



VOLKSANWALTSCHAFT

# Report

of the Austrian Ombudsman Board  
to the National Council  
and the Federal Council

2013

International Version



## Preface

Pursuant to Austria's Federal Constitution, the Austrian Ombudsman Board (AOB) has independently and impartially monitored Federal, state and local public administration since 1977. Once a year, its members submit a report on its ex-post control activities to the National Council and the Federal Council outlining the AOB's work, priorities and main findings during the past year.

Since 2012, the AOB is also competent for preventive monitoring and assumes these new duties as National Preventive Mechanism (NPM) jointly with the commissions that it has established. A separate report gives an account of the first full year of the AOB's new role to protect and promote human rights and give reasons for, preventive monitoring and control decisions.

The AOB's preventive work was already effective in 2013: Deficits were identified and rectified in a number of cases and measures for improvement were initiated. However, the AOB not only has a monitoring mandate, it also aims at educating about the importance of human rights, informing about the latent dangers of a human rights violation and spreading awareness.

Yet these innovations do not mean that the AOB's traditional tasks of monitoring complaint-based administration have lost importance. The number of citizens approaching the AOB with their concerns remains high and even increased significantly compared to 2012. The figures provided will demonstrate the importance of the AOB's role as an institution ensuring legal protection.

International co-operation and networking continued and intensified. Time and again, procedures can be corrected by exchanging experiences with similar institutions and facilities abroad. This also benefits Austria's reputation as a country, which carefully monitors and promotes the observance of human rights.

This report presents the key figures for 2013 in detail in the performance record and outlines the most important monitoring results of the AOB's ex-post monitoring, revealing structural weaknesses which are illustrated with examples. As usual, the structure matches the responsibilities of the different ministries. Finally the report also offers an overview of the AOB's international activities.

We would like to thank the employees of the Austrian Ombudsman Board, who have made it possible for us to start on a strong basis and for work to continue seamlessly. Our particular thanks go to Ms Terezija Stoisits and Mr Peter Kostelka, whose term in office as members of the AOB ended in June 2013, for the many years of commendable work. Last but not least, the AOB would like to thank the Federal Ministries and other federal, regional and municipal bodies for their willingness to cooperate this past year.



Gertrude Brinek



Peter Fichtenbauer



Günther Kräuter

Vienna, August 2014



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## 1. Introduction

In 2013, the Austrian Ombudsman Board (AOB) and its commissions were able to successfully continue its previous work as NPM. The AOB also, and above all, ensured that the previous year's realignment took hold, enabling new roles to apply efficient administration practice. It should be noted that in July 2012, the AOB was entrusted by the Federal Constitution with the task to protect and promote the observance of human rights and of the rights of persons with disabilities in Austria and it assumed these new duties as National Preventive Mechanism (NPM) jointly with the commissions it established. The AOB gives account on its activities as NPM in a special report. In addition to its national tasks, the AOB also plays an important international role. This results in three main priorities, illustrated in more detail below:

(1) As an institution protecting citizens' rights, the AOB must help citizens to obtain their rights if they feel that public administration has treated them unfairly. Investigating individual complaints also serves as an indicator of the administration's operation and can point towards deficits or undesirable trends in public administration. Finally, the administration is monitored to promote transparent, efficient and citizen-friendly procedures as well as clear decision-making processes.

Efficient and citizen-friendly administration

(2) The AOB's preventive activities aim to prevent violations of human rights and of the rights of persons with disabilities, whenever possible, or at least to make such violations improbable. For this purpose, the commissions set up by the AOB carry out comprehensive, routine visits to places of detention and observe police operations. The commissions' findings help to identify deficits in the system based on individual cases, which could constitute a latent risk for human rights violations and therefore require rapid and efficient responses. Preventive activities do not need a trigger but run routinely.

NPM activity to protect human rights

(3) For years, the AOB has encouraged international co-operation, a fact which is also reflected in the International Ombudsman Institute (IOI), whose General Secretariat is located at the premises of the AOB. Cross-border networks gained further importance when the AOB accepted its new tasks as National Preventive Mechanism (NPM). An exchange of experiences with other NPM institutions must now be ensured, so that comparable methods can be developed for monitoring activities. These activities allow Austria to meet its obligation to participate in asserting human rights standards across the world.

International networking

The need for monitoring increased further in the reporting year: 19,249 people approached the AOB. This is the largest number of complaints in the AOB's history, and an increase of nearly a quarter compared to the year before (2012: 15,649). In 4,000 cases, the AOB was not the right point of contact. However, the AOB offers advice and information even when it is strictly speaking not responsible. It is extremely important to the AOB to provide at least some clarification to those citizens who contacted the AOB in matters which do not fall within its mandate.

