

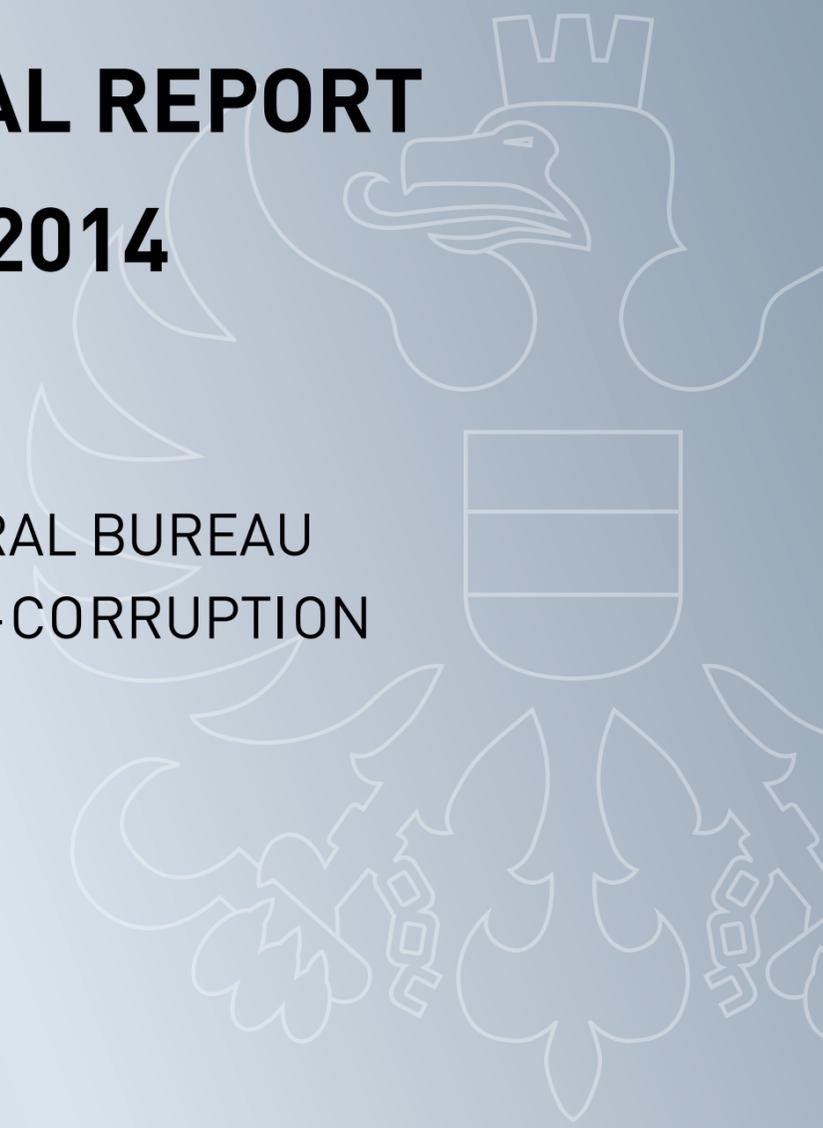
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REPUBLIC OF AUSTRIA
FEDERAL MINISTRY OF THE INTERIOR
FEDERAL BUREAU OF ANTI-CORRUPTION

ANNUAL REPORT 2014

FEDERAL BUREAU
OF ANTI-CORRUPTION



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TABLE OF CONTENTS

THE BAK AND ITS ORGANIZATIONAL BASES	5
The BAK – a brief outline.....	5
The BAK and its organizational structure.....	5
The BAK and its legal basis.....	6
THE BAK AND ITS PREVENTIVE MEASURES.....	8
The BAK and its corruption prevention advisory service.....	8
The BAK and corruption prevention in the field of education.....	8
THE BAK AND ITS EVENTS AND LECTURES.....	9
The BAK and training measures at the Federal Security Academy (SIAK).....	9
The BAK and the BAK’s advanced training course	10
The BAK and the nationwide network of corruption prevention officers acting as knowledge disseminators	10
The BAK and the Austrian Anti-Corruption Day.....	11
The BAK and the Anti-Corruption Day for the Federal Ministry of the Interior.....	11
The BAK and the workshop on public sponsoring	11
The BAK and the expert panels	12
THE BAK AND ITS INVESTIGATIONS.....	13
The BAK and its remit.....	13
The BAK and the number of cases	13
The BAK and its investigation cases	14
The BAK and the reports and complaints	15
The BAK and the criminal offences investigated	15
The BAK and the different forms of the phenomenon of corruption	17
The BAK and the investigation cases concluded	20
The BAK and examples for investigation cases	20
THE BAK AND ITS INTERNATIONAL NETWORK.....	22
The BAK and bilateral cooperation	22
The BAK and international police cooperation and administrative assistance.....	22
The BAK and the UNCAC (United Nations Convention against Corruption).....	23
The BAK and GRECO (Groupe d’Etats contre la Corruption).....	23
The BAK and anti-corruption activities at EU level.....	24
The BAK and the European Partners against Corruption (EPAC) and the European Anti-Corruption Network (EACN)	24
The BAK and OLAF/OAFCN	25
The BAK and the OECD.....	25
The BAK and SIENA for Anti-Corruption Authorities (S4ACA).....	25

THE BAK AND ITS PUBLICATIONS 26

The annual series “Corruption and Abuse of Official Authority”
 („Korruption und Amtsmissbrauch“) 26

The casebook “The Criminal Law on Corruption: Case Examples”
 („Korruptionsstrafrecht in Fällen“) 26

APPENDIX

Federal Law on the Establishment and Organization of the Federal Bureau of Anti-Corruption
 (Law on the Federal Bureau of Anti- Corruption [abbreviation:] BAK-G)

The BAK and its organizational bases

The BAK – a brief outline

The Austrian Federal Bureau of Anti-Corruption (BAK) was established as of 1 January 2010 and is based in Vienna. The BAK has nationwide jurisdiction in the prevention of and the fight against corruption, the close cooperation with the Public Prosecutor's Office for Combating Economic Crime and Corruption (WKStA) as well as in security police and criminal police cooperation with foreign and international anti-corruption institutions.

The BAK and its organizational structure

The BAK is an institution of the Austrian Federal Ministry of the Interior. Organizationally speaking, it is established outside the Directorate-General for Public Security (see Section 1 of the Federal Law on the Establishment and Organization of the Federal Bureau of Anti-Corruption [BAK-G]), namely within the Directorate-General IV (Services and Supervision), and thus directly responsible to the Director-General IV.

