovak Republic that came into force on January 1st, 2006. The constitutional Act No.463/2005 Coll. extended the control competence of Supreme Audit Office of the Slovak Republic to control local self-government refer to property management, property rights, funds, obligations and claims in the municipality, upper-territorial units, legal entities with capital participation of municipalities, legal entities with capital participation of upper-territorial units, legal entities established by municipalities or legal entities established by upper-territorial units or upper-territorial units. However, in order to enable that Supreme Audit Office of the Slovak Republic can within the given competence plan audit of bodies of the local self-government, amending of the Supreme Audit Office of the Slovak Republic Act was necessary. This amending defined the scope and method of audit execution within the municipalities and upper-territorial units or legal entities established by the local self-government and their capital participation.¹

Amendment of the Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic as amended by provisions of the Act No. 261/2006 Coll., that came into force on May 13th 2006, significantly strengthened the subject and personal auditing competence of Supreme Audit Office of the Slovak Republic in relation to local self-government.

Supreme Audit Office of the Slovak Republic audit activities pursuant to Article 2 of the Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic in relation to local self-government refer to property management, property rights, funds, obligations and claims in the municipality, upper-territorial units, legal entities with capital participation of municipalities, legal entities with capital participation of upper-territorial units, legal entities established by municipalities or legal entities established by upper-territorial units, the methods of levying and recovering taxes, custom duties, payments of contributions, charges and fines forming revenues of the budgets of municipalities and upper-territorial units.

Pursuant to Article 4 of the Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic, the auditing competence applies to municipalities and upper-territorial units, legal entities established by municipalities, legal entities established by upper-territorial units, legal entities with capital participation of municipalities and legal entities with capital participation of upper-territorial units.

After amending of the Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic, the auditing competence refers to all public funds of local self-government and property, not only to the audit of funds the self-government received for the settlement of costs for transferred competencies of state administration bodies, allocations from the national budget and funds received within development programmes or due to other similar reasons from abroad. The auditing competence has been extended also to all legal entities established by municipalities and legal entities established by upper-territorial units, as well as to legal entities established by local self-government in order to run business.

The reform of public administration and a new system of its financing was the reason for extending the Supreme Audit Office of the Slovak Republic auditing competence. The volume of financial sources was transferred to the field of self-government, what meant that the state could not release from its responsibility for effective functioning of public administration and effective management of public finances. Internal audit on the level of local self-government was insufficient, as some municipalities did not have and still do not have the main auditor, where if this position is established, there is dependence on a municipality authority, which elects, dismisses, determines salary and working hours of the chief auditor. By extending the auditing competence of Supreme Audit Office of the Slovak Republic to all public finances, i.e. to the own income of municipalities and upper-territorial units, on which the respective administration authorities of these entities decide independently, the absence of independent audit of municipalities and upper-territorial units in full scope was eliminated. At the same time, recommendations of the International Organisation of Supreme Audit Institutions - INTOSAI for the objective assessment of local self-government in full scope were met. Extending the auditing competence of Supreme Audit Office of the Slovak Republic was important from the point of view of needs for NC SR, during its decision making process in the given area, providing information on audit results the other body cannot deliver in sufficient scope. Information can be used also by other bodies (e.g. the state administration authority at decision making on providing allocations from the SR national budget).²

2 Chief municipality auditor

The chief auditor function is considered to be a basis pillar of the municipality system. It is an elected function, he/she is elected by the municipality authority pursuant to Article 11, (4), (j) of the Act No. 369/1990 Coll. on Municipalities as amended.

Article 18 of the Act No. 369/1990 Coll. on Municipalities as amended regulates the position of the chief auditor; precondition for the performance of his/her duties; the scope of audit activities; the rules of audit activities; and tasks of the chief auditor.

