

National Anti-Corruption Strategy Austria



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Vienna, 2023

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Preamble

Security and protection are among the most important tasks of a constitutional state and contribute to social peace in our society. The fight against corruption is a challenge for our society that concerns all areas of our social and political life. The effects of corruption in the public and private sectors include not only material, but also immaterial damage and lead to a loss of public confidence in the state and its ability to fulfil its duties.

Driven by the ideas of the rule of law, proper administration, integrity and transparency, it is therefore necessary to address this challenge holistically by preventing, deterring, combating and prosecuting corruption and to take a strategic approach to this task.

The task of the National Anti-Corruption Strategy (Nationale Anti-Korruptionsstrategie or NAKS) is to take into account the dynamic development of corruption phenomena as well as the current and future challenges in the fight against corruption and to effectively counter them through strategic, sustainable preventive measures and criminal prosecution.

An effective strategy requires the gradual pursuit of the objectives of prevention and repression in equal measure. In this respect, criminal law on corruption has been adapted several times in recent years. The Anti-Corruption Act 1964, the Criminal Law Amendment Act 1971, the Second Anti-Corruption Act 1982, the Criminal Law Amendment Act 1998, the Criminal Law Amendment Act 2008, the Corruption Criminal Law Amendment Act 2009, the Criminal Law Competence Package 2010, the Corruption Criminal Law Amendment Act 2012 and the Corruption Criminal Law Amendment Act 2023 were milestones in the development of the law.

The National Anti-Corruption Strategy was developed in a broad context and discourse in fulfilment of the requirements and recommendations of international instruments such as the UN Convention against Corruption (UNCAC) and international standards in the fight against and prevention of corruption. To this end, it was also possible to benefit from the experience and expertise of the international community, which was gained through intensive intergovernmental exchange.

In the knowledge that an effective anti-corruption strategy based on broad acceptance can only be supported with the involvement of all areas of government, society and the economy, it is necessary to strengthen cooperation between society, the public sector, all public legal entities and the economy. Successful implementation depends to a large extent on the active participation of the sectors that have committed themselves voluntarily.

Numerous rounds of talks with experts from the public sector (at federal, regional and municipal level), business and civil society served as the basis for developing the prevention section of the strategy in an endeavour to take all national, cultural, political, social and economic circumstances into account in a holistic manner. These discussion rounds were organised to assess the status quo of corruption prevention in Austria. This promoted a productive dialogue, which represents a significant step in the direction of a holistic fight against corruption.

Recognising the already advanced and committed efforts of the public sector, civil society and business to prevent corruption, this strategy provides a guideline for deepening and broadening the scope of existing efforts.

1 National Anti-Corruption Strategy (NAKS)

1.1 General framework

The strategy focuses on the commitment to integrity, the will to national and international cooperation, the promotion of transparency - especially in the public sector - and the sensitisation of the public and private sectors. The National Anti-Corruption Strategy (*Nationale Anti-Korruptionsstrategie* or NAKS) is a clear signal and the basis for a framework for action for all relevant stakeholders from the public sector, civil society and the private sector in order to effectively prevent and combat corruption in Austria. The NAKS forms the strategic framework for this and is supplemented by an action plan with measures for implementation.

1.2 Structure of the National Anti-Corruption Strategy

The National Anti-Corruption Strategy was adopted by the Federal Government in the Council of Ministers on 31 January 2018. The presentation and submission of the strategy took place as part of the meeting of the Coordinating Body on Combating Corruption at the Federal Ministry of Constitution, Reforms, Deregulation and Justice on 1 March 2018. The strategy initially provided for an action plan with measures to be submitted, which were to be operationalised every two years. The coordination for the creation and updating of the action plan fell to the Coordinating Body on Combating Corruption, while the Federal Bureau of Anti-Corruption (*Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung* or BAK) was given responsibility for collecting and collating the measures submitted by authorities and organisations. In October 2022, the Coordinating Body on Combating Corruption approved the evaluation report for the period 2019-2021. The experiences and findings from this report have been incorporated into this slightly adapted version of the NAKS.