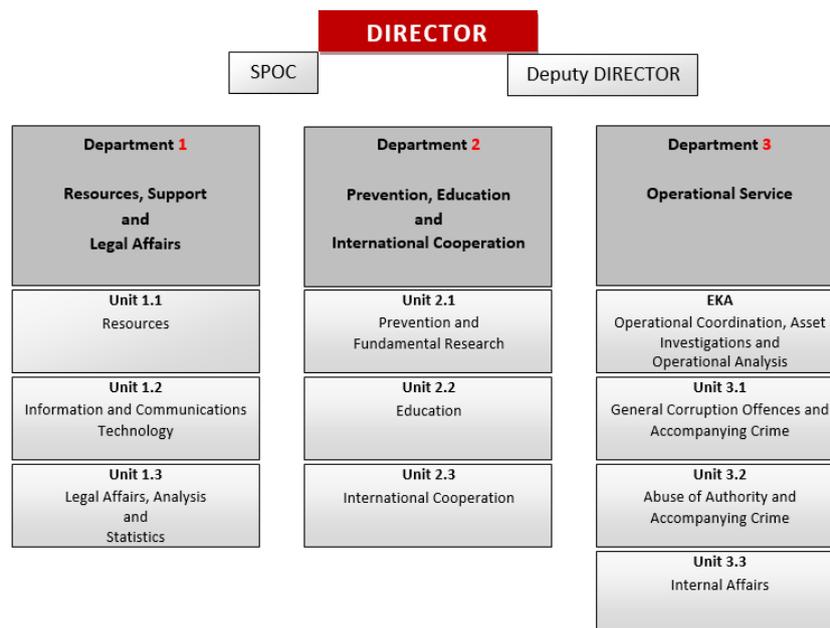
According to the current organization chart, the BAK is divided into three departments. Department 1 and 2 are subdivided into three units, Department 3 consists of four units.

The Single Point of Contact (SPOC) is the main contact office of the BAK. The SPOC receives reports, allegations, complaints etc. that may be relevant to criminal investigations.

Department 1 of the BAK provides the complete support for the Federal Bureau. The area of responsibility ranges from human resources, budget and fleet management, controlling, logistics and media analyses to IT infrastructure management, the preservation of evidence in the field of IT, the analysis of data and visualization, the statistical analysis of the BAK's activities, various legal services for the BAK and, in the future, the development of situation reports as well as the implementation and supervision of the BAK's compliance system.

Department 2 of the BAK is responsible for, inter alia, prevention and fundamental research. This comprises prevention work, the implementation of studies as well as the support and supervision of external projects. Another area of responsibility of Department 2 is education, which includes, in particular, the servicing of the Austrian-wide anti-corruption network as well as the organization of trainings and awareness-raising events for the Austrian Federal Ministry of the Interior and other public authorities. Furthermore, Department 2 is responsible for international cooperation and the related bilateral exchange and cooperation with various anti-corruption bodies.

Department 3 is responsible for all law enforcement measures regarding the fight against corruption. It covers security police and criminal police investigations in the fields of corruption offences, abuse of authority and internal affairs.



The BAK and its legal basis

The Federal Law on the Establishment and Organization of the Federal Bureau of Anti-corruption (BAK-G) entered into force on 1 January 2010 and constitutes the BAK's legal basis.

In accordance with Section 4, paragraph 1, of the BAK-G, the BAK has nationwide jurisdiction in security and criminal police investigations concerning the following criminal offences:

1. abuse of official authority (§ 302 of the Austrian Penal Code [StGB]),
2. corruptibility (§ 304 StGB),
3. acceptance of an advantage (§ 305 StGB),
4. acceptance of an advantage for the purpose of exerting influence (§ 306 StGB),
5. bribery (§ 307 StGB),
6. offering an advantage (§ 307a StGB),
7. offering an advantage for the purpose of exerting influence (§ 307b StGB),
8. illicit intervention (§ 308 StGB),
- 8a. breach of official secrecy (§ 310 StGB),
9. breach of trust due to abuse of an official function or due to involvement of an office holder (§ 153, paragraph 2, case 2, § 313, or in connection with § 74, paragraph 1, no. 4a, StGB),
10. acceptance of gifts by persons holding a position of power (§ 153a StGB),

11. agreements restricting competition in procurement procedures (§ 168b StGB) as well as serious fraud (§ 147 StGB) and commercial fraud (§ 148 StGB) on the basis of such agreement,
12. acceptance of gifts and bribery of employees or agents (§ 309 StGB),
13. money laundering (§ 165 StGB), provided that the assets arise from the offences 1 to 8, 9, 11 (second and third case) or 12; criminal associations or organizations (§§ 278 and 278a StGB), provided that they intend to commit the offences 1 to 9 or 11 (second and third case),
14. acts punishable pursuant to the StGB as well as to other laws relevant to criminal law, provided that they are related to the offences 1 to 13 and have to be prosecuted by the BAK by written order of a court or a public prosecutor's office,
15. acts punishable pursuant to the StGB as well as to laws relevant to criminal law concerning public employees of the Federal Ministry of the Interior, provided that they have to be prosecuted by the BAK by written order of a court or a public prosecutor's office.

In accordance with Section 28, paragraph 1, 2nd sentence, of the Austrian Penal Code (Determination of the Maximum Penalty), the BAK is only responsible for the cases 11 to 13 if the offences mentioned are relevant for the determination of the level of penalty.

The BAK's responsibilities in the field of international cooperation are clearly laid down in Section 4, paragraph 2, of the Federal Law on the Establishment and Organization of the Federal Bureau of Anti-Corruption (BAK-G): the Federal Bureau of Anti-Corruption is responsible for investigations within the framework of international police cooperation and administrative assistance as well as for cooperation with the corresponding institutions of the European Union and the investigating authorities of EU Member States in the above mentioned cases. Regarding international police cooperation in the cases described above, the Bureau acts as point of contact for OLAF, Interpol, Europol and other comparable international institutions.

According to its legal mandate (Section 4, paragraph 3, BAK-G), the BAK shall analyse corruption phenomena, gather information on preventing and combating them and develop appropriate preventive measures.

The BAK and its preventive measures

In the Austrian Federal Bureau of Anti-Corruption (BAK), prevention is considered as interventions addressing the cause and attempting to initiate processes of change in systems by means of advice, training and education. These processes of change or learning should contribute to reducing the probability for the occurrence of specific problems.

The BAK and its corruption prevention advisory service

Based on (literature) research and case analyses of the BAK's investigations, potential areas of prevention are determined and prevention approaches are developed. In the framework of the corruption prevention advisory service, structures, procedures and workflows as well as risk and protective factors at organizational and personal level are analysed. On the basis of the findings, appropriate recommendations are subsequently developed. The advisory service is carried out by a multidisciplinary team taking into account legal, sociological, criminological and psychological aspects.