Number of complaints up significantly

In contrast to previous years, the majority of complaints in 2013 related not to the social sector but to problems regarding internal security issues. This is due to the great increase in complaints relating to the law on asylum and the law on aliens. This is followed by complaints on social matters; the number of complaints in this area has remained almost unchanged since last year and has levelled off at a high level. The increase in complaints relating to the penal system is noteworthy. The AOB believes this to be a consequence of the many visits and consultation days at correctional institutions

Sensitise general public to human and citizens' rights

However, the AOB's roles do not relate exclusively to monitoring and ensuring that human rights as well as the rights of persons with disabilities are observed. It is not only a case of identifying undesirable trends, presenting them for discussion and ensuring that deficits are rectified. The AOB also considers its role to foster the awareness process so as to achieve an end to this "culture of looking the other way" in the case of undesirable trends or deficits.

The next aim is to compile a long list of reform tasks. It will only be possible to realise this with the help of members of parliament.

## 2. Overview

### 2.1 Legal mandate

The Austrian Ombudsman Board (AOB) has been controlling and monitoring public administration in Austria by order of the Federal Constitution for 37 years. As a result, the AOB examines the entire federal public administration, including its activities as holder of private rights, to identify grievances and possible maladministration. Everybody can approach the AOB when having a problem with an Austrian authority, once no further legal remedy against the grievance is available. The AOB must follow up all admissible complaints and inform those affected of its results. If cases of maladministration are suspected, the AOB can also act on its own and initiate official investigative proceedings. In addition, if the AOB arrives at the result that an ordinance contradicts the law, it is authorised to apply for its repeal to the Austrian Constitutional Court.

Monitoring public administration

The AOB's competences widened significantly as of July 2012: By order of the Federal Constitution, the AOB is now also responsible for the protection and promotion of human rights. As National Preventive Mechanism (NPM), the AOB and its expert commissions examine around 4,000 public and private institutions and facilities where persons are or can be deprived of their liberty. These include correctional institutions, retirement and nursing homes, psychiatric facilities and crisis centres. In addition to this, the AOB monitors institutions and facilities as well as programmes for persons with disabilities in order to prevent exploitation, violence and abuse. The AOB and its commissions further observe and assess executive bodies and officers of administrative authorities authorized to issue direct orders and carry out coercive measures, particularly during (forced) returns and manifestations.

Preventive monitoring to protect human rights

These new competences implement two important UN human rights conventions, ensuring broad preventive human rights protection in Austria: The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the provisions of the UN Convention on the Rights of Persons with Disabilities (CRPD). The results of the work of the NPM are published in a separate report.

### 2.2 Structure

The Austrian Ombudsman Board consists of three members appointed for six years at a time. At the end of April 2013, the National Council appointed Günther Kräuter and Peter Fichtenbauer as the AOB's new members, who will replace Peter Kostelka and Terezija Stoitsits as of 1 July 2013. Gertrude Brinek, Ombudsman since 2008, was confirmed for a second term in office.

New members since 1 July 2013

Ombudsman Günther Kräuter is responsible for social matters as well as the care and health sector. At the federal level, his area of responsibility includes health matters, pension and accident insurances, labour market administration, as well as the family and youth sector. At the regional level, his tasks comprise the areas social and health care administration, youth welfare, matters concerning persons with disabilities, animal protection and veterinary practice. In addition to this, Mr Kräuter assumed the position of Secretary General of the International Ombudsman Institute (IOI) in July 2013.

Ombudswoman Gertrude Brinek is responsible for matters regarding the federal administration of the judiciary, the penal system, public prosecution, taxes, fees and duties as well as the authority for the protection of historical monuments. At the regional level, Ms Brinek deals with municipal administrations and all local matters, cemetery administration as well as communal or municipal public transport services.

Ombudsman Peter Fichtenbauer's area of responsibility on the federal level includes police law, the law on asylum and the law relating to aliens, national defence, agriculture, forestry and water management, natural conservation and environmental protection, trade and operating plants, nurseries, schools and universities. At the regional level Mr Fichtenbauer examines matters of traffic and agricultural and questions relating to regional and municipal taxes.

The AOB employed an average of 90 employees in 2013, organisationally allocated to the three areas of responsibility of each member of the AOB, the administration or the international department.

Six expert commissions set up for country-wide visits

In July 2012, the AOB set up six commissions with a total of 48 part-time members to meet its constitutional mandate to protect and promote human rights. They perform regular visits to places of detention and institutions and facilities for persons with disabilities across the country. The commissions further observe the behaviour of executive bodies and officers of administrative authorities authorized to issue direct orders and carry out coercive measures. By co-operating, the commissions and the AOB uphold the National Preventive Mechanism (NPM).

