

THE EXERCISE OF INTERNAL CONTROL BY THE CHIEF MUNICIPAL CONTROLLER IN LABOUR LAW CONTEXTS: THE SLOVAK MODEL AND ITS PARALLELS IN THE CZECH REPUBLIC

VÝKON VNÚTORNEJ KONTROLY HLAVNÝM KONTROLÓROM OBCE V PRACOVNOPRÁVNÝCH SÚVISLOSTIACH: SLOVENSKÝ MODEL A JEHO PARALELY V ČESKEJ REPUBLIKE

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ABSTRACT

Internal control in local self-government plays a key role in ensuring transparent financial management and compliance with legal regulations. The uniqueness of the internal control system in the Slovak Republic lies in the introduction of the position of the chief municipal controller, who ensures professional internal control within municipal self-government. Despite the independence granted to this function by the legal order of the Slovak Republic, the chief controller holds the status of a municipal employee. His labour law status differs substantially from that of other municipal employees, primarily due to specific legal regulation. This paper aims to provide a legal perspective on the performance of internal control through the activities of the chief controller with a focus on his labour law status in the legal conditions of the Slovak Republic and subsequently to provide a comparison with the system of internal control of municipalities in the Czech Republic.

ABSTRAKT

Vnútorná kontrola v územnej samospráve zohráva kľúčovú úlohu pri zabezpečovaní transparentného hospodárenia a dodržiavania právnych predpisov. Jedinečnosť systému vnútornej kontroly v Slovenskej republike spočíva v zavedení výkonu funkcie hlavného kontrolóra, ktorý zabezpečuje profesionálnu vnútornú kontrolu v obecnej samospráve. Napriek nezávislosti, ktorú právny poriadok Slovenskej republiky tejto funkcii priznáva, má hlavný kontrolór vo vzťahu k obci postavenie zamestnanca. Jeho pracovnoprávne postavenie sa zásadne odlišuje od postavenia ostatných zamestnancov obce, a to najmä v dôsledku osobitnej právnej regulácie. Cieľom tohto príspevku je poskytnúť právny pohľad na výkon vnútornej kontroly prostredníctvom výkonu činnosti hlavného kontrolóra so zameraním na jeho pracovnoprávne postavenie v právnych podmienkach Slovenskej republiky a následne poskytnúť komparáciu so systémom vnútornej kontroly obcí v Českej republike.

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I. INTRODUCTION

In response to ongoing social and political transformations, the professional literature emphasizes the importance of internal control as a management tool that is essential for municipal self-governments, particularly in the context of technological, political, regulatory, and economic changes. According to Sararu and Tache public administration represents a fundamental pillar of the functioning of every rule-of-law state, as it is responsible for fulfilling essential tasks, implementing public policies, providing services to citizens, and managing public affairs.³ A prominent representative of public law theory, Gustav Radbruch, in his reflections and theory of the rule of law, states that „*whoever takes power in the state into their hands, inevitably and by the nature of the matter, assumes the obligation that their state will be a state governed by law.*”⁴ With this idea, he lays the foundation for a theoretical framework for understanding legality in public administration. He emphasizes that internal control must ensure that self-government acts in accordance with the law, the constitution, and the principles of justice. These theoretical foundations remain relevant today, as they continue to influence contemporary understandings of the rule of law and the application of legal norms in the field of public administration. Their continued relevance is confirmed by modern approaches that emphasize the importance of internal control as a tool for promoting transparency, preventing corruption, and strengthening public trust in local governance. According to Boufounou et al., an effective system of internal control directly contributes to reducing corruption and positively influences public perception of the quality of local self-government.⁵ At the same time, however, as noted by Drogalas et al., internal control represents a dynamic mechanism whose effectiveness depends on the specific implementation framework, with a clear consensus on the most appropriate model of its application still lacking in practice.⁶

Within the European comparative legal framework, the example of the Slovak Republic may be regarded as a specific model of the exercise of internal control. It is characterized by the legal anchoring of the position of the chief municipal controller as an independent entity performing control within the local self-government, who nevertheless holds the legal status of a municipal employee. A comparable model is not found in other countries of the European Union. However, in the theoretical analysis of the internal control system in the local self-government of the Slovak Republic, a misinterpretation often occurs, according to which the function of the chief controller is considered a part of the municipal authorities. This view does not reflect the actual legal status of the position. As correctly stated by Kováčová, „*the chief controller is not an organ of the municipality but is a mandatory employee of the municipality.*”⁷

The legal regulation of the labour law status of the chief controller represents a relatively complex and specific area, which significantly differs from the status of other municipal employees. In this regard, Section 4 (e) of Act No. 369/1990 Coll. on Municipal Establishment (hereinafter referred to as the „*Act on Municipal Establishment*”) imposes an obligation on local self-government to establish an effective and independent control system, supported by

³ SĂRARU, C.S. and POPA TACHE, C.E. Evaluating today's multi-dependencies in digital transformation, corporate governance and public international law triad. In: *Cogent Social Sciences* [online]. 2024, vol. 10, no. 1. [Accessed 25 June 2025]. DOI 10.1080/23311886.2024.2370945. Available from: <https://doi.org/10.1080/23311886.2024.2370945>.

⁴ RADBRUCH, G. *Rechtsphilosophie*. Stuttgart: Koehler, 1973, p. 289. ISBN 978-3874251136.

⁵ BOUFOUNOU, P., MANOLOPOULOS, D., DROGARIS, P. and MICHALOPOULOS, V. Enhancing Internal Control Mechanisms in Local Government Organizations: A Crucial Step towards Mitigating Corruption and Ensuring Economic Development. In: *Economies* [online]. 2024, vol. 12, no. 4. [Accessed 25 June 2025]. DOI 10.3390/economies12040078. Available from: <https://doi.org/10.3390/economies12040078>

⁶ DROGALAS, G., KARAGIORGOS, T. and ARAMPATZIS, K. Factors associated with Internal Audit Effectiveness: Evidence from Greece. In: *Journal of Accounting and Taxation* [online]. 2015, vol. 7, no. 6, pp. 113–122. [Accessed 25 June 2025]. DOI 10.5897/jat2015.0182. Available from: <https://doi.org/10.5897/jat2015.0182>

⁷ KOVÁČOVÁ, E. *Kontrola ako záruka zákonnosti a ústavnosti pri výkone verejnej správy*. Banská Bystrica: Belianum, 2016. ISBN 9788055712024.