In 2014, two prevention projects were successfully completed. One project analysed the storage of narcotics by security authorities for corruption risks. The other project examined the storage as well as the handling of entry and exit stamps by border authorities for corruption risks. In cooperation with the responsible organizational units, numerous areas of risk were revealed and analysed and appropriate preventive measures were developed in the course of the two projects. A large part of the BAK's recommendations has already been successfully implemented.

The BAK and corruption prevention in the field of education

It has always been of central importance to the Federal Bureau's prevention work to raise awareness among adolescents regarding the dangers related to corruption. Therefore, the BAK developed training concepts which met with a very positive response at national and international level. These anti-corruption trainings for students were further expanded in 2014. For instance, specific teaching material and training curricula for teachers were compiled and more tailor-made seminars for teachers as well as prospective teachers were offered.

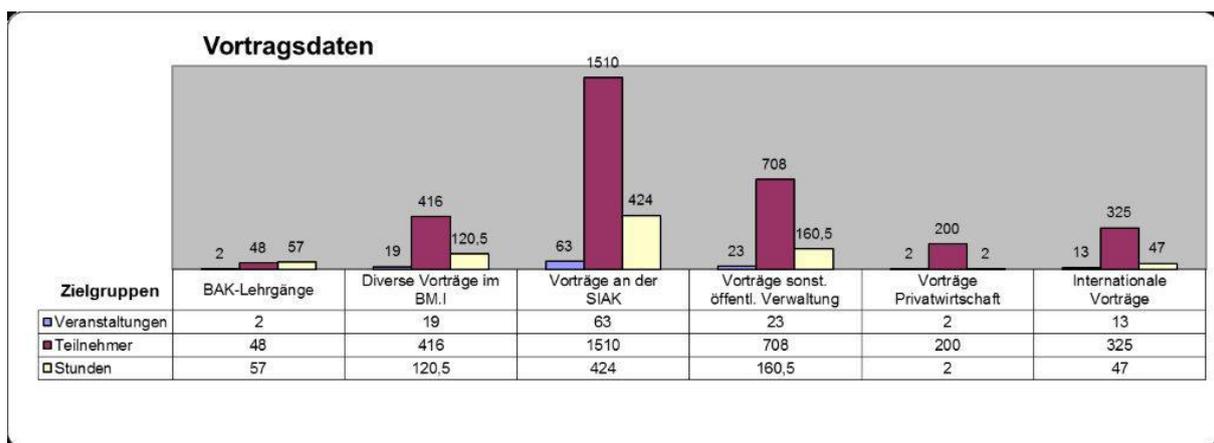
The BAK and its events and lectures

The prevention work of the BAK also comprises measures of behavioural prevention such as awareness-raising and knowledge transfer on corruption phenomena.

Accordingly, the Federal Bureau offers numerous activities in the framework of (advanced) training events for employees of the Federal Ministry of the Interior as well as for members of other organizations. These measures are complemented by anti-corruption events promoting awareness-raising and the exchange of current challenges and aspects of the fight against corruption.

The BAK and training measures at the Federal Security Academy (SIAK)

In the framework of the BAK's lectures at the Federal Security Academy (SIAK), approximately 60 events were held within the basic training courses for constables, sergeants and senior police officers. Furthermore, about 420 civil servants of different organizational units were trained on compliance in the Austrian Federal Ministry of the Interior (Mol) during specific events, which were carried out together with the Chief Compliance Officer of the Mol and representatives of the Procurement Department. Trainings outside of the Mol were held, inter alia, at the government of the Province of Salzburg, the Federal Academy of Public Administration, the University of Teacher Education Vienna or the Innsbruck District Authority. In total, 122 lectures (811 hours) on preventing and combating corruption were offered to approximately 3,200 participants in 2014.



The BAK and the BAK's advanced training course

Since 2005, the Federal Bureau has planned, organized and supervised two training courses per year on preventing and combating corruption. In 2014, 42 persons completed the courses 17 and 18. These two-week seminars are attended by employees of all grades and categories from all Directorates-General of the Ministry of the Interior and from other public sector bodies. They were informed about theoretical aspects of corruption, e.g. relevant provisions of criminal law, code of criminal procedure, data protection, civil service law, disciplinary law, and of the criminal investigation of corruption cases. The training also provided information on corruption prevention, the international component of preventing and fighting corruption, the basic aspects of economic crime, as well as the psychological background of corruption.

The BAK and the nationwide network of corruption prevention officers acting as knowledge disseminators



The creation and implementation of a system of knowledge disseminators consisting of corruption prevention officers from the police directorates started in 2011. The objective of this system is to extend the educational measures in the field of corruption prevention and, at the same time, ensure uniform quality standards. To this end, in 2014, the BAK organized two conferences for the corruption prevention officers at which standardized training concepts were worked out and improved as well as cooperation with the Chief Compliance Officer of the Ministry of the Interior was initiated and enhanced. Since the establishment of the system of knowledge disseminators in 2012, the corruption prevention officers have trained approximately 6,000 law enforcement officers in various courses and seminars.

The BAK and the Austrian Anti-Corruption Day

Since 2007, the BAK has organized the Austrian Anti-Corruption Day for the public administration once a year. This inter-ministerial meeting of experts deals with diverse topics related to the prevention of and fight against corruption. It aims to provide a framework for a wide range of anti-corruption experts to discuss current challenges and issues in this field. On 8 May 2014, about 100 experts from the public sector, science, civil society and the private sector participated in the 8th Austrian Anti-Corruption Day in the premises of the Ministry of the Interior in Vienna. Numerous lectures offered an insight into the changing faces of corruption in our society as well as into the development of anti-corruption measures at national level. A fireside chat entitled “Experiences and challenges after one year of whistle-blowing in Austria” saw a critical and lively discussion on the issue of whistle-blowing.

The BAK and the Anti-Corruption Day for the Federal Ministry of the Interior

For the second time, the Federal Bureau organized the Anti-Corruption Day for the Ministry of the Interior, in which participated about 90 senior officials of the ministry and the police directorates. The event, held on 11 November 2014, focused on ethical and moral aspects of compliance and corruption prevention, the implementation of compliance measures in the Ministry of the Interior, the ministry’s newly developed guidelines on public sponsoring, and current effects of the 2012 Act amending the Criminal Law on Corruption.