The chief auditor is an auditing body of the municipality and at the same time he/she is a municipal employee. Rights and obligations of the municipality chief auditor are governed by the Act No. 369/1990 Coll. on Municipalities as amended, as well as by the Act No. 552/2003 Coll. on Performance of Work in Public Interest as amended. The chief auditor as the municipal employee has all rights and duties of a manager.³

The chief auditor performs his/her duties with complete impartiality and independence in accordance with the main rules for auditing activities.

¹ Najvyšší kontrolný úrad Slovenskej republiky.: 20. výročie Najvyššieho kontrolného úradu SR 1993 – 2013. [online]. 2015 [cit. 2016-05-05] Available on the Internet: <http://www.nku.gov.sk/en/publikacie>.

² Jasovský, J.: *Kontrolná činnosť NKÚ SR v územnej samospráve v období rokov 2006 – 2009*. [online]. 2010 [cit. 2016-05-05] Available on the Internet: <http://www.nku.gov.sk/documents/10157/15a1190e-93db-46aa-90c1-cdc29ec1f69c>.

³ Veverková, I., *Ekonomické minimum hlavného kontrolóra*. Bratislava: Iura Edition, 2013. 279 p. ISBN 978-80-8078-678-6.

The scope of activities of the chief auditor is specified by the Act No. 369/1990 Coll. on Municipalities as amended and Act No. 502/2001 on Financial Control and Internal Audit as amended.

Pursuant to Article 11 of the Act No. 502/2001 on Financial Control and Internal Audit as amended, the chief auditor is the main auditing body performing ex post financial control and verifies:

- the objective condition of inspected facts and their compliance with special regulations, international agreements based on which the Slovak Republic received funds from abroad, decisions issued on the basis of special regulations or internal principles of management focusing at the principles of economy, efficiency and effectiveness when managing public funds,
- meeting the requirements for public funds provision and meeting the requirements of public funds use,
- performance of interim financial review,
- adherence to the defined procedure for interim financial review delivery,
- delivery of measures to remedy the shortcomings found out by financial review and elimination of its causes.

The chief auditor performs ex post financial control in the municipality focusing at meeting the principles of economy, efficiency and effectiveness when managing public funds, the review of compliance with the legal conditions for public funds provision and use.⁴

2.1 The scope of the chief auditor activities

The chief auditor conducts audits to the extent set out in Article 18d of the Act No. 369/1990 Coll. on Municipalities as amended as follows:

- control of legality, efficiency, economy and economic efficiency during management of property and municipality property rights as well as during management of property used by the municipality according to specific regulations,
- control of claims and petitions solving,
- control of municipality incomes, expenses and financial operations,
- control of following generally binding legal regulations including municipality regulations, control of fulfilment of the local council decrees,
- control of internal municipality regulation fulfilment,
- control of other tasks setup by the specific regulation fulfilment.

The chief auditor has the competence to control the municipal office; budget and contribution organisations established by the municipality; legal entities, in which the municipality has an investment, and other entities that manage the municipality property or to which the municipality property was given to use within an extent affecting this property; entities, which received grants for specific purposes or repayable or non-repayable financial support from the municipality budget according to specific regulation within the extent of these funds use.⁵

2.2 Tasks of the chief auditor

The chief auditor fulfils other tasks according to § 18f of the Act No. 369/1990 Coll.:

- performs control within the extent of the provision in 18d,
- once in six months submits the proposal of auditing activity plan to the local council which must be published

within 15 days prior to its hearing within the local council session, and in a form common within the municipality,

- at least once a year submits a report on auditing activity to the local council, within 60 days from the last day of the calendar year,
- submits report on audit results directly to the local council at its earliest session,
- develops expert statements on municipality budget proposal and account closing prior to its approval within the local council,
- deals with complaints, if states so within the Act No. 9/2010 Coll. on complaints,
- cooperates with state authorities in the matter of management of funds allocated to the municipality from the state budget or structural funds of the European Union,
- fulfils other tasks defined by a specific law, such as e.g. Act No. 583/2004 Coll. on budgetary rules of the local self-government as amended by other acts,
- is obliged to perform audit if requested by the local council,
- is obliged to upon request present the results of an audit to a member of local council or the mayor.