The NAKS describes the strategic framework for a systematic approach to the implementation of measures to prevent and combat corruption by the public sector, civil society and the private sector. It defines the framework conditions for the strategy and provides a clear structure for successful implementation. The focus of the participating stakeholders from the public sector, civil society and the private sector is on implementing the measures in the action plan and achieving the targets set within the specified period.

The NAKS is divided into the areas of „Prevention“ and „Prosecution“. The Federal Bureau of Anti-Corruption is responsible for the „Prevention“ part based on the Federal Bureau of Anti-Corruption Act (BAK Act).

The Federal Ministry of Justice is responsible for criminal prosecution. They ensure the adaptation of the legal framework for the sustainable implementation of the NAKS, particularly in the implementation of international and European legal requirements.

Each of the two areas has strategic priorities of their own. Objectives and measures for achieving these objectives are developed in the action plan for each strategic focus.

1.3 Action plan for the National Anti-Corruption Strategy

The action plan is developed on the basis of the NAKS and contains clear objectives with concrete measures to prevent and combat corruption, which are drawn up independently by the participating actors in accordance with the strategic priorities of the NAKS. The action plan also sets out the responsibilities and competences for implementing the measures.

The NAKS Action Plan now provides for the operationalisation of the measures in a three-year cycle, at the end of which the measures are always evaluated to determine whether the objectives have been achieved. The evaluation of the action plan also makes it possible to draw conclusions about the strategic framework of the NAKS. The evaluation is based on quantitative and qualitative indicators and assesses the current status of the operationalisation of the action plan.

The monitoring and evaluation mechanism enables a regular assessment and evaluation of the implementation of the individual measures of the action plan and creates the information basis for the further development of the action plan at the end of a three-year cycle.

1.4 Implementation of the National Anti-Corruption Strategy

This strategy represents a medium-term framework that sets out fundamental objectives and lists specific measures. The objectives are operationalised every three years on the basis of an action plan, taking into account available resources and external influences. The implementation of the strategy is based largely on the principle of cost neutrality and resource conservation. Accordingly, existing resources are utilised first and foremost. The participating institutions and organisations are required to provide sufficient budgetary and personnel resources for the implementation of the action plan.

The NAKS provides for the establishment of a function to coordinate the agendas of the participating institutions and organisations. The so-called NAKS Coordinators serve as the central points of contact for all NAKS-related agendas. Their task is to coordinate activities related to the creation and implementation of measures to achieve the objectives, monitoring, evaluation and ongoing development of the action plan.

Clear responsibilities and competences must also be ensured for the participating institutions and organisations for the implementation of the measures in the action plan.

The participating institutions and organisations carry out the planned measures to achieve the objectives within their own area of responsibility and within the framework of the respective legal provisions.

2

Anti-corruption system in Austria

In Austria, the anti-corruption system consists of various institutions and bodies to ensure a broad presence and effectiveness in all relevant areas. The individual ministries are responsible for implementing compliance measures and promoting integrity in the public sector in their respective areas of responsibility, including the Federal Chancellery, for example.

The following institutions and bodies are responsible for preventing and combating corruption in Austria:

2.1 Coordinating Body on Combating Corruption

By resolution of the Council of Ministers on 29 January 2013 and based on a recommendation by the Council of Europe Group of States against Corruption (GRECO), the Austrian Federal Government established the Coordinating Body on Combating Corruption. This body is based at the Federal Ministry of Justice and meets several times a year. Its permanent members are representatives of various institutions and organisations. All federal ministries and all nine Austrian regions (*Bundesländer*) are represented, as are the Austrian Association of Towns and Municipalities, the audit offices of the federal government and the regions, the Austrian Federal Economic Chamber, the Public Service Trade Union, the Trade Union of Municipal Employees, the Central Public Prosecutor's Office for Combating Economic Crime and Corruption, the Federal Bureau of Anti-Corruption and Transparency International – Austrian Chapter.