The BAK and the workshop on public sponsoring

On 25 June 2014, the BAK held a workshop on public sponsorship in cooperation with the Chief Compliance Officer of the Federal Ministry of the Interior, Albert Koblizek. Around 50 high-ranking experts of several ministries, the Provincial Courts of Audit, the University of Vienna and the Vienna University of Economics and Business took the opportunity to discuss challenges and possible solutions regarding the handling of public sponsoring. The results of the workshop served as a basis for the development of a sponsoring guideline for the Federal Ministry of the Interior.

The BAK and the expert panels

In 2014, the Federal Bureau again placed a particular focus on the development of a national anti-corruption strategy for the field of corruption prevention. In this context, a total of ten inter-ministerial expert panels were organized by the BAK in 2013 and 2014. The results of the contributions and discussions of these meetings are integrated into the Austrian anti-corruption strategy and will be published as a book. Representatives of the federal ministries, the City of Vienna, the Provincial Courts of Audit, the Austrian Association of Municipalities, the provincial governments, the Austrian Association of Cities and Towns, the Liaison Offices of the Provinces, Transparency International and the University of Vienna participated in the panels.



The BAK and its investigations

Investigating corruption offences is one of the key tasks of the BAK.

The BAK and its remit

Generally, the BAK is responsible for investigations concerning corruption offences and abuse of authority defined in Section 4, paragraph 1, BAK-G.

In accordance with Section 5 of the BAK-G, law enforcement authorities or departments getting notice of a criminal offence falling within the remit of the BAK have to report this offence immediately in writing to the Federal Bureau.

For reasons of expediency, the BAK may assign or transfer (certain) investigations to other law enforcement authorities or departments.

In connection with Section 4, paragraph 1 (15), of the BAK-G, cases of abuse or the use of weapons and firearms resulting in serious injury or death of a person, criminal offences due to abuse of an official function (criminal offences in connection with § 313, Austrian Penal Code) and a suspicion of a crime or any other criminal offence of particular public interest have to be reported to the BAK (duty to report).

The BAK and the number of cases

Number of cases							
	2014	Difference from the previous year		2013	Difference from the previous year		2012
		absolute	in %		absolute	in %	
Investigation cases (criminal police)	1171	-46	-4%	1217	6	1%	1211
Administrative and legal assistance	178	-31	-17%	209	-197	-49%	406
Other cases	199	-78	-39%	277	48	17%	229
Total	1548	-155	-9%	1703	-143	-8%	1846

Not all reports received by the SPOC necessarily lead to investigations. In fact, the SPOC counts the number of cases, i.e., every report from citizens, public bodies such as the WKStA or police stations resulting in the opening of a file. Thus, the BAK keeps statistics on incoming cases, mainly reports, complaints, allegations etc. that may be relevant to criminal investigations. Administrative files are not included. Therefore, the workload of the BAK is higher than shown in the statistics.

The requests for administrative and legal assistance (see table above) include requests in accordance with § 26 of the Data Protection Act 2000 as well as requests of foreign police departments and other Austrian investigative authorities on a certain case. However, criminal police investigation cases – the key task of the BAK – constitute the majority of the recorded cases.

The BAK and its investigation cases

As mentioned earlier, the Bureau may transfer cases to other law enforcement authorities or departments if there is no particular public interest regarding the importance of the criminal offence or of the person investigated.

The table below shows the distribution of the files taken over by the BAK or subordinate law enforcement authorities or departments. The BAK transfers approximately 60 % of the cases to subordinate bodies, 40 % of the cases are handled by the BAK. The BAK, as competence centre for the fight against corruption, follows the progress and outcome of all cases in order to maintain an overview of the predominant phenomena and cases and to answer general requests competently.

Transferred to/handled by	2014	Distribution	2013	Distribution	2012	Distribution
Subordinate law enforcement authorities or departments	814	60,3%	929	62,6%	904	54,0%
BAK	535*	39,7%	554*	37,4%	769*	46,0%
Total	1349	100	1483	100,0	1673	100,0

* These figures include requests for administrative or legal assistance as well as requests under the Data Protection Act.

The BAK and the reports and complaints

A large part (35%) of the reports presented to the BAK is made by the police directorates (2013: 33%). 14% of the complaints were received by employees of the Federal Ministry of the Interior, almost 10% originated from private individuals.

Cases reported by	2014	2013	2012
Police directorates	538	558	511
Regional criminal investigation departments	174	200	162
Private individuals	151	179	151
Public prosecutor's offices	118	133	145
Federal Ministry of the Interior	220*	254	491
Federal Public Prosecutor's Office for Economic Crime and Corruption	38	46	35
Anonymous sources	48	30	42
Police inspectorates	57	57	36
Others	204	246	273
Total	1548	1703	1846

* These figures include requests for administrative or legal assistance as well as requests under the Data Protection Act.

The BAK and the criminal offences investigated

The following list shows the number of criminal offences during the reporting year 2014 compared to the previous years. In the period from 2012 to 2014, there were only slight changes in the frequency distribution of the offences listed. In cases with more than one offence committed, only the "principal offence", i.e. the criminal act determining the level of penalty, is relevant to statistics.

As can be seen from the table, many cases of malpractice or abuse of power were taken over by the BAK. Regarding the abuse of official authority, nearly half of the cases were dealt with by the BAK.

Principal offence in investigations under the Austrian Penal Code		2014	BAK	2013	BAK	2012	BAK
§ 302	Abuse of official authority	585	258	562	203	628	252
§ 303	Negligent breach of the freedom of a person or of the sanctity of the home	7	1	13	\	4	\
§ 304	Corruptibility	18	14	21	17	14	10
§ 305	Acceptance of an advantage	7	4	10	\	4	\
§ 306	Acceptance of an advantage for the purpose of exerting influence	3	3	1	\	0	\
§ 307	Bribery	12	10	14	16	8	6
§ 307a	Offering an advantage	0	0	1	\	1	\
§ 307b	Offering an advantage for the purpose of exerting influence	1	1	1	\	0	\
§ 308	Illicit intervention	2	1	2	\	0	\
§ 309	Acceptance of gifts and bribery of employees or agents	8	6	1	\	0	\
§ 310	Breach of official secrecy	25	13	22	12	23	9
§ 311	False certification and authentication in office	0	0	0	0	1	\
§ 312	Tormenting or neglecting a prisoner	1	0	3	\	0	\
§ 313	Abuse of an official function	394	7	423	9	412	13
§ 153	Breach of trust	19	14	18	15	23	21
§ 153a	Acceptance of gifts by persons holding a position of power	1	1	4	4	1	1
§ 107	Dangerous threat	7	0	0	\	9	\
	Others	81**	202**	99**	278**	68**	457**
	Total	1171	535	1195	554	1196	769

** The figures obtained by the BAK in this field include, in contrast to the total number, all requests for administrative or legal assistance as well as requests under the Data Protection Act. The BAK classifies these requests mainly as "Others".