Human Rights Advisory Council as advisory body

In addition to this and also since July 2012, a Human Rights Advisory Council has been acting as an advisory body to the AOB. It offers advice to the members of the AOB when setting general monitoring priorities and prior to issuing determinations of maladministration or recommendations. It can make recommendations on how to harmonise courses of action and monitoring standards. Non-governmental organisations and ministries nominated the 32 members and substitute members through equal representation. The *Laender* are also represented on the Advisory Council. Ms Renate Kicker, Chairperson of the Human Rights Advisory Council, and Ms Gabriele Kucsko-Stadlmayer, Deputy Chairperson\* of the Human Rights Advisory Council, were appointed by the AOB.

\*in January 2014 Andreas HAUER succeeded Ms Kucsko-Stadlmayer as the Council's Deputy Chairperson

## 2.3 Facts and figures

### 2.3.1 Preventive control and monitoring activities

In 2013 a total of 530 visits were performed within the AOB's preventive mandate. Of these, 465 fell within the mandate as NPM relating to institutions and facilities where persons are at risk of being exposed to cruel, inhuman or degrading treatment or measures depriving them of their liberty; 96 % of these visits were unannounced. 465 NPM visits

The institutions and facilities to be monitored by the AOB fulfil different functions and - based on their functions - can be classified as different institution types. The statistics of the visits follow this system of classification. In detail, visits were made as follows: 89 visits to police departments, 52 to correctional institutions, 84 to youth welfare institutions and facilities, 67 to institutions and facilities for persons with disabilities, 106 to retirement and nursing homes, 63 to psychiatric wards at hospitals and medical facilities and 4 to military barracks.

The commissions further observed the behaviour of executive bodies and officers of administrative authorities when issuing direct orders or carrying out coercive measures in a total of 65 instances. In most cases, (forced) returns and manifestations were observed; 61 % of these visits were unannounced. 65 observations of police operations

The majority of visits took place in Vienna and Lower Austria. It is worth noting here that these are the two biggest *Laender* with a very high institution density.

The commissions' observations and findings are recorded in standardised reports of their visits. These form the basis for subsequent investigation and for the AOB's final assessment. In many cases, the AOB as NPM must contact the supervisory authorities and the parties responsible for the institutions and facilities in order to identify possible deficits in the system and to develop suggestions for improvements together. During the reporting year, the NPM successfully completed its work on 234 visit reports compiled in that year.

Prior year data is not available, so a comparison to the previous year usually provided in monitoring statistics is not possible in this performance record. The AOB and its commissions took over its preventive monitoring duties as of 1 July 2012.

A separate English report gives account on the first full year of the AOB's new role to protect and promote human rights and presents the activities of the National Preventive Mechanism (NPM) for 2013.

## Preventive Monitoring 2013

	Visits to institutions and facilities	Observations of orders and coercive measures
Vienna	131	33
Burgenland	22	1
Lower Austria	99	2
Upper Austria	52	3
Salzburg	20	8
Carinthia	27	0
Styria	50	1
Vorarlberg	15	0
Tyrol	49	17
<b>TOTAL</b>	<b>465</b>	<b>65</b>
<i>(of which unannounced)</i>	<i>(449)</i>	<i>(40)</i>

## 2.3.2 Monitoring of public administration

Complaints up by 23 % A total of 19,249 people approached the AOB with their concerns last year. This means that the AOB received an average of 77 complaints per working day. The number of complaints went up by 23 % compared to last year. In 8,003 cases (approx. 42 %) the AOB initiated formal investigative proceedings. In 7,194 additional complaints, there was insufficient evidence of maladministration and the AOB provided information about the legal situation and additional advice to the citizens. A total of 4,052 concerns did not relate to the AOB's mandate. In these cases, the AOB also provided information and advice about other advisory services.

Key Figures	2013	2012
Complaints regarding administration	15,197	11,748
Investigative proceedings	8,003	7,048
Federal administration	5,110	4,529
Regional/municipal administration	2,893	2,519
Handled without investigative proceedings	7,194	4,700
Complaints outside AOB mandate	4,052	3,901
<b>TOTAL number of handled complaints</b>	<b>19,249</b>	<b>15,649</b>

The AOB's monitoring activities relate to the entire public administration, including all authorities and offices whose role is to enforce federal laws. The AOB initiated a total of 5,110 investigative proceedings in federal administration. This corresponds to an increase of 13 % compared to last year.

In contrast to previous years, complaints regarding internal security issues have now overtaken the social sector as the main reason for complaints. In his area of responsibility, Ombudsman Peter Fichtenbauer recorded 1,393 complaints which resulted in investigative proceedings. This is an increase of one quarter compared to last year. Approx. 27 % of all proceedings relate to this area. This development was already apparent in previous years. In 2012, every fourth complaint dealt with matters regarding internal security. This is due to the great increase in complaints relating to the law on asylum and the law regarding aliens. They were relevant not just to the Federal Ministry of the Interior but primarily to the Asylum Court (*Asylgerichtshof*).