The chief auditor participates in the local council sessions and has a consultant role; he/she can participate also in sessions of the commissions established by the local council.

3 The analysis of the control system effectiveness

The following analysis will present some of the negatives within the chief auditors activity. The representative group for the analysis included 93 municipalities taking into account the size and geographic representation of the whole group of municipalities in SR. The data for the analysis were taken from individual protocols (records) of the Supreme Audit Office of the Slovak Republic on the results of the audit on effectiveness and efficiency during the competences execution of the municipalities of the Slovak Republic.

The analysis of the control system effectiveness was aimed to discover whether the municipality had a chief auditor elected according to provisions of § 11 Art. 4 letter j) of the Act on municipality establishment, where the local council elects and withdraws the municipality chief auditor. In terms of § 30a Art. 2, the municipalities where chief auditor is not elected, or within municipalities where chief auditor does not perform its activity of several municipalities, the chief auditor shall be elected in accordance with this act by the 1st January 2005.

From the total number of 93 municipalities, there were 2 municipalities with the number of inhabitants up to 199 inhabitants which did not have elected chief auditor due to the fact that the local council did not announce the elections of chief auditor in terms of the § 18a Art. 2 of the Act on municipality establishment due to the lack of financial resources.

The analysis was also aimed at whether the chief auditor was at the same time an auditor in other municipality/municipalities. In 2013 some chief auditors performed their activities also in other municipalities. The analysis showed that from the total number of 93 municipalities, 48 % had a chief auditor, who performed his activity also in other municipalities. Within the municipalities with number of inhabitants up to 199, 50 % of chief auditor were at the same time a chief auditor also in other municipalities. Within municipalities with the number of inhabitants from 200 to 499, it was 68 % of chief auditor, within municipalities with number of inhabitants from 500 to 999, it was to 40% of chief auditor. In municipalities with 1 000 to 1 999 inhabitants, it was 39 % of chief auditor, within municipalities with the number of inhabitants from 2 000 to 4 999, it was 44%, in municipalities with 5 000 to 9 999 inhabitants, it was 50 %, and within municipalities with the number of inhabitants above 10 000, the chief auditor did not perform their activity in another municipality.

⁴ Veverková, I., *Ekonomické minimum hlavného kontrolóra*. Bratislava: Iura Edition, 2013. 279 p. ISBN 978-80-8078-678-6.

⁵ Zákon č. 369/1990 Zb. o obecnom zriadení v znení neskorších predpisov

Furthermore, the analysis showed that 31 % out of these 93 municipalities had elected chief auditor, who performed his activity for 5 and more municipalities at the same time. The analysis pointed out that the most critical municipalities were those with number of inhabitants up to 999, which forms almost 93 %. One municipality with inhabitants up to 199 showed extreme value as the chief auditor had a 0,025 contract and performed his activity in other 24 municipalities.

The analysis also focused on provisions of § 18b of the Act on municipality establishment, according to which the chief auditor can perform auditing activity for several municipalities. If chief auditor performs activity for several municipalities, the municipalities in question conclude an agreement on this matter for the execution of specific task according to § 20a. chief auditor is elected by the local council of each of the municipalities that are participants of this agreement. The mayor of each municipality concludes a work contract with the chief auditor within the period given in § 18a Art. 7.

The analysis showed that 82 % of municipalities in which chief auditor performed the activity for several municipalities, did not have a common agreement for the performance of specific task. This analysis showed that in the case of the insufficiencies, there was no significance in the size of the municipality.