appropriate financial, personnel, organizational, and material conditions. Some authors state that these requirements may vary depending on the size of the municipality, the specificities of the environment, or the complexity of the processes to be audited.⁸ The institution of the chief municipal controller plays a key role as a professional element of internal control, complementing the lay control exercised by the residents of the municipality. In relation to municipal activities, the chief controller performs the role of guarantor of legality, efficiency, and economy. The chief controller also contributes to the realization of communal democracy through the exercise of control over the handling of complaints and petitions in accordance with special regulations.⁹ In the performance of the function of the chief controller, there is often a misinterpretation of their legal status, whereby they are mistakenly considered a part of the municipal authorities. The legal regulation of municipal establishment strictly distinguishes between municipal authorities and the bodies of the municipal council. The chief controller should be regarded as a mandatory elected employee of the municipality with a specific labour law status. According to Tekeli¹⁰, the uniqueness and specificity of this status stem from the complex interrelations between the legal regulations governing his labour law status. The legal basis for the establishment and formation of the office of the chief controller is the Municipal Establishment Act. Unless otherwise provided by this Act, all rights and obligations applicable to other senior employees under Act No. 552/2003 Coll. on the Performance of Work in the Public Interest, as amended (hereinafter referred to as the „*Act on the Performance of Work in the Public Interest*”), shall also apply to the chief controller. The Labour Code – Act No. 311/2001 Coll., as amended (hereinafter referred to as the „*Labour Code*”), applies subsidiarily to the employment-law relations of the chief controller, i.e., only where the Act on the Performance of Work in the Public Interest or the Act on Municipal Establishment does not provide specific legal regulation. Tekeli¹¹ points to frequent interpretative ambiguities and practical issues arising from the complex legal regulation of the labour-law status of the chief municipal controller.

These circumstances give rise to the need for a more in-depth analysis and revision of the applicable legal framework governing the labour law status of the chief controller, as well as a comparison of the Slovak model of internal control with a selected foreign approach, with the aim of identifying potential institutional alternatives and assessing the functionality of the existing internal control model at the municipal level. In this context, the paper focuses on answering two substantive research questions:

1. Is the legal regulation of the labour law status of the chief municipal controller in the legal system of the Slovak Republic formulated in a systematic and substantively coherent manner so as to allow for unambiguous interpretation and practical applicability?

2. Does the legal regulation of the internal control system in the Czech Republic provide a more functional and transparent model than the Slovak system represented by the institution of the chief municipal controller, particularly in terms of ensuring independence and transparency in the performance of control activities?

To answer the research questions, standard scientific methods of the social sciences were applied, in particular the descriptive method, through which legal institutes related to the labour

⁸ KRAJČÍK, M., ALSHATTI SCHMIDT, D. and BARÁTH, M. Hybrid Work Model: An Approach to Work–Life Flexibility in a Changing Environment. In: *Administrative Sciences* [online]. 2023, vol. 13, no. 6, p. 150. [Accessed 25 June 2025]. DOI 10.3390/admsci13060150. Available from: <https://doi.org/10.3390/admsci13060150>.

⁹ POLIAK, L. Hlavný kontrolór obce – vybrané problémy. In: *Studia Iuridica Cassoviensia* [online]. 2016, vol. 4, no. 1, pp. 71–72. [Accessed 25 April 2025]. ISSN 1339-3995. Available from: https://sic.pravo.upjs.sk/files/7_poliak_-_hlavny_kontrolor_obce.pdf.

¹⁰ TEKELI, J. and HOFFMANN, M. *Kontrola v obecnej samospráve*. Bratislava: EUROKÓDEX, 2013. 280 pp. ISBN 978-80-89447-97-8.

¹¹ TEKELI, J. Vybrané aspekty pracovného pomeru hlavného kontrolóra obce. In: *Judikaty info* [online]. 2010 [Accessed 25 February 2025]. Available from: <https://www.judikaty.info/cz/document/article/2368/>.

law status of the chief municipal controller were systematically examined and analysed. The method of analysis was applied in breaking down complex legal institutions into their constituent elements—such as the legal status of the controller, employment conditions, qualification requirements, and procedural guarantees of independence. These components were examined both in isolation and within their systemic context. Synthesis was subsequently used to reconstruct a holistic understanding of the internal control model, highlighting internal consistencies and tensions, particularly between legal independence and employment subordination.

To better conceptualize general principles from specific legal provisions, abstraction was employed. For instance, from the specific requirement of a minimum secondary education, broader concerns about competence and quality control in public administration were inferred. Deduction served as a tool for drawing conclusions from general legal norms (e.g. constitutional principles of legality and subsidiarity) to specific implications for the controller's mandate, such as the right to participate in governance while maintaining political neutrality. In the comparative section of the study, comparative legal analysis was used to contrast the Slovak model with approaches in the Czech Republic. . To support this analysis, relevant information was systematically abstracted from Czech scholarly literature as well as from the applicable national legislation governing internal control in municipalities.

II. SPECIFICS OF THE LEGAL STATUS OF THE CHIEF CONTROLLER AS AN EMPLOYEE OF THE MUNICIPALITY

The standards for the labour law status of employees are based on fundamental principles that are rooted in labour law theory. One of them is the principle set out in Article 2 of the Labour Code: *„The employer shall have the right to freely select employees in the necessary number and structure and to determine the conditions and manner of exercising this right, unless this Act, a special regulation or an international treaty by which the Slovak Republic is bound provides otherwise“*.¹² In accordance with Section 7 of the Labour Code, an employer may be *„a legal entity or a natural person who employs at least one natural person in an employment relationship or, where provided by a special regulation, also in similar employment relationships.“* Given the subsidiary application of the Labour Code, the key legal act governing the status and powers of municipalities in the area of human resources is the Act on Municipal Establishment. Under Section 1(1) of the Act on Municipal Establishment, a municipality has the status of a legal entity, which gives it the right to employ staff and act as an employer within the meaning of the Labour Code. The municipal office does not have legal personality; therefore, only the municipality as a legal person has the authority to act in the capacity of an employer. According to Section 9(1) of the Labour Code, legal acts in labour relations on behalf of a legal entity must be performed by its statutory body or a member thereof. Based on Section 9 of the Labour Code and in accordance with Section 13(5) of the on Municipal Establishment, the statutory body of the municipality is the mayor.¹³ The mayor, acting as the statutory body, represents the municipality in labour-law relations in the capacity of an employer, thereby establishing a specific legal relationship between the mayor and the chief controller as a municipal employee. This legal construction of the relationship between the mayor and the chief controller represents a specific aspect of the controller's labour-law status.

From the labour law perspective, the conclusion of an employment contract is based on the principle of equal status of contracting parties. However, during the employment relationship,

¹² BARANCOVÁ, H. et al. *Zákonník práce*. Komentár. 1. Bratislava: C.H.Beck, 2019. ISBN 9788089602460.

¹³ ŽOFČINOVÁ, V. *Pracovnoprávne vzťahy vo verejnej správe (delegovaná a subsidiárna pôsobnosť Zákonníka práce)*. 1. Prague: Leges s.r.o., 2021. ISBN 9788075025777.

the principle of subordination applies—i.e., the subordination of the employee to the employer. This may pose problems in the case of the chief controller, especially in the context of their control function. Due to the nature and purpose of the position, it is essential that the chief controller remains independent from the municipality's executive authority, represented by the mayor. To safeguard this independence, the chief controller is accountable exclusively to the municipal council with regard to appointment and dismissal, determining the scope of control activities, and responsibility for their execution. In this context, the municipal council holds competences that would otherwise fall within the authority of a statutory or direct superior body—namely, the mayor. The municipal council, in accordance with Section 11(4) of the Act on Municipal Establishment:

- elects and dismisses the chief controller,
- determines their salary,
- defines the scope of duties,
- approves bonuses for the chief controller,
- grants permission for business activities, other gainful activities, and membership in managing, controlling, or supervisory bodies of legal entities engaged in business.