As an information and communication platform, the Coordinating Body on Combating Corruption fulfils a coordinating function in matters of preventing and combating corruption. It participates in a broad exchange of information on national and international developments as well as in initiatives to prevent and combat corruption.

2.2 Federal Chancellery

A separate organisational unit for compliance and corruption prevention has been set up in the Federal Chancellery.

Its main tasks in connection with the NAKS are:

- the coordination regarding the NAKS in the Federal Chancellery;
- the identification and assessment of compliance risks and compliance-relevant issues in the Federal Chancellery and the development of recommendations based on these;
- the establishment, development, regular review and improvement of compliance management in the Federal Chancellery;
- participation in compliance-relevant legal measures and in audits by national and international auditing bodies;
- suggestions to the responsible organisational units for the (further) development of compliance-relevant standards.

The Federal Chancellery has been involved in the design of the NAKS from the outset and is also part of the strategy team for the further development of the NAKS.

2.3 Civil Service and Administrative Innovation Directorate General

The Civil Service and Administrative Innovation Directorate General in the Federal Ministry for Arts, Culture, Civil Service and Sport continuously implements initiatives to further strengthen integrity in the federal civil service as part of its coordination competences with regard to federal personnel management. This includes both the ongoing review and, if necessary, revision of civil service regulations in the directorate general's area of responsibility as well as measures at sub-legislative level, such as the co-design of the NAKS. The Federal Academy of Public Administration (VAB) provides comprehensive training and further education programmes at federal level, particularly in the areas of corruption prevention, compliance and integrity.

2.4 Federal Bureau of Anti-Corruption

The Federal Bureau of Anti-Corruption (BAK) is an institution of the Austrian Federal Ministry of the Interior. It is de lege organisationally located outside the Directorate General for Public Security and is responsible nationwide for

- the nationwide prevention of and fight against corruption
- close cooperation with the Central Public Prosecutor's Office for Combating Economic Crime and Corruption, and

- performing central functions in the area of security and criminal police cooperation with foreign and international anti-corruption organisations.

The BAK was significantly involved in the development of the NAKS from the very beginning and plays a coordinating role in the evaluation and further development of the strategy.

2.5 Central Public Prosecutor's Office for Combating Economic Crime and Corruption

The Central Public Prosecutor's Office for Combating Economic Crime and Corruption (Wirtschafts- und Korruptionsstaatsanwaltschaft – WKStA) is a criminal prosecution authority that concentrates the necessary competence and expertise for the qualified and efficient prosecution of major economic and corruption offences.

The WKStA is responsible for

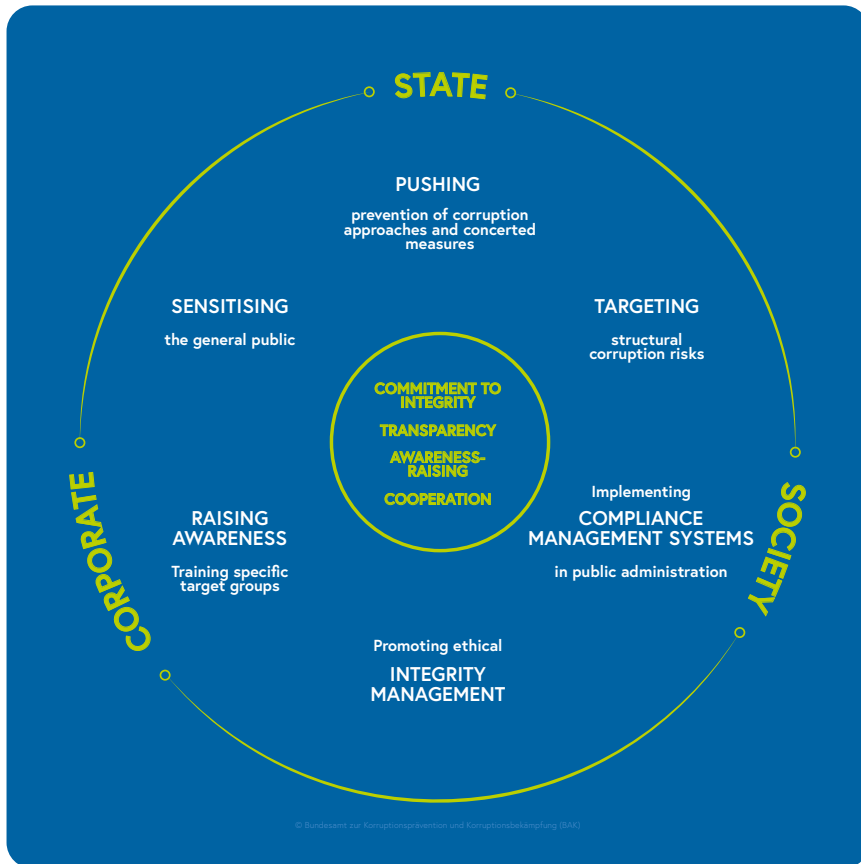
- the prosecution of white-collar crime, corruption and corresponding organisational offences,
- the conduct of large and complex proceedings for white-collar criminal offences as well as proceedings for abuse of official authority and corruption due to special public interest because of the significance of the offence to be investigated or the identity of the suspect(s),