The analysis focused on the working time of the chief auditors (according to the work contract). The working time of chief auditors in the individual municipalities were different. Chief auditors, who performed their activity in municipalities with inhabitants up to 199, had working time 0,01 – 0,1. In municipalities with 200 - 499 inhabitants, the working time of a chief auditor was 0,02 – 0,2, In municipalities with 500 - 999 inhabitants, the working time of a chief auditor was 0,05 – 0,533, in one municipality there was a full-time working contract. In municipalities with 1 000 - 1 999 inhabitants, the working time of chief auditor was 0,067 – 0,32. The working time of CHA in municipalities with 2 000 - 4 999 inhabitants was 0,07 – 0,53, in municipalities with 5 000 - 9 999 and above 10 000 inhabitants it was a full-time contract.

As the chief auditors working times were low, the analysis was focused on the execution of chief auditor's activity for 2 days within a month or not at all. In the size categories of the municipalities up to 199 inhabitants, the analysis showed that it was 92 % of chief auditors, in municipalities with 200 - 499 inhabitants it was 65 % of chief auditors, in municipalities with 500 - 999 inhabitants it was 25 % of chief auditors. In municipalities with 2 000 - 4 999 inhabitants it was 11 % of chief auditors. In the size categories 1 000 - 1 999 inhabitants, 5 000 - 9 999 inhabitants and in municipalities above 10 000 inhabitants chief auditors did not execute his activity less than 2 days in a month.

Furthermore, the analysis showed that in as many as 32 % municipalities from the sample group chief auditors executed their activity less than 2 working days in a month. The highest number of such small working times was in municipalities up to 999 inhabitants, which represent 97%.

Then the analysis assessed how many ex post financial audits were performed by a chief auditor in 2013. In municipalities with up to 199 inhabitants 42 % chief auditors did not perform any ex post financial audit and 17 % only one ex post financial audit. In municipalities with 200 - 499 inhabitants 16 % of chief auditor did not perform any ex post financial audit and 20 % of chief auditor performed only one ex post financial audit. In municipalities with 500 - 999 inhabitants 28 % of chief auditors did not perform any ex post financial audit and 8 % performed only one ex post financial audit. In municipalities with 1 000 - 1 999 inhabitants 17 % of chief auditor did not perform any ex post financial audit and 6% performed only one ex post financial audit. In municipalities with 2 000 - 4 999 inhabitants of chief auditor 34% did not perform any ex post.

Further, the results of the analysis showed that in municipalities with 5 000 - 9 999 inhabitants there were performed 7 - 14 ex post financial audits and in municipalities above 10 000 inhabitants it was 13 – 20 ex post financial audits.

The analysis showed that from the selected sample group 24 % of chief auditors did not perform any ex post financial audits. The highest number of these chief auditors was in municipalities with up to 999 inhabitants, which represents 73 %. Then, in 2013, 11 % of chief auditors performed only one ex post financial audit.

Furthermore, the analysis showed that 40 % of municipalities performed other audits that were mostly aimed at control of decrees.

Conclusion

With regard to the fact that municipalities manage substantial financial resources and assets, it is essential that the municipal system of internal control is effective and functional.

Problem of the Municipalities Act is that upon approving a working time of a chief auditor, municipal councils are not limited by their minimum working time. Especially small municipalities determine working times on the grounds of their financial conditions, not the need and scope of control activities. Municipalities thus only fill the chief auditor function only formally. Problem is related to the effectiveness and functionality of municipal internal control systems.

We can further state that in the area of effectiveness of the control system, municipalities under the greatest risk were those with up to 999 inhabitants, where chief auditor reported significant bottlenecks especially upon carrying out subsequent financial controls, and upon following the basic legal regulations concerning the work of chief auditor. These were recorded in the work of chief auditor carried out less than two days a month or not at all in 92 % of cases in the municipalities with up to 199 inhabitants, in 65 % in the municipalities with 200 – 499 inhabitants, and in 25 % of cases in the municipalities with 500 – 999 inhabitants. Based on this finding, the system of municipal control is ineffective.

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