A direct hierarchical relationship is also reflected in the duty of the chief controller to perform a control if instructed to do so by the municipal council or the mayor.¹⁴ Another specific feature of the performance of the chief controller's function is the non-standard legal structure governing their labour law status. Labour-law rules are not applied to the chief controller in the same way as to other municipal employees. Although their position formally corresponds to that of a municipal employee, their employment regulation exhibits several particularities. This creates a need to assess numerous issues in light of special provisions, which, moreover, are not systematically codified in a single piece of legislation. The legal status of the chief municipal controller is primarily governed by the Act on Municipal Establishment. Pursuant to the Act on the Performance of Work in the Public Interest, the chief controller is regarded as another senior employee performing work in the public interest. The Labour Code applies to the labour relations of employees performing work in the public interest only insofar as the Act on the Performance of Work in the Public Interest or the Act on Municipal Establishment does not provide specific legal regulation.¹⁵

1. The Principle of Obligatoriness as the Antonym of the Principle of Optionality

In academic literature, it is frequently stated that the position of the chief controller is mandatory for every municipality. However, the wording of the Act on Municipal Establishment does not clearly determine whether each municipality is obliged to establish and fill this position, which leads to interpretative ambiguities in practice. According to Section 11(4) of the Act on Municipal Establishment, the municipal council is the authority entitled to decide on fundamental matters related to the administration and functioning of the municipality. Within its exclusive powers are, in particular, the election and dismissal of the chief controller, determination of the scope of the function, setting of salary, and approval of bonuses. Based on the wording of this provision, one might get the impression that the decision to establish and fill this position is left to the discretion of the municipal council as part of its self-government powers. However, the explanatory memorandum to this legislative provision indicates the opposite intention of the legislator, namely, the obligation of every municipality to have a chief

¹⁴ Section 18f(1)(h) of the Act on Municipal Establishment.

¹⁵ TEKELI, J., HOFFMANN, M. and TOMÁŠ, L. *Zákon o obecnom zriadení. Komentár*. 2. Bratislava: Wolters Kluwer SR s.r.o., 2021. ISBN 978-80-571-0359-2.

controller: „An obligation is imposed on municipalities to establish an effective system of control and, in the manner prescribed by this law, not only to create the position of chief controller but also to elect a person to it. The municipality is also required to ensure suitable organizational, financial, personnel, and material conditions for the independent performance of internal control.”¹⁶ The municipality is thus, according to the Act on Municipal Establishment, obliged to establish the position of chief controller and provide organizational, financial, personnel, and material conditions for its performance. The conclusion that the function of the chief controller is obligatory can also be reached through a systematic interpretation of the Act on Municipal Establishment. Section 30a(2) of the Act, an intertemporal provision, explicitly states the obligation of all municipalities and cities without exception: „Municipalities in which the chief controller has not been elected, or municipalities in which the chief controller of several municipalities is not active, shall elect a chief controller in accordance with this Act by 1 January 2005.” This legal formulation gives rise to various interpretative approaches in practice.

In line with the above, each municipality is obliged to ensure the exercise of internal control through the chief municipal controller, whose existence constitutes a statutory obligation of the municipality. Although the chief controller is a mandatory part of the municipal administration and is elected to the position, they do not hold the status of an elected municipal authority. In 2009, a draft amendment to the Act on Municipal Establishment was submitted to the National Council of the Slovak Republic, proposing the direct election of the chief controller by the residents of municipalities with more than 5,000 inhabitants. The aim of the proposal was to strengthen the independence of the chief controller from the municipal council, which, under the current legislation, has exclusive power to elect the chief controller.¹⁷ If such a proposal were to be hypothetically implemented in a systematic manner, it would require incorporating the chief controller among the municipal authorities, thereby establishing a third self-governing body directly accountable to citizens for the performance of control activities. The current legislation continues to define the chief controller as a professional employee of the municipality—being the only working position within municipal administration filled by election.

2. Educational Requirement and Professional Competence of the Chief Controller as a Municipal Employee

Among the standards of the labour-law status of employees derived from labour law theory is the principle established in Article 2 of the Labour Code, which states that „an employer has the right to freely choose employees in the required number and structure and to determine the conditions and manner of exercising this right, unless otherwise provided by this Act, a special regulation, or an international treaty by which the Slovak Republic is bound.” Logically, this legal provision implies that a municipality, as an employer, should have the ability to choose a chief controller who meets the requirements corresponding to the complexity of control activities. This complexity may depend on various factors, such as the size of the municipality, the social structure of the population, or the complexity of the processes being audited. The chief controller should therefore possess education or professional experience adequate to the demands arising from the complexity of the control activities imposed on them not only by the employer but also by the legislator ex lege. According to Section 18 a (1) of the Act on Municipal Establishment „the qualification requirement for the position of chief municipal

¹⁶ TEKELI, J. and HOFFMANN, M. *Zákon o obecném zřízení* : komentár. 1. Bratislava: Wolters Kluwer, 2014. ISBN 978-80-8168-034-2.

¹⁷ Dôvodová správa k návrhu zákona z roku 2009, ktorým sa mení a dopĺňa zákon Slovenskej národnej rady č. 369/1990 Zb. o obecném zřízení v znení neskorších predpisov.

controller is the completion of at least full secondary education". This special legal regulation represents an exception from the general rules of employee selection derived from the Labour Code and reflects the specific position of the chief controller within the municipal self-government.

The Act on Municipal Establishment does not explicitly set out additional qualification prerequisites for candidates for the office of chief controller. However, two further requirements essential to holding this office can be inferred from its wording. The first requirement is full legal capacity. Pursuant to Section 8 of Act No. 40/1964 Coll., the Civil Code (hereinafter referred to as the „*Civil Code*"), it can be concluded that the office of chief controller may only be held by a person who has attained the age of majority. In the event of deprivation or restriction of legal capacity, the office of the chief controller terminates in accordance with Section 18a(8)(e) of the Act on Municipal Establishment. The second requirement, arising from Section 18a(8) of the Act on Municipal Establishment, is that the candidate must not, on the day of the election, have been lawfully convicted of an intentional criminal offense or any other criminal offense unless the sentence of imprisonment was conditionally suspended. In this regard, Section 18a(8)(f) of the Act on Municipal Establishment states that the office of the chief controller shall automatically terminate on the date the judgment convicting the controller becomes final if the controller was convicted of an intentional or other offense and the sentence of imprisonment was not conditionally suspended.