- the performance of central functions in the area of judicial mutual legal assistance and cooperation with the competent bodies of the EU/the judicial authorities of the EU Member States for corresponding offences, and
- is responsible for bringing charges and representing them in the main proceedings and in the proceedings before the Higher Regional Court in the related cases.

It is located at the headquarters of the Vienna Public Prosecutor's Office and has branch offices in Graz, Linz and Innsbruck.

3 NAKS – corruption prevention part

Article 5 of the United Nations Convention against Corruption (UNCAC) contains the explicit obligation of the signatory states to develop and implement policies and practices to prevent corruption. Austria fulfils this systemic obligation by creating a national anti-corruption strategy in the area of prevention.



3.1 Principles



Commitment to integrity	Establishing, promoting and deepening an active commitment to the importance and responsibility of corruption prevention in all areas
Cooperation	<p>Austria-wide cooperation to establish and expand corruption prevention in the public sector</p> <p>Cross-border cooperation at bilateral, international and supranational levels to achieve these goals</p> <p>Cooperation in the development and promotion of corruption prevention between the public sector and civil society, and – where possible – inclusion of the economic sector</p>

Transparency	<p>Promoting transparency about activities and decision-making processes in the public sector in accordance with the legal framework</p> <p>Maximising the provision of information to civil society to promote trust in the civil service</p>
Raising awareness	<p>Raising awareness in the public and private sectors while promoting public discourse</p> <p>Encouraging and supporting civil society initiatives to prevent corruption by providing information and raising awareness</p>

3.2 Strategic priorities of the NAKS corruption prevention part

The strategy is intended to make a significant contribution to defining goals, setting priorities and implementing effective measures in the area of corruption prevention. The aim is to promote and ensure integrity and transparency in the public sector, politics and business in the long term. These initiatives should serve to maintain, sustainably secure and expand the high level of trust the population has in „their“ civil service.

Promotion of corruption prevention measures	<p>The systematic exchange of best practices and new approaches in corruption prevention and integrity promotion between the public and private sectors, with the intensive involvement of civil society, is institutionalised in existing bodies and promoted through the development of special platforms.</p>
Compliance management systems	<p>The increased implementation of compliance management systems (CMS), particularly in the public sector, will bring together, systematise and further develop existing measures to promote integrity and prevent corruption. Attention is paid to the comparability and verifiability of the systems.</p>
Reduction of structural corruption risks	<p>The systematic identification and reduction of potential corruption risks and particularly corruption-prone areas of responsibility require the systematic use of specific risk analyses as well as generally applicable, transparent and continuous audit and monitoring mechanisms.</p>

4 NAKS – corruption prosecution part

Integrity management	Civil service staff is informed, sensitised and trained to a particular extent with regard to the promotion of integrity through holistic, target group-oriented and coordinated measures. Integrity officers (Integritätsbeauftragte) play a key role here.
Raising public awareness	Comprehensive measures ensure that the public is informed and sensitised to corruption phenomena. Efforts by civil society to prevent corruption, transparency and integrity are promoted and cooperation with the media and business in the prevention of corruption is strengthened.
Raising awareness and training specific target groups	Focusing on specific target groups and areas, the development of networks of integrity officers is also supported outside the public sector. The topics of corruption prevention and integrity promotion are increasingly included in school and university curricula.