Complaints most frequently relate to internal security issues

Complaints regarding social matters, which fall into the area of responsibility of Ombudsman Günther Kräuter, rank second. With 1,238 investigative proceedings initiated, a quarter of all proceedings relate to this particularly sensitive area. The number of complaints was nearly constant compared to last year (2012: 1,246). Primarily, complaints were triggered by assessments of the stage at which care and nursing allowance is paid and problems with pensions and unemployment benefits. Matters relating to persons with disabilities continue to rank high on the list of complaints. The existence of many people simply depends on the fact that social benefits are being granted. Complaints therefore must be clarified rapidly.

Every fourth complaint concerns social matters

A total of 935 investigative proceedings were initiated based on complaints about the administration of the judiciary. As a result, they fell into the area of responsibility of Ombudswoman Gertrude Brinek. This corresponds to a share of 18 % of all investigative proceedings. Complaints in this area went up by 38 % compared to last year. This was due to an increase in the number of individual complaints about the penal system - a result of the commissions' activities as part of the AOB's new tasks as National Preventive Mechanism. The AOB's monitoring responsibility comprises administration of the judiciary, correctional institutions, the penal system and delays to court proceedings.

Administration of the judiciary: Number of complaints up significantly

Investigative proceedings in federal administration (initiated in 2013)	number	%
Federal Ministry of the Interior	1,393	27,28
Federal Ministry of Labour, Social Affairs and Consumer Protection	1,238	24,24
Federal Ministry of Justice	935	18,31
Federal Ministry for Transport, Innovation and Technology	364	7,13
Federal Ministry of Finance	358	7,01
Federal Ministry of Science, Research and Economy	190	3,72
Federal Ministry of Agriculture, Forestry, Environment and Water Management	187	3,66
Federal Ministry of Family and Youth	187	3,66
Federal Ministry of Health (excl. health and accidental insurance)	75	1,47
Federal Ministry of Education and Women's Affairs	62	1,21
Federal Ministry of Defence and Sports	57	1,12
Federal Chancellery	38	0,74
Federal Ministry for Europe, Integration and Foreign Affairs	23	0,45
<b>TOTAL</b>	<b>5,107</b>	<b>100</b>

\*Three cases did not fall into the remit of any of the Ministries and are therefore maintained as files to be handled by the Chairperson of the AOB

#### Complaints up in regional and municipal administration

According to the Federal Constitution, the *Laender* can mandate the AOB with monitoring public administration on a regional and municipal level as well as all *Laender* with the exception of the Tyrol and Vorarlberg made use of this. In total, the AOB performed 2,893 investigative proceedings of regional and municipal government administration in 2013. Complaints in this area went up by 15 % compared to last year (2012: 2,519).

Unsurprisingly, the highest proportion of cases relates to Vienna (36 %), the *Land* with the highest population. Lower Austria ranks second with 20 % of cases followed by Styria (13 %) and Upper Austria (12 %). Complaints in all *Laender* with the exception of Carinthia went up compared to last year. The highest increases were identified in Upper Austria and Salzburg (+19 %), followed by Lower Austria (+18 %) and Vienna (+15 %).

Investigations of regional and municipal government administration	2013	2012	Change in %
Vienna	1,063	924	15,0
Lower Austria	583	493	18,3
Styria	385	338	13,9
Upper Austria	368	309	19,1
Carinthia	185	191	-3,1
Salzburg	162	136	19,1
Burgenland	147	128	14,8
<b>TOTAL</b>	<b>2,893</b>	<b>2,519</b>	<b>14,8</b>

Most complaints at regional and municipal level relate to youth welfare and the needs-based minimum benefit system. As a result, the increase in this area continues in 2013, as shown by the number of cases assigned to Ombudsman Günther Kräuter (817 compared to 617 in 2012). A total of 666 cases were due to problems in regional planning and building law and as such fell within the area of responsibility of Ombudswoman Gertrude Brinek. Ombudsman Peter Fichtenbauer focussed his investigative activities on problems relating to the execution of the law on Austrian citizenship.

Priorities of the *Laender*

Complaints relative to regional and municipal government administration - focal points	number	%
Social welfare, youth welfare	817	28,24
Regional planning and housing, building law	666	23,02
Municipal affairs	404	13,96
Citizenship, voter register, traffic police	261	9,02
Finances of the <i>Laender</i> , regional and municipal taxes	163	5,63
Health care system and veterinary sector	148	5,12
Regional and municipal roads	132	4,56
Educational system, sports and cultural matters	83	2,87
Office of the <i>Land</i> Government, public services and compensation law for regional and municipal employees	52	1,80
Trade and industry, energy	50	1,73
Agriculture and forestry, hunting and fishing laws	47	1,62
Nature conservation and environmental protection, waste management	40	1,38
Transport and traffic on regional and municipal roads	29	1
Science, research and arts	1	0,03
<b>TOTAL</b>	<b>2,893</b>	<b>100</b>

Maladministration in 16 % of cases

A total of 9,161 cases were closed during the reporting year. This is a slight reduction of 2 % compared to last year. A case of maladministration was determined in 1,444 cases. This means that 16 % of all complaints were justified. In the case of six investigative proceedings the members of the AOB jointly determined a case of maladministration and issued recommendations. In 4,338 cases, the members of the AOB did not identify a need for complaints.