In practice, the application of the statutory qualification requirements for the education of the chief controller raises interpretative and legal issues that may complicate the uniform implementation of this legal norm. Municipal councils, when adopting resolutions announcing the election of the chief controller, often impose requirements exceeding the statutory qualification prerequisite. Section 18a(1) of the Act on Municipal Establishment, which stipulates that the minimum qualification requirement is completed full secondary education, is of a mandatory nature, which excludes any possibility of modification or tightening through subordinate legislation or municipal resolutions. For this reason, the practice of municipalities that interfere with the legally established qualification criteria in municipal resolutions can be considered inconsistent, exceeding their legal powers. The municipality is thus not authorized to unilaterally set stricter conditions for candidates or to exclude a candidate who meets the statutory educational requirement, as such a procedure would constitute an unlawful interference with the legally defined conditions for holding the elected position of chief controller. The complexity of the entire situation is further compounded by the inconsistency between two conflicting court rulings:

- Decision No. 5 Sžo/91/2010 dated 29 September 2010 of the Regional Court in Košice, and
- Judgment No. 3 Sžo/153/2010 dated 8 February 2011 of the Supreme Court of the Slovak Republic.

In both analyzed cases, the dispute concerned the election of a city chief controller, and the municipal councils set qualification requirements exceeding the scope of the Act on Municipal Establishment. In the first case, the municipal council of Veľké Kapušany adopted a resolution setting criteria for candidates, including a requirement for a second-level university degree in law or economics, at least five years of experience in the legal or economic field, proof of integrity, medical fitness, full legal capacity, and submission of required documents. In the second case, the municipal council of Trebišov adopted a resolution announcing the election of the chief controller, in which it stipulated as conditions for candidacy a completed first-level university education in economics or law and at least five years of experience in management, economic, control, or public administration fields. Based on this, the city of Trebišov informed four of ten applicants that they did not meet the required qualification prerequisites and were

therefore not eligible to participate in the election of the chief controller. Although the factual basis of both cases was nearly identical and the proceedings took place in close succession, the legal assessment of the Supreme Court of the Slovak Republic differed in each case. In the case of Veľké Kapušany, the Supreme Court concurred with the legal opinion of the lower court, which held that Section 18a(1) of the Act on Municipal Establishment provides only a minimum qualification requirement at the level of completed full secondary education. It also allowed that municipalities may, at their discretion, set additional qualification criteria beyond the statutory minimum level. Conversely, in the case of the city of Trebišov, the Supreme Court reached the opposite legal conclusion and found both the resolution announcing the election and the resolution electing the chief controller to be unlawful. The court ruled that the municipal council had no authority to impose additional requirements such as a first-level university degree and professional experience in specific fields, as these exceeded the scope of the qualification prerequisites stipulated in Section 18a(1) of the Act on Municipal Establishment.¹⁸ The assessment of two divergent judgments issued by the same body reveals a violation of the principle of material equality and disrupts the principle of legal certainty. Given these interpretative ambiguities, it would be appropriate *de lege ferenda* to clarify the qualification requirements for holding the office of the chief controller.

We concur with Tekeli, who considers it appropriate *de lege ferenda* to introduce a legislative solution into the Act on Municipal Establishment „*to incorporate an explicit statutory authorization, on the basis of which the municipal council would be entitled, when announcing the election, to determine, in accordance with the needs of the specific municipality, stricter qualification requirements than those currently required by the Act on Municipal Establishment, including, where appropriate, a requirement of previous professional experience for candidates for the position of chief municipal controller. The introduction of such statutory authorization would also address the arguments of those opposing the tightening of qualification requirements directly in the text of the Act on Municipal Establishment, who claim that in smaller municipalities with part-time chief controllers, individuals with higher education are not interested in applying for the position. A legislative solution in the form of statutory authorization for the municipality to establish stricter requirements for candidates for the position of chief municipal controller would be legitimate and legally acceptable.*”¹⁹

3. Election of the Chief Controller – Legal Aspects of the Establishment of the Employment Relationship

The legal-labour status of the chief controller in the local self-government of the Slovak Republic has undergone significant legislative development, the primary aim of which was to strengthen their institutional independence and ensure the stability and efficiency of the control activity. In the original legislation of the Act on Municipal Establishment, the chief controller was appointed by the municipal council upon the proposal of the mayor, and their term of office was not time-limited. Such a mechanism weakened the independent position of the chief controller, since their appointment to office was directly linked to the decision of the executive body of the municipality, which increased the risk of personal dependence on the leadership of the self-government. To eliminate this situation, a fundamental change was introduced by the amendment of Act No. 295/1992 Coll. The appointment of the chief controller by the municipal council on the proposal of the mayor was replaced by an election by the municipal council. Another major legislative change came into effect on 1 January 2002 through the adoption of

¹⁸ Rozhodnutie Najvyššieho súdu Slovenskej republiky zo dňa 29.9.2010, sp. zn. 5Sžo/91/2010 a Rozhodnutie Najvyššieho súdu Slovenskej republiky zo dňa 8.2.2011, sp. zn. 3Sžo/153/2010.

¹⁹ TEKELI, J., HOFFMANN, M. and TOMÁŠ, L. Zákon o obecnom zriadení. Komentár. 2. Bratislava: Wolters Kluwer SR s.r.o., 2021, p.680. ISBN 978-80-571-0359-2.

Act No. 453/2001 Coll., which introduced a six-year term of office for the chief controller. This legal provision aimed to minimize the personnel dependence of the chief controller on the election cycles of municipal authorities.²⁰

According to the current wording of Section 18 of the Act on Municipal Establishment, the chief controller is elected and dismissed by the municipal council for a term of six years. In general, election is considered the most democratic method of filling public functions, and in the context of self-government, its application is justified, especially for the creation of municipal bodies such as the mayor and municipal councillors. On the other hand, this method of selection may not be optimal for functions that require high professional qualifications and a degree of independence from municipal authorities. In this context, it is therefore worth considering whether the fact that the chief controller is elected and dismissed by the municipal council does not create a hypothetical risk of dependence on the authority that is simultaneously the subject of their control activities. In accordance with Section 12(7) of the Act on Municipal Establishment, the municipal council has a quorum if more than half of all councillors are present. However, the election of the chief controller requires a special quorum. According to Section 18a(3) of the Act, the election of the chief controller requires the consent of more than half of all municipal councillors, i.e., an absolute majority. This increased quorum underlines the importance and significance of the vote to elect the chief controller. The same quorum requirement applies to the revision of this decision, specifically when voting on the dismissal of the chief controller. If only one candidate applies for the position and does not receive an absolute majority of all councillors' votes in the first round, the second round does not take place, and the municipal council is required to announce new elections.²¹ Since the entry into force of the Labour Code in 2002, election to the position of chief controller no longer establishes an employment relationship. Its establishment is conditional upon the conclusion of an employment contract. In accordance with labour law terminology, the beginning of the function is considered the day specified as the commencement of work, which also represents the day the employment relationship of the chief controller is established, in accordance with Section 46 of the Labour Code. The legal-labour status of the chief controller requires the existence of an employment relationship, and the law explicitly excludes the possibility of agreements on work performed outside of an employment relationship.²² The Act on Municipal Establishment as *lex specialis* establishes the obligation to conclude a written employment contract, which represents a bilateral legal act between the parties to the employment relationship. Section 18a(7) of the Act on Municipal Establishment establishes the obligation of the mayor to conclude an employment contract with the elected chief controller. This obligation represents a statutory exception to the general principle of the voluntariness of the formation of an employment relationship, which forms a basic premise of the Labour Code. According to this principle, the formation of an employment relationship is conditional upon mutual agreement between the employer and the employee. However, in the case of the chief controller, the legal regulation establishes a special obligation on the part of the mayor, who is explicitly required by law to conclude an employment contract with the elected candidate. A problematic situation regarding the conclusion of the employment contract may arise if the mayor refuses to recognize the elected candidate's entitlement and does not conclude the

²⁰ ORGONÍK, P. Postavenie hlavného kontrolóra obce a jeho pracovno-právny pomer v zmysle platných zákonov. In: *Združenie hlavných kontrolórov miest a obcí Slovenskej republiky* [online]. [Accessed 27.02.2025]. Available at: <https://zhk.sk/clanky/111>.

