

**.BAK**



REPUBLIK ÖSTERREICH  
**BUNDESMINISTERIUM FÜR INNERES**  
BUNDESAMT ZUR KORRUPTIONSPRÄVENTION  
UND KORRUPTIONSBEKÄMPFUNG

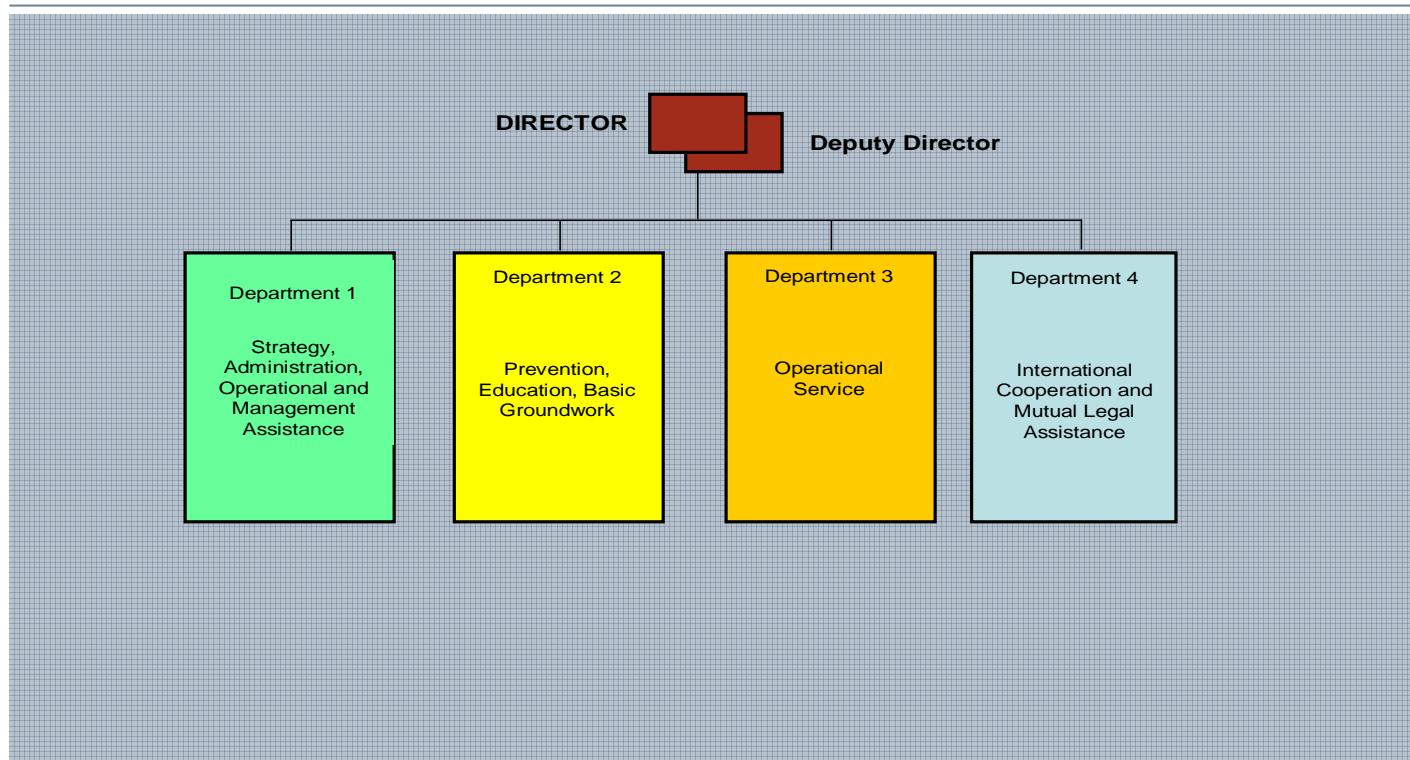
**Republic of Austria**  
**Federal Ministry of the Interior**  
**Federal Bureau of Anti-Corruption (BAK)**

**Robert KALENSKY**                      BAK – Investigator  
for „white collar“ - crime investigations

**topic: Introduce of BAK,  
current cases of BAK and  
the main - problems of  
corruption/economic - investigations (for an  
European/Austrian investigator)**

# STRUCTURES AND CHARACTERISTICS OF THE AUSTRIAN BUREAU OF ANTI CORRUPTION - BAK

- The organigram of BAK



## **STRUCTURES AND CHARACTERISTICS OF THE AUSTRIAN BUREAU OF ANTI CORRUPTION - BAK**

**3 different bureaus in this BAK - department 3 (operational service):**

- **Bureau 1 is for corruption-cases with “white-collar” investigations**
- **Bureau 2 is for all other corruption-cases**
- **Bureau 3 is for corruption and criminal offences in regard to the Ministry of the interior**