Support beyond investigative mandate

In 1,215 further cases, investigative proceedings could not be initiated because official proceedings were still pending or further legal remedies were still available; 1,284 complaints related to topics outside the AOB's investigative mandate; 178 were not suitable for handling based on the relevant regulation. However, the AOB strives to offer support in such cases as well: It establishes contact with the authorities responsible and suggests possible solutions to those affected. The complaints were withdrawn in 696 cases. On average, the AOB informed those affected of its findings within 47 days.

By order of the Federal Constitution the AOB is authorised to act on its own and initiate an investigative proceeding ex-officio if it has reason to suspect any case of maladministration. The members of the AOB made use of this right as in previous years and initiated 61 ex-officio investigative proceedings (2012: 58).

61 ex-officio  
investigative  
proceedings

Resolved complaints relative to regional and municipal government administration	2013	2012
No maladministration found	4,338	4,306
Maladministration on the part of the authorities	1,444	1,519
Complaints outside the AOB mandate	1,284	1,311
Investigative proceeding currently inadmissible (administrative proceeding still ongoing)	1,215	1,362
Complaint retracted	696	643
Complaints not suitable for handling (per the relevant regulations)	178	167
Cases which the Board jointly determined as cases of maladministration and issued a recommendation	6	7
Challenges to regulations	0	0
<b>TOTAL</b>	<b>9,161</b>	<b>9,315</b>

### 2.3.3 Budget and Staff

In 2013, due to budgetary reforms, the AOB's budget structure dramatically changed, as did the budgetary structure of the entire federal administration. The AOB's federal budget statement is now split into a cash flow statement and an operating statement. The cash flow statement presents incoming and outgoing payments. The operating statement shows appropriately accrued income and expenses.

Increased budget due  
to new competences

In 2013, the AOB had access to a total budget based on the cash flow statement of EUR 10,209,000 i.e. EUR 10,115,000 based on the operating statement. The difference between the cash flow statement and the operating statement (EUR 94,000) is largely due to depreciation of property, plant and equipment and expenses arising out of allocations to reserves (severance payments, length-of-service bonuses), which only affect the result. As a consequence, only the cash flow statement is discussed below, as only this statement presents the actual cash flows.

The cash flow statement includes personnel costs of EUR 5,592,000 and general administrative costs of EUR 3,628,000. General administrative costs include e.g. payments made to the commissions and to the Human Rights Advisory Council,

expenses relating to mandatory expenditures for AOB members, administration internships, print materials, energy and other expenditure. In addition, the AOB also makes total transfer payments of EUR 868,000 towards the pensions of former AOB members and of widows of former AOB members. Finally, EUR 95,000 remained for expenditures for property, plant and equipment and EUR 26,000 for advance payments of salaries.

A budget of EUR 1,450,000 was planned to allow the AOB to meet its new competences according to OPCAT from 1 July 2012 and to pay the AOB’s commissions and Human Rights Advisory Council in 2013. Approximately EUR 1,148,029 were budgeted for remuneration and travel costs for the members of the commissions (six months in 2012: EUR 574,000) and around EUR 95,000 for the Human Rights Advisory Council (six months in 2012: EUR 50,000). EUR 200,000 (six months in 2012: EUR 100,000) were available for commission workshops and for the AOB’s employees working in the OPCAT sector, as well as for statements of opinion.

Federal budget statement of the AOB <i>(in millions of Euros)</i>			
2013 - Cash flow statement		2012 - Federal budget estimate	
10,209		9,278	

  

Personell costs		General administrative costs	
2013	2012	2013	2012
5,592	4,925	3,628	3,460

  

Transfers		Property, plant and equipment, advanced salary payments	
2013	2012	2013	2012
0,868	0,808	0,121	0,085

*Comment:* Comparative values from 2012 were incorporated into the new budget structure and are therefore only comparable to a limited extent

73 established positions

In early 2013, the AOB cut down on another established post and now has a total of 73 established posts in the personnel plan of the Federal Government. If part-time staff and staff with limited weekly hours, interns and delegates from other local bodies are included, an average of 90 people work at the AOB. This figure does not include the 48 members of the six commissions nor the 34 members and substitute members of the AOB’s Human Rights Advisory Council.