²¹ POLIAK, L. Hlavný kontrolór obce – vybrané problémy. In: *Studia Iuridica Cassoviensia* [online]. 2016, vol. 4, no. 1, pp. 71–72. [Accessed 25 April 2025]. ISSN 1339-3995. Available from: https://sic.pravo.upjs.sk/files/7_poliak_-_hlavny_kontrolor_obce.pdf.

²² TEKELI, J. and HOFFMANN, M. *Zákon o obecnom zriadení : komentár*. 1. Bratislava: Wolters Kluwer, 2014. ISBN 978-80-8168-034-2.

contract. Such conduct may be motivated by personal disputes, political disagreement, or other subjective factors.

To eliminate such situations, Section 18a(7) of the Act on Municipal Establishment explicitly imposes the obligation on the mayor to conclude an employment contract with the elected chief controller, thereby preventing potential obstructive actions by the executive power of the municipality. According to Srebalová and Filip section 18a(7) of the Act on Municipal Establishment reflects this application problem and imposes a legal obligation on the mayor to conclude a contract with the elected candidate. However, should the employment contract not be concluded within the statutory time limit, the elected candidate for chief controller has the right to pursue his legal claim to an employment relationship through an action in court. The court decision would thus replace the mayor's expression of will and become the constitutive element of the labour law relationship between the municipality and the chief controller.²³ In such a case, a judicial decision would represent the legal basis for the creation of the employment relationship between the municipality and the chief controller, replacing the missing will of the mayor in concluding the contract.²⁴ It is also legitimate to consider the criminal liability of the mayor, particularly with regard to the possible fulfillment of the elements of the criminal offense of obstruction of an official's duty under Section 327 of Act No. 300/2005 Coll., the Criminal Code. In this context, it is also necessary to emphasize that the chief controller, in the performance of their function, has the status of a public official. This means that if a criminal offense is committed against them during the performance of their duties, it is considered an aggravating circumstance, since it is a crime committed against a public official. This fact may have a significant impact on the assessment of the seriousness of the unlawful conduct and its criminal consequences. In this context, the solution should not only be the sanctioning of the mayor but primarily the introduction of a legislative mechanism to prevent situations in which the employment relationship of a lawfully elected chief controller does not arise due to a violation of the law.

In accordance with Section 18a(7) of the Act on Municipal Establishment, the mayor of the municipality is obliged to conclude an employment contract with the elected chief controller no later than on the day following the end of the term of office of the previous chief controller. The law also stipulates that the first day of work shall be the day following the end of the previous chief controller's term of office. It follows that two individuals cannot simultaneously hold the position of chief controller in the same municipality, as the legislation explicitly sets the start date of employment as the day after the conclusion of the previous controller's term. This day also marks the beginning of the term of office of the newly elected chief controller. Given the mandatory nature of the second sentence of Section 18a(7) of the Act on Municipal Establishment, the date of commencement of work cannot be subject to agreement between the mayor and the elected candidate. This legal provision represents a deviation from the general regulation of the Labour Code, which stipulates that the employment relationship begins on the date agreed upon in the contract. In accordance with Section 43 of the Labour Code, the employer is obliged to agree with the employee on the essential elements of the employment contract, including the type of work and its brief description, place of work, agreed date of commencement, and wage conditions, unless covered by a collective agreement. Neither the Labour Code nor other labour law regulations explicitly define the term "*type of work*" or the exact way of its determination between the parties.²⁵ The term itself implies a generic

²³ SREBALOVÁ, M. and FILIP, S. Slovak self-governments' legislative aspects of the possibilities in dealing with nuclear and other extraordinary events. In: *Lex Localis – Journal of Local Self-Government* [online]. 2022, vol. 20, no. 3, pp. 545–563. [Accessed 25 June 2025]. DOI 10.4335/20.3.545-563.

²⁴ ŽOFČINOVÁ, V. and KRÁL, R. Obec v pozícii zamestnávateľa v legislatíve Slovenskej republiky. In: *GRANT Journal* [online]. [Accessed 28 February 2025]. Available from: <https://www.grantjournal.com/issue/0302/PDF/0302kral.pdf>.

²⁵ BARANCOVÁ, H. and SCHRONK, R. *Pracovné právo*. Bratislava : Sprint v.fra, 2002. ISBN 80-88848-97-0.

classification of the work. In the case of the chief controller, the type of work is clearly defined as the performance of internal control within the scope of the municipality's authority, and their specific tasks and competencies are laid down in the Act on Municipal Establishment. Another essential element of the employment contract is the place of work. Relevant in determining the place of work is also the nature of the work performed. In the employment contract of the chief controller, the place of work is the specific municipality where they carry out their control activities.²⁶ The commencement date of the chief controller deviates from the general regulation laid down in the Labour Code, which presumes its determination by agreement between the employer and the employee. In the case of the chief controller, the commencement date is strictly determined by law as the day following the end of the term of the previous controller, in order to ensure continuity of control activities.²⁷ This legal regulation represents an interference with contractual freedom and a deviation from standard employment relationships. Another deviation can be identified in the method of determining wage conditions. While Section 43(2) of the Labour Code allows for wage conditions to be agreed upon through a collective agreement, in the case of the chief controller, wage conditions are strictly determined by law. The amount of salary of the chief controller is established ex lege by Section 18c of the Act on Municipal Establishment.

In accordance with Section 11(4)(j) of the Act on Municipal Establishment, the decision on the salary and bonuses of the chief controller falls within the exclusive competence of the municipal council. The salary of the chief controller is determined based on legally established criteria, which are binding for the municipality. As of 1 April 2018, the law defines the salary of the chief controller as *“the average monthly wage of an employee in the economy of the Slovak Republic for the previous calendar year multiplied by a coefficient depending on the population of the municipality as of 31 December of the previous calendar year according to data from the Statistical Office of the Slovak Republic.”*²⁸ The coefficients for determining the salary range from 1.15 to 2.78 depending on the number of inhabitants. These criteria apply even if the chief controller has a part-time contract, with the salary adjusted proportionally.²⁹ According to Section 18c(4) of the Act on Municipal Establishment, the municipal council may also approve a monthly bonus for the chief controller of up to 30 % of their monthly salary, with the amount determined by the criteria specified in the relevant table. Bonuses, like the salary, are paid retrospectively, i.e., for work already performed.