The BAK and the different forms of the phenomenon of corruption

So what kinds of phenomena lie behind the offences described above? In order to answer this question, each case reported to the BAK is allocated, as far as possible, to a specific criminological category in the BAK's statistics.

Criminological category – BAK			
<i>Criminological category</i>		Total 2014	Thereof BAK
Allegations of abuse	e.g. injury due to abuse of an official function	358	5
Procedural flaw	e.g. breach of the right to a hearing, incorrect assessment of evidence, biased administrative action	153	57
Consultation or disclosure of data	unauthorized consultation or disclosure of data	72	36
Accompanying crime	e.g. breach of the freedom of a person or of the sanctity of the home	82	24
Infrastructure	e.g. corruption in the context of planning permissions, purchase and rental of properties, spatial and land-use planning	88	43
Initiation of a proceeding	non-reception or insufficient reception/documentation of complaints	83	23
Human resource management	"nepotism"	16	11
Criminal offences against persons	e.g. harassment, injury, coercion	81	9
General complaints	complaints of a general nature – not clearly assignable to a category	46	25
Financial management	inadequate management of finances	45	28
Permits and expert opinions	failure to properly grant licences and permits, favourable expert opinions	29	14
Collusion	e.g. cartels, agreements, waivers of competition	21	14
Procurement/tendering	e.g. inadequate procurement/tendering procedure	21	14
Other incorrect actions	e.g. forgery of signatures, manipulation of criminal charges	12	8
Immigration, asylum	e.g. incorrect issuing of residence permits	9	5
Money laundering	in connection with corruption offences	9	9
Social services	e.g. abuse related to the legal representation of children or persons under guardianship	9	3
Fines	abuse related to fines and tickets	8	3
Supervision and control	e.g. misuse of supervisory powers	6	4
Taxes and duties	e.g. incorrect notification of fees	5	4
Subsidies	misuse in the context of funding and subsidies	4	1
Addictive drugs	misuse of seized narcotics	4	2
Public health services	breach of supervisory duties regarding the compliance with sanitary standards	3	2

Sponsoring	incorrect or illegal settlement of sponsoring transactions and donations	2	2
Elections	e.g. electoral fraud	2	2
Diplomas, titles, certificates	certificates, etc. unlawfully obtained or issued	2	0
Use of weapons and firearms	investigations regarding the life-endangering use of weapons and firearms in the performance of official duties	1	1
Others		12	186*
Total		1171	535

*These figures include requests for administrative or legal assistance as well as requests under the Data Protection Act.

Procedural flaw

There is such a great variety of procedural flaws that in the meantime, the incorrect initiation of a proceeding was added as a new criminological category. An example for this category would be a police officer of a traffic department who is responsible for controlling the rest periods for lorry drivers, but again and again turns a blind eye and does not properly initiate proceedings. The same can be said of a police officer who, instead of issuing three tickets of 21 euros during a roadside check, only issues two tickets of 21 and one incorrect fine of 7 euros, because the driver only has 50 euros in cash.

Infrastructure

This category covers a wide range of cases. For example, little favours are done after construction negotiations have been carried out correctly. The person applying for the planning permission is so pleased about the quick and smooth negotiations that he brings a present (e.g. a coffee machine) to the municipal office.

Offering an advantage in a procurement procedure would have to be classified in the criminological category "Procurement/tendering". However, if – apart from advantages offered to the contracting authority – even the competitors coordinate their activities by fixing prices or synchronizing their bidding behaviour, the case will be assigned to the category "Collusion".

Disclosure of data

It is particularly in the public sector that employees may have access to information not available to the public. If, for example, information from the Austrian Electronic Criminal Police Information System (EKIS) is passed on illegally, the case is classified under the criminological category "Disclosure of data".

Institutions, areas and public entities affected

	2014	2013	2012
Federal institutions	604	491	557
Provincial institutions	24	13	15
Communities/municipalities	109	124	102
District administrative authorities	22	14	6
Private individuals	15	9	12
Economy	36	12	9
Chambers			2
Associations	1	3	
Others	17	6	4

In all cases of investigation the persons and organizations alleged to have committed a criminal offence are assigned to a specific group. In 2014, federal employees were involved in 51% of the cases (2013: 40%, 2012: 46%).

The reason for this high percentage of federal employees lies in the BAK's exclusive jurisdiction in this field as well as in the specific statistical criteria used in this context. Therefore, it cannot be concluded that the federal institutions are more prone to this kind of criminal offences than the private sector.

Furthermore, it must be stated that the number of unreported cases in the private sector is supposed to be very high and cannot be determined exactly. According to studies carried out in Germany, the percentage of these cases may be as high as 95%.

The BAK and the investigation cases concluded

Clarification – cases cleared up					
	Number of cases	Concluded by the BAK and subordinate bodies	Thereof cleared up	Thereof unsolved	Clear-up rate
2014	1349*	1088	822	263	76%
2013	1483	1213	814	399	67%
2012	1673	1405	1053	352	75%

*These figures include requests for administrative or legal assistance as well as requests under the Data Protection Act.

The BAK's aim is to fully investigate every case taken over. At the end of the investigation, a final report is submitted to the public prosecutor's office. The cases are investigated regardless of whether the allegations lead to court proceedings. The focus is on conducting a comprehensive investigation and concluding the case correctly. The following table shows the cases taken over and concluded by the Austrian Federal Bureau of Anti-Corruption or the court. The cases were either taken over by the BAK due to its exclusive jurisdiction or due to a specifically extended responsibility, or they were transferred to another department/authority. 80% (2013: 82%) of the cases investigated were concluded. The clear-up rate of 76% represents the ratio, in per cent, of the investigation cases cleared up to those concluded during the period under review.

The BAK and examples for investigation cases

Like any other criminal investigation department, the BAK is carrying out its investigations according to the principle of objectivity, i.e. both incriminating and exculpatory circumstances are investigated.

In the following examples, two cases investigated by the BAK and resulting in convictions in 2014 are described.

The "Regional Health Insurance Fund" case

In 2013, the CEO of an Austrian company reported a case to the Federal Public Prosecutor's Office for Economic Crime and Corruption (WKStA), which authorized the BAK to conduct the investigation. His allegations mainly related to an auditor of a regional health insurance fund who in the course of an audit promised the CEO that, if he received a payment of 10,000 euros from the entrepreneur, a repayment of 65,000 euros in the context of a re-registration of employees would be waived. The BAK

carried out a comprehensive investigation in order to find out whether this was the only incident. Subsequent to a wiretapping operation, the auditor was arrested by investigators of the BAK. Due to the incident reported by the CEO, the auditor was conditionally sentenced to 18 months imprisonment.