### 2.3.4 Citizenfriendly communication

#### Communication with the Public

- 224 consultation days with about 1,379 personal contacts
- 7,850 people contacted the AOB personally or by phone
- 17,307 people wrote to the AOB (6,115 women, 9,796 men, 1,396 groups)
- 29,210 documents comprised the AOB's correspondence
- 14,352 letters and e-mails were sent to authorities
- 100,000 hits were registered on the AOB's website

The AOB's success can also be measured based on its acceptance among the population. This in turn is demonstrated by how much the population makes use of its services. The figures above impressively show that many citizens approach the AOB if they feel that public administration has treated them unfairly. The fact that contacting the AOB is very easy and informal plays an important role here. Complaints can be made in person, by phone or in writing. The service hotline is available for free for anyone looking for assistance. Consultation days give citizens in all *Laender* the opportunity to discuss their concerns with one of the members of the AOB in person. This service is also used intensively: 224 consultation days with more than 1,300 personal talks took place in the reporting year. This number is up from last year (2012: 213 consultation days).

AOB highly accepted among population

Consultation days	2013	2012
Vienna	80	52
Lower Austria	30	32
Styria	25	21
Upper Austria	20	27
Salzburg	20	24
Carinthia	18	21
Burgenland	16	14
Tyrol	10	14
Vorarlberg	5	8
<b>TOTAL</b>	<b>224</b>	<b>213</b>

It is especially important for the AOB to continually inform the general public of its competences and activities. In addition to broader publicity work last year, particularly the AOB's TV show "*Bürgeranwalt*" ("Advocate for the People") aired on public television has had a wide-ranging effect for more than ten years, making it an important platform for the AOB's concerns. Around 304,000 households watch the AOB's commitment to finding solutions for the population's problems with the authorities each week.

New publication for children and adolescents

In the reporting year, the AOB also focused on informing children and adolescents of their rights as citizens and on encouraging them to claim these rights. The publication "*Junge Menschen und ihre Rechte*" ("Young People and Their Rights") by Ombudswoman Brinek, released in November 2013, helped with this project.

Last but not least, the AOB's website is another important source of information. Up-to-date notifications and numerous service offers, including the online complaint form, make this website highly attractive for a growing number of users. The complaint form was downloaded 1,200 times in 2013 and the website accessed around 100,000 times.

### 2.3.5 Events

AOB open to dialogue

Each year, the AOB organizes numerous events. These are aimed at varied target groups and demonstrate the AOB's willingness to engage in an open dialogue with pupils and student groups, specialists in Austria and abroad as well as representatives of authorities, ministries and other organisations. In addition, the AOB took up many invitations from external event organisers. Three targets were especially important during 2013: (1) involvement of civil society, (2) networking with national and international organisations and associations pursuing similar targets as the AOB, (3) informing the general public of the AOB's activities and sensitising the general public to human and citizen rights. The examples shown below aim to be a guide to the broad range of events.

Involvement of NGOs

On 8 April 2013, the members of the AOB held a so-called „NGO Forum“. Around 70 participants from across Austria took the opportunity to find out more about the AOB's work to date as National Preventive Mechanism and to swap experiences with the AOB, the members of the Human Rights Advisory Council and the expert commissions. Silvia Casale, former Chairperson of the UN Subcommittee on Prevention of Torture (SPT) and the European Committee for the Prevention of Torture (CPT) and advisor to the European NPM project, attended this event as an international representative. In her presentation, she provided an external view as to Austria's performance in implementing the UN Human Rights Conventions compared to other countries. The NGO Forum also enabled the AOB to start intense discussions with NGOs, which also engage in the protection of human rights but are not represented on the Human Rights Advisory Council. Their involvement is instrumental in the effectiveness of the AOB's work because their wide-ranging

experience can indicate possible deficits and serve as an important trigger for monitoring visits.

The AOB holds so-called networking meetings twice a year, most recently on 16 October 2013. The purpose of these events is to swap experiences in a structured context with associations and institutions and facilities with whom the AOB has concluded co-operation agreements. These can include associations under professional custodian, patient advocate and resident's representative laws as well as the ombudsmen for children and adolescents. These regular meetings are to prevent duplication of work and increase the effectiveness of the institutions and facilities involved by agreeing on uniform courses of action.

Swapping experiences in a structured context

During the law talks at the European Forum Alpbach, Ombudswoman Gertrude Brinek and Ombudsman Peter Fichtenbauer discussed the topic "Experiences with the law – The public as a value" with well-known legal experts. The focus was on the question of whether the law reaches citizens and how much transparency is actually possible when setting and applying standards.

Sensitising the general public to human and citizens rights

On the occasion of the International Human Rights Day, the AOB and the Austrian Institute for Human Rights in Salzburg held a panel discussion with Ombudsman Günther Kräuter, the Chairperson of the Human Rights Advisory Council Renate Kicker and the head of one of the NPM commissions, Reinhard Klaushofer. The discussion explored what level of protection is required for human rights in Austria.