4. Working Time of the Chief Municipal Controller and Entitlement to Leave

In accordance with Section 85(1) of the Labour Code, working time is defined as the period during which the employee is available to the employer, performs work, and fulfils obligations arising from the employment relationship. The legal regulation of working time through generally binding legal provisions and their mandatory nature is perceived as a guarantee of the protective function of labour law, particularly with regard to the employee's availability for dependent work and the definition of rest periods.

According to Section 18a(6) of the Act on Municipal Establishment, it is possible to agree on a shorter working time for the chief controller than the statutory weekly working time. In accordance with the Labour Code, this refers to the working time set by the employer for the employee within the limits of the statutory 40-hour working week. The duration of the reduced working time of the chief controller is determined by the competent municipal authority,

²⁶ BARANCOVÁ, H. and SCHRÖNK, R. *Pracovné právo*. Bratislava: Sprint v.f.a., 2002. ISBN 80-88848-97-0.

²⁷ TEKELI, J. and HOFFMANN, M. *Zákon o obecnom zriadení: komentár*. 1. Bratislava: Wolters Kluwer, 2014. ISBN 978-80-8168-034-2.

²⁸ Section 18c(1) of the Act on Municipal Establishment.

²⁹ Section 18c(2) of the Act on Municipal Establishment.

namely the municipal council. When concluding the employment contract with the chief controller, the mayor is obliged to respect the decision of the municipal council. In order to ensure legal certainty and to protect the status of the chief municipal controller, it is, in accordance with Section 18a(6) of the Act on Municipal Establishment, possible for the municipal council to reduce the controller's working time only before the announcement of the election. If the municipal council does not determine the duration of the shorter working time of the chief controller before the announcement of the election, the legal interpretation is accepted whereby the last legal status applies. This means that the working time of the newly elected chief controller will be the same as that of the previous chief controller. As for changes to the working time during the term of office of the chief controller, the Act on Municipal Establishment does not explicitly provide for such a possibility, and changes to agreed working conditions are only possible based on mutual agreement of the contractual parties in accordance with Section 54 of the Labour Code. An increase in working time during the term of office should represent an exceptional measure, which must be duly justified by extraordinary circumstances.³⁰

A fundamental and long-standing issue in the legal regulation of the status of the chief controller is the absence of a statutory minimum working time. The Act on Municipal Establishment does not restrict the municipal council in determining the reduced working time of the chief controller, which in practice—especially in smaller municipalities—leads to extremely low working time allocations (e.g., 0.1 or 0.05 full-time equivalent). These working time arrangements are often not based on the actual need and scope of control activities but rather on the financial possibilities of the municipality. The result is that the working time and remuneration do not allow for proper and responsible performance of control activities, which leads to a formal fulfilment of the position of the chief controller without achieving its actual purpose. *De lege ferenda*, it would be appropriate to consider introducing a minimum working time for chief controllers depending on the number of inhabitants in a given municipality. According to Tekeli and Hoffman³¹, the optimal minimum extent of the function of the chief controller would be 20%. This proposal is based on the assumption that such a level of working time would ensure the effective and proper performance of control activities.

The entitlement to take leave is closely related to the labour-law entitlements of the chief controller (as a municipal employee). The Act on Municipal Establishment does not separately regulate the leave entitlement of the chief controller; therefore, Section 103 of the Labour Code applies subsidiarity. From the perspective of the principle of equal treatment, it would be contrary to good morals if the chief controller of the municipality were disadvantaged in terms of leave entitlements compared to other municipal employees. At the same time, the right regulated by the Labour Code to financial compensation for unused leave does not, without a decision of the municipal council, constitute a legal claim of the chief controller. For this reason, the chief controller cannot seek judicial protection of this right, even though it is a subjective right arising from the Labour Code.³²

5. Termination of employment and termination of the office of Chief Controller

Unlike the "*standard means*" of terminating an employment relationship under the Labour Code, the Act on Municipal Establishment, as a *lex specialis*, distinguishes between the termination of office and removal from office. A special regulation on this matter is not

³⁰ TEKELI, J. and HOFFMANN, M. *Zákon o obecnom zriadení: komentár*. 1. Bratislava: Wolters Kluwer, 2014. p. 776. ISBN 978-80-8168-034-2.

³¹ TEKELI, J. and HOFFMANN, M. *Zákon o obecnom zriadení: komentár*. 1. Bratislava: Wolters Kluwer, 2014. p. 776. ISBN 978-80-8168-034-2.

³² Nález III. Ústavného súdu Slovenskej republiky č. 587/2007-13.

necessary, since Section 18a(8) of the Act on Municipal Establishment expressly stipulates that the employment relationship of the chief controller terminates on the date of termination of their office. The Act also enumerates the grounds that result in the termination of the chief controller's office. In accordance with Section 18a(8) of the Act on Municipal Establishment, the office of the chief controller shall terminate:

- a) By resignation
- b) By removal from office
- c) Upon expiry of the term of office
- d) By death or a declaration of death
- e) On the day a final judgment is issued on the deprivation or restriction of legal capacity
- f) On the day a final judgment is issued convicting the controller of an intentional criminal offence
- g) On the day the performance of an incompatible office under Section 18(2) of the Act on Municipal Establishment begins

Although these legal facts differ in their legal nature, they have the same legal consequence—the termination of the chief controller's office.

Upon the termination of the chief controller's office, the current legislation does not take into account the institute of severance pay in relation to labour-law entitlements. In 2004, a governmental draft amendment to the Act on Municipal Establishment was submitted to the National Council of the Slovak Republic. The proposed amendment sought to introduce a provision into Section 18a of the Act stating that: *"If a chief controller who held the office on the day of the election and was a candidate for reappointment is not re-elected by the municipal council, their employment relationship with the municipality shall terminate upon the expiry of the term of office, and they shall be entitled to severance pay in the amount of two monthly salaries"*.³³

Currently, the institute of severance pay is not recognised in the case of the termination of the office of the chief controller. In this context, it is necessary to refer to the nature of the institute of severance pay as defined by labour law scholarship. Its primary purpose is to provide compensation from the employer to the employee in cases where the employment relationship is terminated prematurely and not due to the employee's fault, but rather due to circumstances on the employer's side. In such cases, severance pay serves as protection against a social risk the employee did not cause.³⁴ From the perspective of labour law, introducing the payment of severance pay upon the termination of the office of the chief controller by law is difficult to justify. In practice, this issue creates space for various legal interpretations and alternative approaches to assessing the entitlement of the chief controller to severance pay.

II. INTERNAL CONTROL SYSTEM OF MUNICIPALITIES IN THE CZECH REPUBLIC

The system of internal control can be categorized into two basic models – centralized and decentralized. The Czech Republic, similar to the Slovak Republic, belongs to countries with a decentralized model of internal control. In countries with decentralized control systems, internal control mechanisms in public entities are typically clearly defined in their legal framework. In the Czech Republic, internal control is primarily regulated by Act No. 255/2012 Coll., on Control (Control Procedure Act), and Act No. 320/2001 Coll., on Financial Control in Public Administration, as amended.