The “Sale of Weapons“ case

This case came to light when a superior, in fulfilling his duty of supervision, identified irregularities in his district authority in the course of an internal audit. Over the years (2006-2012), an employee responsible for the disposal of weapons and firearms seized or handed in had got into the habit of selling them to a friend, a weapons trader, instead of recycling or destroying them in conformity with law. A large part of the profits went into the pockets of the said employee. The allegations were the subject of house searches and witness hearings carried out by the BAK. Finally, in 2014, the employee was sentenced on appeal to 24 months imprisonment, thereof eight months unconditional imprisonment (*res judicata*).

The BAK and its international network

In the framework of its legal mandate, in accordance with Section 4, paragraph 2, of the BAK-G, the BAK shall cooperate with relevant foreign authorities as well as with European and international institutions and acts as the national point of contact for them. Therefore, the BAK exchanges experiences with comparable anti-corruption authorities and is represented in European as well as international bodies given the resources available.

The BAK and bilateral cooperation



In 2014, bilateral visits contributed to further strengthening cooperation with foreign, particularly European and Asian, authorities.

To enhance bilateral cooperation, the BAK signed Memoranda of Understanding (MoU) with the Malaysian Anti-Corruption Commission (MACC), the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) of Bosnia and Herzegovina and the Algerian National Body for Preventing and Combating Corruption (ONPLC) in 2014. These Memoranda of Understanding strengthen the cooperation between the BAK and foreign partner authorities. Through the exchange of information, they allow for more efficient corruption prevention and fight against corruption as well as for the pursuance of common efforts and interests.

The BAK and international police cooperation and administrative assistance

In addition, the BAK handled international requests for administrative assistance regarding corruption offences. Since June 2013, Europol's Secure Information Exchange Network Application (SIENA) is used for this purpose. As the system speeds up the handling of requests for administrative assistance, it is an essential part of the BAK's international communication.

Since 2013, the BAK is nominated as a "Global Focal Point" by Interpol. The platform of "Global Focal Points" offers the participating countries a secure form of communication and data exchange and thus improves international cooperation.

The BAK and the UNCAC (United Nations Convention against Corruption)



The United Nations Convention against Corruption (UNCAC) entered into force on 14 December 2005 and was ratified by Austria on 11 January 2006. In August 2014, the Country Review Report on Austria's implementation of the Chapters III (Criminalization and Law Enforcement) and IV (International Cooperation) of the UNCAC was published. The publication marked the official end of Austria's review, which was conducted during 2013 according to the terms of the UNCAC Review Mechanism. On the whole, Austria's high level of implementation of the relevant UNCAC provisions was acknowledged. One of the recommendations suggests, inter alia, improving the flow of information back to the Federal Bureau of Anti-Corruption, particularly with regard to judgements

resulting from investigations of the BAK's employees.

Further information can be found at:

www.unodc.org

The BAK and GRECO (Groupe d'Etats contre la Corruption)

On 1 December 2006, Austria joined the Council of Europe's Group of States against Corruption (GRECO). Following the multidisciplinary approach of the Council of Europe regarding the fight against corruption, GRECO has to evaluate the compliance with and implementation of the relevant legal instruments adopted by the Council of Europe.

In March 2014, GRECO adopted the Austrian Compliance Report on the topics incriminations and transparency of party funding in Strasbourg. GRECO concludes that Austria satisfactorily implemented 12 of the 21 recommendations of the Evaluation Report of the Third Evaluation Round.

In April 2014, a two-day conference took place at the International Anti-Corruption Academy (IACA) in Laxenburg in the framework of the Austrian Chairmanship of the Committee of Ministers of the Council of Europe to take stock of first national experiences and results of the Fourth Evaluation Round. Two representatives of the BAK participated in this interesting event.

Further information can be found at:

www.coe.int/t/dghl/monitoring/greco/default_en.asp

The BAK and anti-corruption activities at EU level

Based on the Communication of the European Commission on Fighting Corruption in the EU issued in 2011, the first EU Anti-Corruption Report was published in February 2014. This report consists of a general chapter reflecting the situation and trends regarding corruption in the EU and of 28 country chapters outlining the respective anti-corruption framework and key issues. The European Commission appreciates Austria's increased efforts in the fight against corruption.

The BAK supported the work at EU level with opinions on corruption-related topics which are addressed in the Council Working Groups.

Further information can be found at:

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/index_en.htm

The BAK and the European Partners against Corruption (EPAC) and the European Anti-Corruption Network (EACN)



The networks European Partners against Corruption (EPAC) and the European Anti-Corruption Network (EACN) are independent platforms for anti-corruption and police oversight bodies allowing for them to maintain contacts and exchange information in the field of the fight against corruption.

In October 2014, the BAK organized an interactive EPAC/EACN workshop on the topic "Information Exchange among Anti-Corruption Authorities and Police Oversight Bodies", which took place at the International Anti-Corruption Academy in Laxenburg.

In the course of the 14th EPAC/EACN Professional Annual Conference in Sofia in November 2014, which was hosted by the Bulgarian Ministry of the Interior and the State Agency for National Security, and based on the outcomes of the workshop, it was decided to establish a working group on the topic "Need for and possibilities of a joint communication platform for a swift information exchange" chaired by the British National Crime Agency. Furthermore, Giovanni Kessler, current president of EPAC/EACN and Director-General of the European Anti-Fraud Office, and representatives of EU Member States presented the latest developments in the field of anti-corruption. Special attention was devoted to, inter alia, the European Commission's proposal to establish a European Public Prosecutor's Office and to the involvement of EPAC/EACN members in the preparation of the next EU Anti-Corruption report.

Further information can be found at:

www.epac-eacn.org

The BAK and OLAF/OAFCN



The network OAFCN (OLAF Anti-Fraud Communicators' Network) of the European Anti-Fraud Office (OLAF) provides a networking platform for representatives of national anti-fraud and anti-corruption authorities.

The platform facilitates the exchange of experiences and information on the fight against fraud and corruption. Additionally, it supports OLAF and members of the network in promoting and improving their public relations. The BAK follows the activities of the network in the framework of international cooperation. Further information can be found at:

http://ec.europa.eu/anti_fraud/media-corner/anti-fraud-communicators-network/index_en.htm

The BAK and the OECD



The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is a legally binding anti-corruption instrument. On 19 July 1999, it entered into force in Austria.

The OECD Working Group on Combating Bribery of Foreign Public Officials monitors the progress in the implementation of the OECD Convention. In 2014, the BAK followed the work of this Working Group and submitted the necessary contributions on the implementation of the Convention to the competent ministry (Austrian Federal Ministry of Justice).