### 2.3.6 Development of staff and organisational structure

The new human rights mandate significantly changed the content and working environment at the AOB. In its second year as National Preventive Mechanism (NPM), the AOB aimed at further strengthening this new focus in 2013. The effectiveness of the NPM depends heavily on maintaining positive co-operation with the expert commissions and monitoring according to international standards. As a result, further education and organisational development measures focus primarily on these aspects. Targets specifically included optimizing the co-operation between the commissions and the AOB, solidifying a joint understanding of the monitoring standards and ensuring expert dialogue both nationally and internationally.

Focus on co-operating with the commissions

Continuing the previous year's educational programme, workshops with the commissions took place in March and November 2013, the purpose of which was to exchange experiences in human rights monitoring. The AOB and the commissions reflected on their experiences in working as the NPM so far. The monitoring standards for visits were another area of focus. The aim of the workshops was to establish uniform courses of action for visits and to set normative standards taking account of the specific requirements of different types of institution. Once again, Ms Silvia Casale was available as international expert.

Exchanging experience with the commissions

Organisational development continues The organizational development process, which started in 2012, continued in 2013. Given the change in the members of the AOB, a workshop for them as well as their respective Chiefs of Cabinet took place in July. Specific work steps were agreed on, which seemed sensible and necessary for the NPM’s further development. During this process, work on the database for visit reports was also stepped up and a policy was developed as a basis for examinations by the AOB’s commissions. This draft has been discussed and refined with the commissions since the end of November 2013.

Four projects, which the AOB tendered at the beginning of September, formed the core of this process; legal experts from the AOB staff were invited to actively participate in these projects. The first project dealt with defining two key terms which are central to the AOB’s work: maladministration and human rights violation. The objective of the second project was to look at how the AOB as NPM understands prevention. The third project compiled answers to the question which quality standards the NPM’s visit reports must observe. A fourth project group prepared a database, with the aim of facilitating the evaluation of the commissions’ findings. All projects were finished successfully with detailed project reports at the end of October. The work was presented to the commissions at the end of November and is being processed further in joint work groups in order to reach uniform definitions and effective standards.

More detailed information on the activities of the National Preventive Mechanism (NPM) for the year 2013 are available in a separate report.

### 2.3.7 International activities

#### International Ombudsman Insitute (IOI)

New Secretary General The International Ombudsman Institute (IOI) maintains a global network of around 160 independent ombudsman institutions in more than 90 countries. It is the only global organisation representing the interests of independent monitoring bodies for public administration. The General Secretariat of the IOI has been based within the AOB since 2009. Ombudsman Günther Kräuter was appointed Secretary General of the IOI on 1 July 2013, replacing Peter Kostelka in this role.

Two meetings of the IOI Board The Board of the IOI met twice in 2013, and reported on the activities and projects implemented during 2013. Eight ombudsman institutions joined the IOI as new members. As its main focus, the Board defined the development of a long-term strategic plan for the institute in the coming year. This is to be presented at the World Conference in Bangkok in 2016.

Extensive training offer As in previous years, the IOI offered its members extensive training and education measures in 2013, thus making an important contribution to increasing its expertise. For instance, the renowned training of Scotland’s Queen Margaret University (QMU) on complaint handling practices was held in Bangkok. An anti-corruption training

took place in Laxenburg in September 2013 in co-operation with the International Anti-Corruption Academy (IACA). At a “Sharpening your Teeth” training in Zambia, participants gained new skills for performing systemic investigative proceedings.

A total of EUR 45,000, generated by membership fee payments, was allocated to the support of regional projects. Seven ambitious projects passed the IOI’s selection process. The projects pursued very different targets, such as initiating an information campaign against human trafficking, developing human rights standards as benchmarks for the work of an ombudsman centre or developing a manual to evaluate the impact of investigative proceedings on public administration.

Regional subsidies

### International organisations

For the AOB, co-operating with international organisations is an important part of its work. The many years of close co-operation with the EU’s Fundamental Rights Agency or the active involvement in the OSCE dialogue on the tasks of National Human Rights Institutions (NHRIs), deserve a special mention. The AOB also makes use of the opportunity to report to the UN on the implementation of international human rights treaties in Austria.

Good co-operation with international organisations

During the official country review of Austria in September 2013, the AOB provided the responsible UN Committee on the Rights of Persons with Disabilities (CRPD) with details regarding Austria’s compliance with its obligations under the UN convention. In November 2013, before the official hearing, one of the AOB’s legal experts took part in a public meeting of the UN Committee on Economic, Social and Cultural Rights (CESCR) and explained the AOB’s perceptions of the problems of vulnerable persons, especially in terms of asserting economic, social and cultural human rights.

Involvement in country reviews

As NHRI, the AOB is also represented on the International Coordinating Committee of National Human Rights Institutions (ICC). Since October 2013, the AOB has been a member of the South-East European NPM Network, whose purpose is to exchange experiences and mutually support the implementation of NPM tasks.