³³ Vládny návrh zákona z 2004, ktorým sa mení a dopĺňa zákon Slovenskej národnej rady č. 369/1990 Zb. o obecnom zriadení v znení neskorších predpisov a o zmene a doplnení niektorých zákonov.

³⁴ BARANCOVÁ, H. and SCHRÖNK, R. *Pracovné právo*. Bratislava: Sprint v.f.a., 2002. ISBN 80-88848-97-0.

As highlighted by Satola, within the framework of public administration, municipalities represent key territorial units of local self-government that are entrusted with the provision of public services and the promotion of socio-economic development within their jurisdictions.³⁵ Control carried out by local self-government should therefore serve as feedback in the administration and management of towns and municipalities. This approach is primarily enshrined in Act No. 128/2000 Coll., on Municipalities (hereinafter referred to as the “*Municipalities Act*”), and Act No. 250/2000 Coll., on Budgetary Rules of Territorial Budgets.

According to Rektořík et al.³⁶, the control of municipal activities in the Czech Republic is carried out by several entities, including:

- a) **Municipal council.** It performs control over all tasks of the municipality arising from its competence, especially compliance with generally binding ordinances, handling complaints, notifications, and petitions. It also emphasizes legality, efficiency, and economy in the management of municipal property and funds. This control concerns all activities of the municipality as a territorial self-governing unit and is performed through the council and its committees.
- b) **Municipal board.** It carries out control over the tasks arising from resolutions of the municipal council within its independent competence. It may establish commissions as initiative and advisory bodies. It also reviews measures adopted by the municipal office and commissions in the area of independent competence and sets rules for handling complaints and petitions.
- c) **Mayor of the municipality.** Responsible for the control of activities entrusted to them by law or the organizational rules. Within their competence, they are entitled to take measures to address identified issues.
- d) **Municipal office secretary.** This position is established in municipalities with authorized municipal offices and municipalities with extended competence. The secretary is responsible to the mayor for fulfilling the tasks of the municipal office in both independent and delegated competence. The secretary manages and controls the organizational units of the municipality, unless otherwise specified by the council.
- e) **Financial and audit committee.**

In comparison with the Slovak Republic, where the institution of the chief controller ensures extensive control activities of local self-government, the situation in the Czech Republic is different. The Czech legal system does not recognize the term “*chief controller*.” Despite the absence of this specific position, there are bodies whose task is to oversee the management and efficiency of the use of municipal property. Control functions are entrusted primarily to collegial supervisory bodies – committees operating within the municipal council. As stated by Horzinková and Novotný in the book *Základy organizace veřejné správy v ČR*, the municipal council is authorized to establish committees as needed, with some having a mandatory character under Section 117(2) of the Municipalities Act.³⁷ Among these mandatory committees are the financial and audit committees, which serve as initiative and supervisory bodies of the council. The financial and audit committees hold a special position among the council’s committees, as the law grants them, in addition to the tasks explicitly entrusted by the council, further competences exercised independently of its direct mandate. By requiring the

³⁵ SATOLA, Ľ. Local Offer of Public Services in the Perception of Municipalities’ Residents. In: *International Scientific Days 2018: Towards Productive, Sustainable and Resilient Global Agriculture and Food Systems*. Proceedings [online]. Prague: Wolters Kluwer, 2018, pp. 1403–1412. [Accessed 27 June 2025]. DOI 10.5897/jat2015.0182. Available from: <https://doi.org/10.15414/isd2018.s.6.02>.

³⁶ REKTOŘÍK, J. et al. *Kontrolní systémy správy a veřejného sektoru*. 1st ed. Prague: Ekopress, 2003. 212 pp. EAN 8086119726.

³⁷ HORZINKOVÁ, E. and NOVOTNÝ, V. *Základy organizace veřejné správy v ČR*. Prague: Aleš Čeněk s.r.o., 2014. ISBN 978-80-7380-459-6.

establishment of financial and audit committees, the law presumes the existence of two separate bodies of the municipal council. Given that the legislation does not establish any barriers to a member of the audit committee also being a member of the financial committee, the possibility of both committees having identical personnel composition cannot be ruled out.³⁸ According to Section 118(2) of the Municipalities Act, the number of committee members must always be odd, and both the financial and audit committees must have at least three members. Membership in a committee is incompatible with holding executive positions in the municipality, specifically those of the mayor, deputy mayor, municipal office secretary, and employees responsible for budgetary and accounting matters.

Under Section 119(2) of the Municipalities Act, the financial committee is authorized *ex lege*, i.e., even without explicit authorization by the municipal council, to control the management of municipal property and financial resources and also perform other tasks assigned by the municipal council. The audit committee is, under Section 119(3)(a) and (b) of the Municipalities Act, authorized to monitor the implementation of resolutions of the municipal council and the municipal board, if established, as well as to supervise compliance with legal regulations by other committees and the municipal office in the area of independent competence of the municipality. In addition, it carries out other control tasks based on a mandate from the municipal council. The practical difference in the activities of the audit and financial committees lies mainly in the subject matter of the control activity, with the audit committee primarily focusing on legality, while the financial committee also assesses the economy of the use of financial resources.

In accordance with Section 119 of the Municipalities Act, after the audit is carried out, the committee prepares a report containing a detailed description of the subject of the audit, identified deficiencies, and proposed measures to remedy them. This report is then signed by the committee member who conducted the audit together with the employee concerned. Once completed, the report is submitted to the municipal council along with the relevant statements of the affected bodies or employees.

1. The Financial and Audit Committees in the Czech Republic as a Parallel to the Position of the Chief Controller in the Slovak Republic

The Financial and Audit Committees may be regarded, in terms of ensuring municipal oversight, as the institutional parallel to the chief controller in the Slovak Republic. Both entities play a key role in ensuring transparency and legality in municipal financial management, monitoring compliance with legal regulations, and promoting the efficient use of public funds. Despite their functional similarity, these control mechanisms differ significantly in their organizational and operational frameworks. The following table systematically summarizes the key differences and common features of the municipal Financial and Audit Committees in the Czech Republic and the position of the chief controller in Slovak municipalities.

³⁸ GAJDOŠOVÁ, P. *Metodické doporučení k činnosti územních samosprávných celků*. Prague: Ministerstvo vnitra České republiky, odbor veřejné správy, dozoru a kontroly [online]. [Accessed 28 February 2025]. Available from: <https://mv.gov.cz/odk2/clanek/metodicke-materialy-k-zakonnym-zmocnenim.aspx?q=Y2hudW09MQ%3D%3D>.