...all bureaus act in the whole of Austria, including the extraterritorial area  
(including Austrian embassies)

...not an authority for “Police oversight”

...also prevention and education departments (holistic approach)

# **STRUCTURES AND CHARACTERISTICS OF THE AUSTRIAN BUREAU OF ANTI CORRUPTION - BAK**

- **List of all the criminal offenses the BAK deals with:**
- 1. **abuse of official authority** (§ 302 of the Austrian Penal Code (StGB)),
- 2. **corruptibility** (§ 304 StGB),
- 3. acceptance of advantages (§ 305 StGB),
- 4. facilitation of corruptibility (§ 306 StGB),
- 5. **bribery** (§ 307 StGB),
- 6. offering an advantage (§ 307a StGB),
- 7. facilitation of bribery or of acceptance of advantages (§ 307b StGB),
- 8. **illicit intervention** (§ 308 StGB),
- 9. breach of trust due to abuse of an official function or due to involvement of an office holder (§§ 153 para. 2 case 2, 313 or in connection with § 74 para. 1 no. 4a StGB),
- 10. acceptance of gifts by rulers (§ 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 by employees or agents (§ 168c para. 2 StGB),
- 13. **money laundering** (§ 165 StGB), provided that the assets arise from the offences 1 to 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.

# Current BAK – CASE`s

- BAK - “white collar crime cases” (mostly embezzlements and corruption)

Some current BAK – economic investigations:

- a bank-collapse with a damage of about 1 Billion Euro for the Republic of Austria
- a bank-collapse with a damage of more than 1 billion Euro for the Republic of Austria and additional more than 3.5 billion Euro for the “Free State of Bavaria”
- a corruption case in connection with former privatizations in Austria (e.g.: a procurement for the price of approximate 1 Billion Euro)
- ... a few investigations on corruption with Austrian companies which pay bribes in Eastern Europe countries (e.g.: a sale of tanks for more than 550 million Euro)
- All these cases have the same that they are a mixture of political and often also of a structural problem (superiors have no control over their employees)...  
... and the greatest problem for the investigators: all these cases and investigations do not stop on the Austrian border....(this problem bring me to the next sheets...)

## **EXPERIENCES AND MAIN-PROBLEMS IN THE INVESTIGATIONS**

- **1.) Media always criticizes the investigators on why economic and corruption cases need so much time.**
- to explain with an example:
- in my current corruption – case we have confiscated about 3.6 Terabyte of data.
- A file folder with 500 papers needs about 80 Megabyte of data on our computer – program.
- This would be about 42.500 pieces of file folders
- ...3 investigation - officers (and 2 prosecutors) in this case....
- it is not possible for an investigator to look at all these papers.

## EXPERIENCES AND MAIN-PROBLEMS IN THE INVESTIGATIONS

- **2.) Far too few (qualified) economic investigation - officers.**
- A comparison - try to explain with my example:
- Remember my current case – 3 investigation officers and 2 prosecutors – therefore in fact 5 investigation persons.....
- .... have to investigate against about 30 suspect persons with at least one lawyer (but often more lawyers than one) and mostly a complete legal – affair – department at the company's side

# EXPERIENCES AND MAIN-PROBLEMS IN THE INVESTIGATIONS

- **3.) Bad laws in European countries for police investigations (and very slow ways when you have requests on the official way)**
- For example again my real case/experience:
- an official request to Switzerland (but I have to mention: it is not a typical problem of Austria and Switzerland – you can choose any European country...)

The chain of duty for my (example-)request:

BAK – public Prosecutor's office in Austria – ministry of justice in Austria – ministry of justice in Switzerland – prosecutor's office in Switzerland – police in Switzerland – they basically did my request -

prosecutor's office in Switzerland - ministry of justice in Switzerland - ministry of justice in Austria - Prosecutor's office in Austria – BAK ....

- ... the request took 12 months to be answered!...
- (hopefully we did not have another additional request and have to send this again ...).



## EXPERIENCES AND MAIN-PROBLEMS IN THE INVESTIGATIONS

- all ways for official requests (Interpol, Eurojust, Europol, etc...) - too slow for present times of “globalization”
- Police would need more bilateral ways, international data bases and better – direct friendships between police – forces in Europe.

## **EXPERIENCES AND MAIN-PROBLEMS IN THE INVESTIGATIONS**

- **4.) Too small salary for highly qualified economic investigator - officers.**
- education of an economic – investigator takes years and is never ending
- suspects in economic or corruption cases you are sitting opposite of often/always earn plenty of the salary the investigator do (...and I am sure in former Eastern European countries or other places in the world the difference of the salaries is even bigger).