Further information can be found at:

www.oecd.org

The BAK and SIENA for Anti-Corruption Authorities (S4ACA)



On the basis of the EU Programme "Prevention of and Fight against Crime 2007-2013", the project SIENA for Anti-Corruption Authorities (S4ACA) was initiated by the BAK in February 2014. In summer 2014, EU co-financing was awarded to this project.

The aim of the project is to improve the operational and strategic information exchange between European anti-corruption authorities and between them and Europol by a step-by-step connection to Europol's Secure Information Exchange Network Application (SIENA). Another objective of the project is to promote the increased use of the Europol Platform for Experts (EPE).

The Polish Central Anti-Corruption Bureau (CBA) is the BAK's project partner, Europol is the associate partner. Senior officials, IT and security experts of European anti-corruption authorities participate in this project.

The project started in Warsaw in November 2014 with the first internal project coordination meeting, in the framework of which the S4ACA Kick-Off Conference in February 2015 was planned.

Further information can be found at:

http://www.bak.gv.at/cms/BAK_en/s4aca/start.aspx

The BAK and its publications

The annual series “Corruption and Abuse of Official Authority” (“Korruption und Amtsmissbrauch”)

In September 2014, the book’s seventh edition was released in cooperation with the publisher “MANZ”. It provides, as has been usual in the previous editions, a comprehensive overview of the content and interpretation of the most important provisions of Austrian criminal law relating to corruption and abuse of authority.

The casebook “The Criminal Law on Corruption: Case Examples” (“Korruptionsstrafrecht in Fällen”)

Together with the Austrian Center for Law Enforcement Sciences (ALES), the BAK worked out a list of questions relevant to corruption from a criminal law perspective. These questions were illustrated with abstract and anonymized case examples and, in 2014, published as a casebook (“The Criminal Law on Corruption: Case Examples”) by the publishing house “Österreich”. Susanne Reindl-Krauskopf, university professor at the Department of Criminal Law and Criminology of the University of Vienna, and Stefan Huber, assistant professor in the same department, are the authors of this publication.

**Federal Law on the Establishment and Organization of the
Federal Bureau of Anti-Corruption (Law on the Federal
Bureau of Anti-Corruption – [abbreviation:] BAK-G)**

Federal Law Gazette (BGBl.) I No. 72/2009, as amended by Federal Law Gazette
(BGBl.) I, No. 52/2015

(Translation from German)

Establishment

§ 1. The Federal Bureau of Anti-Corruption is an institution of the Federal Ministry of the Interior established outside the Directorate-General for Public Security. Its goals are the effective nationwide prevention of and fight against corruption, including, in particular, the cooperation with the Public Prosecutor's Office for Combating Economic Crime and Corruption (WKStA), as well as the performance of core tasks in the field of security police and criminal police cooperation with foreign and international anti-corruption institutions [§ 6, paragraph 1, Security Police Act (SPG), Federal Law Gazette (BGBl.) No. 566/1991].

Organization

§ 2. (1) The Federal Bureau is headed by a Director. In the event of his/her absence, his/her duties are to be performed by his/her Deputy.

(2) The Director and his/her Deputy are appointed for a period of five years by the Federal Minister of the Interior after consultation with the presidents of the Constitutional Court, the Administrative Court and the Supreme Court. The term of office shall be renewable.

(3) A person may only be appointed as Director or Deputy Director if he/she has special knowledge as well as national and international experience in the fields of the prevention of and fight against corruption. Furthermore, a person may only be appointed as Director if he/she has been employed for at least five years in an occupation requiring a degree in Law or Economics, and as Deputy Director if he/she has been employed for at least three years in such occupation.

(4) A person may not be appointed as Director or Deputy Director if he/she is a member of the federal government, a government of a Land, or a general representative body, or if he/she has held one of these positions in the previous six years.

(5) For the selection of the other employees of the Federal Bureau, account should be taken of whether they have the legal and other knowledge, skills and aptitudes required to fulfil the tasks of the specific post, as well as sufficient relevant work experience. Prior to their employment, the Director and his/her Deputy have to be consulted.

(6) The Director and his/her Deputy are not permitted to engage in any gainful outside employment with the exception of publications and teaching activities.

Rules of Procedure of the Federal Bureau

§ 3. The Director has to determine who is responsible for approving decisions to be taken in accordance with the distribution of functions, in which matters this approval is reserved to himself/herself, and who has the right to approve in the event of absences (rules of procedure).

Tasks

§ 4. (1) The Federal Bureau has nationwide jurisdiction in security and criminal police matters concerning the following criminal offences:

1. abuse of official authority (§ 302 of the Austrian Penal Code (StGB), Federal Law Gazette (BGBl.) No. 60/1974),
2. corruptibility (§ 304 StGB),
3. acceptance of an advantage (§ 305 StGB),
4. acceptance of an advantage for the purpose of exerting influence (§ 306 StGB),
5. bribery (§ 307 StGB),
6. offering an advantage (§ 307a StGB),
7. offering an advantage for the purpose of exerting influence (§ 307b StGB),
8. illicit intervention (§ 308 StGB),
- 8a. breach of official secrecy (§ 310 StGB),
- 8b. breach of § 18 of the Information Management Act, Federal Law Gazette (BGBl.) I No. 102/2014
9. breach of trust due to abuse of an official function or due to involvement of an office holder (§ 153, paragraph 2, case 2, § 313, or in connection with § 74, paragraph 1, no. 4a, StGB),
10. acceptance of gifts by persons holding a position of power (§ 153a StGB),
11. agreements restricting competition in procurement procedures (§ 168b StGB) as well as serious fraud (§ 147 StGB) and commercial fraud (§ 148 StGB) on the basis of such agreement,
12. acceptance of gifts and bribery of employees or agents (§ 309 StGB),
13. money laundering (§ 165 StGB), provided that the assets arise from the offences 1 to 8, 9, 11 (second and third case) or 12; criminal associations or organizations (§§ 278 and 278a StGB), provided that they intend to commit the offences 1 to 9 or 11 (second and third case),
14. acts punishable pursuant to the StGB as well as to other laws relevant to criminal law, provided that they are related to the offences 1 to 13 and have to be prosecuted by the BAK by written order of a court or a public prosecutor's office,

15. acts punishable pursuant to the StGB as well as to laws relevant to criminal law concerning public employees of the Federal Ministry of the Interior, provided that they have to be prosecuted by the BAK by written order of a court or a public prosecutor's office.

In the cases defined in § 4, paragraph 1 (11-13), BAK-G, the BAK is only responsible if the extent of the punishment depends, pursuant to § 28, paragraph 1, sentence 2, Austrian Penal Code (StGB), on the above mentioned criminal offences.