Table 1: Comparison of the Financial and Audit Committees in the Czech Republic with the Chief Controller in the Slovak Republic

	Financial and Audit Committee of the Czech Republic Act No. 128/2000 Coll., on Municipalities	Chief Controller of the Slovak Republic Act No. 369/1990 Coll., on Municipal Establishment
Legal Status	Organ of municipal council	Employee of the municipality
Election	By an absolute majority of all members of the municipal council	By an absolute majority of all members of the municipal council
Term of Office	Not explicitly stipulated by law	6 years
Exercise of control	Collective performance of control	Individual performance of control
Degree of Independence	Organizational and functional dependence on the municipal council	Institutionally guaranteed independence by law
Qualification requirements	Not explicitly stipulated by law	completed secondary education
Scope of Competence	Control of financial management, legality, compliance with applicable regulations and resolutions	Control of financial management, legality, and compliance with applicable regulations and resolutions

Source: own elaboration

Based on the information in the table, it can be stated that when comparing the position of the chief municipal controller in the Slovak Republic with the financial and audit committees in the Czech Republic, a key common element can be identified: in both cases, the control bodies are elected by an absolute majority of the municipal council. However, a significant difference lies in their organizational and functional structure. In the Czech Republic, the municipal council establishes the financial and audit committees as its initiative and control bodies, which are collective in nature and consist of at least three members. Their powers are derived from the law, and they carry out control activities primarily on the basis of mandates from the council. In contrast, in Slovakia, the chief municipal controller functions as an independent individual control authority who holds the status of an employee in relation to the municipality. The term of office of the chief controller is clearly set by law at six years, thus ensuring independence from the municipal council, whose term lasts four years. In the Czech Republic, the Act on Municipalities does not explicitly regulate the term of office of the financial and audit committees. However, given the nature of these bodies, whose existence directly depends on the municipal council, it may be inferred that their term ends simultaneously with the term of the council, i.e., upon the expiry of the mandates of individual council members in accordance with Section 55(2)(d) of Act No. 491/2001 Coll., on Elections to Municipal Councils and on Amendments to Certain Acts. This conclusion is further supported by the fact that, pursuant to Section 117(4) of the Act on Municipalities, the chair of the committee must always be a member of the municipal council. The legislation thus presupposes a direct linkage between the term of the municipal council and that of its committees. The Act on Municipalities also does not explicitly regulate qualification requirements for committee membership. This matter is entirely left to the discretion of the municipal council, which typically takes into account local customs and the capacity of the

particular municipality when selecting candidates.³⁹ Conversely, in the case of the chief municipal controller in the Slovak Republic, the legislation explicitly stipulates the requirement of at least a complete secondary education. This requirement is of a mandatory nature, meaning it cannot be altered or tightened through subordinate legislation or municipal council resolutions.

Among the similarities, it may also be noted that neither the chief controller nor the financial and audit committees have the authority to adopt binding measures or impose sanctions in the event of a violation of the law. Their competence is limited to carrying out control activities and submitting findings to the competent authorities.

When comparing competencies and functions, significant parallels can be identified between the chief municipal controller in the Slovak Republic and the financial and audit committees in the Czech Republic. Although the Czech legal system does not recognize the term "*chief municipal controller*," the financial and audit committees provide a comparable level of oversight of municipal financial management. This demonstrates that each legal system shapes its control mechanisms in accordance with its own legislative and institutional traditions. These models reflect the specific characteristics of local governance and establish a framework within which municipalities exercise effective oversight of the use of public funds.

III. CONCLUSION

Modern theories of public administration emphasize the principles of efficiency, transparency, legality, and economy, which form the foundation of the concept of good governance.⁴⁰ In order to implement these principles in practice, public administration must be equipped with appropriate management and control tools. In this context, internal control plays a crucial role. The European Commission, in its document „*Internal Control Framework*”, defines internal control as a process that assists organizations in achieving set objectives, ensuring economy and legality, and in preventing and addressing fraud.⁴¹ Despite legislative progress in this area, in many cases a comprehensive implementation of internal control systems in local self-government is still lacking. This is primarily due to persistent organizational and cultural barriers that hinder the necessary reforms in the field of control activities.⁴²

Internal control in local self-government is essential for ensuring transparent financial management, the efficient use of public funds, and compliance with legal regulations. In the Slovak Republic, the position of the chief controller of the municipality represents a unique component of the internal control system, combining an independent control function with the status of a municipal employee. In comparison with the Czech model—where internal control in local self-government is carried out by collective bodies—the Slovak model is characterised by a significantly individualised form of internal control.

Based on the conducted legal analysis, the first research question, focused on the systematic nature and coherence of the legal regulation of the labour law status of the chief municipal controller, cannot be confirmed. The current legal framework suffers from significant

³⁹ GAJDOŠOVÁ, P. *Metodické doporučení k činnosti územních samosprávných celků*. Prague: Ministerstvo vnitra České republiky, odbor veřejné správy, dozoru a kontroly [online]. [Accessed 28 February 2025]. Available from: <https://mv.gov.cz/odk2/clanek/metodicke-materialy-k-zakonnym-zmocnenim.aspx?q=Y2hudW09MQ%3D%3D>.

⁴⁰ BARBIER, L. and TENGEH, R.K. Literature review of public administration and good governance from 1890 to 2023. In: *Jurnal Transformative* [online]. 2023, vol. 9, no. 1, pp. 43–65. [Accessed 25 June 2025]. Available from: <https://doi.org/10.21776/ub.transformative.2023.009.01.3>.

⁴¹ EUROPEAN COMMISSION. *Revision of the Internal Control Framework*. [online]. 2017. [Accessed 25 June 2025]. Available from: https://commission.europa.eu/system/files/2018-10/revision-internal-control-framework-c-2017-2373_2017_en.pdf.

⁴² NARDO, M.T. The Local Authorities Control System: Ongoing Practices and Enduring Challenges. In: *Rivista trimestrale di diritto pubblico* [online]. 2024, no. 1, pp. 146–176. [Accessed 25 June 2025]. Available from: <https://www.irpa.eu/en/article/the-local-authorities-control-system-ongoing-practices-and-enduring-challenges/>.

shortcomings, as its systematic and comprehensive treatment is insufficient. The complex relationship between the Labour Code and special regulations results in a lack of clarity in practical application. At the same time, it is evident that the labour law regulation of certain aspects is very limited, far from being consolidated in a single legal source, and in some cases is entirely absent from generally binding legal regulations. This creates space for varying, and at times even purposive, legal interpretations by municipalities. For these reasons, it is essential to call on the Slovak legislator to revise the legal framework governing the labour law status of the chief municipal controller in order to ensure greater systematicity and legal clarity in the exercise of internal control within local self-government.

Based on the conducted comparative analysis, the second research question cannot be confirmed either. The Czech model, based on collective committees of the municipal council, allows for greater flexibility in their composition; however, it is less firmly anchored in law and significantly dependent on the discretion of the municipal council. In contrast, the Slovak model, represented by the institution of the chief municipal controller, demonstrates a higher degree of independence and legal certainty, primarily due to the legally guaranteed six-year term of office and institutional separation from municipal council bodies. While in the Czech model the committees are organizationally subordinate to the council, the chief controller in Slovakia acts as an autonomous and independent authority. Although both models perform a comparable range of control activities, the Slovak legal framework establishes more stable conditions for the exercise of independent and transparent internal control.

KEY WORDS

internal control in self-government, chief controller, municipality, labour law, committees

KLÚČOVÉ SLOVÁ

vnútorná kontrola v samospráve, hlavný kontrolór, obec, pracovné právo, výbory

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