The criminal prosecution part of the National Anti-Corruption Strategy is based on the following basic principles:

- rule of law and effective prosecution;
- effective authority structure and sufficient resources;
- cooperation and coordination;
- implementation of international and European legal requirements.

4.1 Principle of the rule of law and effective criminal prosecution

The strategic priorities in this area are:

- ensuring the rule of law in criminal proceedings, including the acceleration of investigation procedures in strategic and temporal terms;
- ensuring clear and practicable criminal provisions (both in substantive criminal law and in procedural law).

An effective fight against corruption requires clear and practicable criminal provisions and procedural regulations. It is therefore important to continue to regularly review whether the current provisions are comprehensive and effective. Particular attention should be paid here to feedback from business, politics and academia as well as to the evaluation mechanisms of international organisations. If a need for action is identified, corresponding legislative amendments should be implemented as soon as possible. With regard to the

principles of the rule of law and legal certainty, care must be taken to ensure that the laws are formulated clearly and comprehensibly and guarantee effective application.

These principles apply not only to the criminal provisions and the procedural regulations for natural persons, but also to the regulations on the liability of associations and on proceedings concerning associations, which can be found in the Act on the Liability of Associations (Verbandsverantwortlichkeitsgesetz – VbVG).

The Corruption Criminal Law Amendment Act 2023 (Federal Law Gazette I No. 100/2023) amended the Criminal Code in the area of combating corruption, the Act on the Responsibility of Associations, the Federal Act on the Election of the National Council and the Federal Act on the Election of Members of the European Parliament:

- definition of „candidate for office“ and extension of criminal liability for bribery and corruption to such candidates for office;
- introduction of the criminal offence of „buying a mandate“;
- introduction of an additional qualification where the value of the benefit exceeds 300,000 euros for all public corruption offences;
- restriction of the exception to criminal liability in Section 305 para. 4 no. 2 Criminal Code;
- increasing the cap on a daily sentence in the Act on the Liability of Associations to three times the amount.

If there is suspicion that a criminal offence has been committed, this must be investigated ex officio by the criminal investigation department and the public prosecutor's office without delay. If a conviction is likely on the basis of sufficiently clarified facts, the public prosecutor's office must file charges with the court. The court must conduct the proceedings swiftly while safeguarding the rights of all parties to the proceedings.

The Federal Ministry of Justice's Reporting Obligations Decree 2021 reduced the public prosecutor's reporting obligations to the Federal Ministry of Justice within the framework of the applicable laws and simplified the reporting process:

- fundamental revision of the Reporting Obligations Decree in the interests of better structuring and easier readability;
- clarification that only project and information reports are to be submitted;
- simplification of information reporting and
- reduction of project, information and group reports.

4.2 Principle of effective authority structure and sufficient resources

The strategic priorities in this area are

- demand-oriented optimisation of the authority structure;
- securing the necessary personnel resources;

- strengthening competence through further professionalisation and specialisation through demand-oriented training and further training of public prosecutors;
- increasing the competence and specialisation of the prosecution authorities.

In order to ensure effective criminal prosecution, the authorities must have the necessary infrastructure and sufficient personnel with the required competences. This is all the more important as the issues in criminal law relating to corruption are usually very complex and extensive. While remarkable developments have taken place in this area in recent years, it is essential to continue to expand competences, provide adequate resources and promote cooperation between different authorities at national and international levels.