(2) The Federal Bureau of Anti-Corruption has jurisdiction over investigations within the framework of international police cooperation and administrative assistance as well as for cooperation with the corresponding institutions of the European Union and the investigating authorities of the EU Member States in the cases referred to in § 4, paragraph 1. Regarding international police cooperation in the cases 1 to 13 the Federal Bureau acts as the national point of contact for OLAF, Interpol, Europol and other comparable international institutions. § 4, paragraph 1, of the Criminal Intelligence Service Austria Act (BKA-G), Federal Law Gazette (BGBl.) I No. 22/2002, remains unaffected.

(3) The BAK has to analyse corruption phenomena, gather information on preventing and combating them and develop appropriate preventive measures.

Reporting Centre

§ 5. Without prejudice to their duties to report defined by the Austrian Code of Criminal Procedure (StPO) 1975, Federal Law Gazette (BGBl.) No. 631/1975, law enforcement authorities or departments getting notice of a criminal offence defined in § 4, paragraph 1 (1-15), have to report this offence as soon as possible in writing to the Federal Bureau (duty to report). Federal employees must not be prevented from reporting allegations or suspicious circumstances concerning § 4, paragraph 1 (1-15), directly to the Federal Bureau without going through the official channels (right to report).

Cooperation with Other Authorities and Departments

§ 6. (1) Without prejudice to the duty to report defined in § 5, the law enforcement authorities or departments, unless otherwise ordered by the Federal Bureau or the Public Prosecutor's Office for Combating Economic Crime and Corruption (WKStA) (§ 20a, paragraph 2, Austrian Code of Criminal Procedure [StPO]), have to take all investigative measures that cannot be delayed, e.g. measures to prevent the imminent loss of evidence.

(2) For reasons of expediency, the Federal Bureau may assign certain investigations to other law enforcement authorities and departments. It may also order the respective entity to directly report to the Federal Bureau, at regular or specified intervals, on the progress of a case.

(3) The Federal Bureau may transfer investigations to other competent law enforcement authorities and departments if there is no particular public interest regarding the importance of the criminal offence or of the person investigated. The relevant public prosecutor's office has to be informed of such transfer.

Instructions

§ 7. Instructions given to the Federal Bureau regarding the investigation of a specific case have to be issued in writing and justified. An oral instruction issued in advance due to special reasons, in particular in the case of imminent danger, has to be issued in writing as soon as possible thereafter.

Commission for Legal Protection

§ 8. (1) To ensure specific legal protection regarding issues arising from the activities of the Federal Bureau, a Commission for Legal Protection, subordinate to the Federal Minister of the Interior and consisting of the Legal Protection Officer defined in § 91a of the Austrian Security Police Act (SPG) as well as of two additional members, is established.

(2) The two additional members referred to in paragraph 1 are appointed by the Federal President on the proposal of the Federal Government and after consultation with the Presidents of the Constitutional Court, the Administrative Court and the Supreme Court for a period of five years. Appointments may be renewed.

(3) A person may not be appointed as additional member such as defined in paragraph 1 if he/she has held the position of Director or Deputy Director of the Federal Bureau in the previous twelve years. Furthermore, for the appointment of the additional members, the rules on incompatibility set out in § 91b, paragraph 1, of the Austrian Security Police Act (SPG) apply.

(4) The appointment as an additional member expires in the case of renunciation or death, or when the new appointment or the reappointment becomes effective.

(5) In order to carry out the administrative work of the Commission for Legal Protection, the Federal Minister of the Interior has to provide the necessary equipment and personnel.

(6) The members of the Commission for Legal Protection are entitled to receive remuneration commensurate with the time and effort required. The remuneration is calculated according to the fixed rates set out in the regulation on the remuneration of legal protection officers (Federal Law Gazette [BGBl.] II No. 427/2000).

Duties and Rights of the Commission for Legal Protection

§ 9. (1) The Commission has to investigate allegations concerning the activities of the Federal Bureau that are not manifestly unfounded if the persons concerned do not have a legal remedy at their disposal.

(2) The members of the Commission for Legal Protection are independent in the performance of their duties and not bound by instructions. They are subject to official secrecy.

(3) At any time, the Federal Bureau has to allow the Commission for Legal Protection access to all documents and records necessary for the performance of the Commission's duties and, at the Commission's request, provide it with free copies of individual files; in this respect official secrecy does not apply towards the Commission. However, official secrecy does apply regarding information and documents revealing the identity of persons or sources that – if made public – would endanger national security or the safety of persons, as well as regarding copies including information that – if made public – would endanger national security or the safety of persons.

(4) The Commission for Legal Protection may at any time report on its findings to the Federal Minister of the Interior or – where it deems appropriate – to the public. Moreover, the Commission for Legal Protection may address recommendations to the Federal Minister of the Interior or the Director.

(5) By 30 April of the following year at the latest, the Commission for Legal Protection presents an annual report on the performance of its functions to the Federal Minister of the Interior. In accordance with the right to information and inspection laid down in Article 52a of the Federal Constitutional Law (B-VG), the Federal Minister of the Interior has to make this report available, at its request, to the Permanent Subcommittee of the Parliamentary Committee on Internal Affairs for the evaluation of measures to protect the constitutional institutions and their ability to act.

(6) The Commission for Legal Protection is neither responsible for tasks of the security police or criminal police, nor is it an administrative or disciplinary authority. It has to report relevant facts to the competent authorities.

Staff Representation

§ 10. The staff of the Federal Bureau is represented by the central staff committee of the Federal Ministry of the Interior.

Cross References

§ 11. Whenever in this federal law another federal law is mentioned, reference is made to the version currently in force.

Equal Linguistic Treatment

§ 12. Whenever terms designating natural persons are used only in the masculine form, they shall refer equally to men and women. If these terms are applied to specific natural persons, the correct gender-specific form has to be used.

Entry into Force

§ 13. (1) This federal law shall enter into force on 1 January 2010.

(2) §§ 1, 4 and 6, paragraph 1, as amended by Federal Law Gazette (BGBl.) I No. 13/2012, shall enter into force on 1 April 2012.

(3) The title, short title and abbreviation, as well as § 4 (1) as amended by Federal Law Gazette (BGBl.) I, No. 65/2013, enter into force at the end of the day of their announcement.

(4) § 4, paragraph 1 (8b), enters into force at the end of the day of its announcement.

Regulations

§ 14. Regulations pursuant to this federal law may be passed following its publication but may not take effect before the entry into force of the federal law itself.

Implementation

§ 15. The Federal Minister of the Interior shall be entrusted with the implementation of this federal law.