The public prosecutor's office for corruption, which was initially created on 1 January 2009, was gradually expanded with the criminal law competence package to become a central, i.e. nationwide, Central Public Prosecutor's Office for Combating Economic Crime and Corruption (WKStA). For some time now, experts from the non-prosecution sector have been working at the WKStA to support the prosecutors, both from the business sector and IT experts.

On 1 July 2015, a branch office of the WKStA was established in Graz in order to offer public prosecutors not resident in Vienna who are interested in white-collar criminal law and combating corruption the opportunity to work at the WKStA. Further branch offices were set up in Linz and Innsbruck in 2017.

In the current legislative period, the WKStA has been significantly strengthened by the following measures in particular:

- Based on the personnel plan for 2020, the WKStA received four additional permanent positions in salary group 2 or „St 2“. As a result, the number of posts available to the WKStA was increased by 10% from 40 to 44.
- In accordance with the request of the head of the WKStA, a third permanent position of a first deputy was created and, in addition, one permanent „St 1“ position was reserved for the assignment of a public prosecutor.
- Furthermore, three „A1 / 3“-level posts were created for the professionalisation of media work with the 2022 personnel plan, one of which benefited the WKStA.

Finally, in the interests of transparency and objectivity, the 2nd Civil Service Law Amendment 2022, Federal Law Gazette I No. 205, also created the possibility of systemising positions for a group leader at the WKStA, which are to be filled after the conclusion of formal proceedings.

In accordance with Section 32a of the Court Organisation Act, the Vienna Regional Court for Criminal Matters has specialised court divisions to ensure that the main proceedings are conducted swiftly in cases with an extremely large number of parties or particularly complex circumstances.

Since spring 2013, the WKStA has had an internet-based, anonymous whistleblower system specially designed for investigations into business and corruption offences.

4.3 Principle of cooperation and coordination

The strategic priorities in this area are

- strengthening the Coordinating Body on Combating Corruption;
- cooperation between the competent authorities for the prosecution of corruption offences and in the context of representation in European and international bodies.

The Coordinating Body on Combating Corruption should continue to promote the exchange of information on issues relating to combating corruption in Austria. In particular, as part of its mandate, the Coordinating Body should act as an information hub on the implementation of measures to prevent and combat corruption in connection with the national anti-corruption strategy. In accordance with the statutory procedural provisions, the WKStA works closely with the BAK in criminal law relating to corruption.

In addition, the strengthening of cooperation between the competent authorities should lead to the creation of synergies and the best possible use of the respective resources as well as to ensuring the effective representation of Austria in bodies, mechanisms and working groups of international and European organisations and institutions.

4.4 Principle of implementation of international and European legal requirements

In particular, Austria is a party to the following conventions or a member of the following groups:


- the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which entered into force on 19 July 1999;

- the OECD Working Group on Bribery in International Business Transactions;
- since 2000, the Convention on Combating Bribery in the European Union;
- the United Nations Convention against Corruption (UNCAC) since its ratification on 11 January 2006;
- since 1 December 2006, the Council of Europe's Civil Law Convention on Corruption;
- the Council of Europe Group of States against Corruption (GRECO) since 1 December 2006;
- since 2014, the Council of Europe's Criminal Law Convention on Corruption and the Additional Protocol to this Convention.


Compliance with and implementation of the requirements and European and global standards resulting from these and other international legal instruments is reviewed as part of several evaluation mechanisms to which Austria belongs. In addition to the Council of Europe Group of States against Corruption (GRECO), these currently include in particular the OECD Working Group on Bribery in International Business Transactions, the UNCAC Review Mechanism and the EU Rule of Law Report. On 3 May 2023, the European Commission also presented a proposal for a directive based on Art. 83 para. 1 of the Treaty on the Functioning of the European Union to combat corruption through criminal law.

In cooperation with:

 **Federal Ministry**
Republic of Austria
Interior
Federal Bureau of Anti-Corruption

 **Federal Chancellery**
Republic of Austria

 **Federal Ministry**
Republic of Austria
Justice

 **Federal Ministry**
Republic of Austria
Arts, Culture,
Civil Service and Sport