### Bilateral contacts

The AOB used the opportunity of numerous working meetings to exchange experiences on an international level. In January 2013, the AOB welcomed the Federal Ombudsmen of Belgium to discuss their experiences as National Preventive Mechanism. At a workshop with Sir Nigel Rodley, Chairperson of the UN Human Rights Committee, the members of the AOB gave a report of their activities as National Human Rights Institution. Other guests in 2013 included a delegation from the Petitions Committee of the German Bundestag and the Director of the Department of Fundamental and Child Rights at the European Commission’s General Justice Directorate.

Exchanging experience across borders

### International conferences

Ombudswoman Brinek attended the 9<sup>th</sup> National Seminar of the European Ombudsman Network in Dublin. The AOB was also present at the 9<sup>th</sup> Human Rights Forum in Lucerne, which focused on the key topic "Human Rights and Persons with Disabilities" and attended a conference in Strasbourg organised by the Council of Europe, on the development of human rights standards for detaining migrants.

## 2.4 The members of the AOB take stock

### 2.4.1 Ombudsman Günther Kräuter

High expectations  
of the AOB

The new members of the AOB started their work on 1 July 2013, and I - as the current Chairperson of the AOB - am looking forward to taking on responsibility for the AOB's further development together with Ombudswoman Gertrude Brinek and Ombudsman Peter Fichtenbauer. On the one hand, we must be fully committed to our core task as an independent institution handling citizens' complaints. On the other hand, the OPCAT Implementation Act has created a new dynamic, which attracts great attention and high expectations. The development towards becoming the "Human Rights House of the Republic" has been formulated as a long-term target which we are progressing towards step by step in the next few years. Finally, I have been appointed Secretary General of the International Ombudsman Institute (IOI) and have been entrusted with the strategic tasks of the global network of ombudsman institutions.

An "internal analysis" in the last three quarters of a year has revealed to me that our employees have excellent social and technical competences. On the one hand, the staff is strongly committed to performing continuing tasks as professionally as usual. On the other hand, a strong innovative and pioneering spirit is also present: A great interest in mastering those new areas which can only be achieved in group and team work. I would like to say thank you to all those involved.

Complaint statistics do  
not reflect all problems

A look at the key figures for 2013 shows that the AOB received more complaints than ever before in its 37-year history. However, these figures are only meaningful to a limited extent, because not everyone who experiences problems with administration approaches the AOB. In particular, these figures cannot provide us with conclusions about problems in individual areas. For example, if in some *Laender* only a proportion of those potentially entitled to claim minimum benefit do so, then neither the number of complaints processed by the AOB nor any deficits identified are sufficiently reliable indicators for underlying, less tangible problems, which might also need to be resolved. What conclusions can the AOB draw from this? It is no doubt positive that more people are contacting the AOB. But this does not reduce the AOB's obligation to offer more target-group-based information and to make clear that it also feels responsible for the worries and existential needs of people who do not contact the AOB.

The experts in the multidisciplinary commissions help us to identify weaknesses, define human rights monitoring standards and determine cases of maladministration. It was a priority in 2013 to create the conditions for knowledge management based on co-operation. Specifically, the aim was to sum up the individual observations and research from individual cases of experts working on site in a coherent structural analysis. The involvement of the Human Rights Advisory Council as the AOB's advisory body during this process made it possible to take a close look at specific problems from different perspectives and to define national standards.

High level of expertise:  
Commissions and  
Human Rights Advisory  
Council

It is not only necessary to remind institutions of the specific human rights codified in international and national law. Politics also require such a reminder to ensure that they are taken into account in the balancing act between these and other entitlements. As a result, it is of great importance to the AOB to be entitled to attend and speak at the plenary sessions of all *Laender* governments. Currently, the AOB only does so in Vienna, Salzburg and Styria.

Right to attend and  
speak at sessions of all  
*Laender* governments

Especially my area of responsibility often deals with complaints regarding social matters. In the last few weeks, I have received a large number of complaints about the Austrian Public Employment Service, regarding courses, which apparently did not meet the agreed targets and quality requirements. Complaints were not just brought to my attention by elderly people on the brink of retirement, but also by highly qualified job-seekers, who were forced into apparently senseless training courses or who were assigned to beginner training in spite of their expert knowledge.

Social matters

Contrary to Article 15a of the Austrian Constitution, Styria is the only *Land* which stipulates a concept in which the parents and/or children of a person receiving benefits, are obliged to provide maintenance to compensate social welfare authorities for any minimum benefit or social welfare payments. This can only be qualified as clean break of the political consensus between the Federal Government and its *Laender* to the detriment of families. The AOB is once more asking that this unequal treatment should cease.

It is also unclear why there are still such profound deficits in basic care for asylum seekers in spite of clear national and international requirements. This is drastically evidenced by the identification of deficits and the AOB's recommendation regarding a facility for asylum seekers on the Saualm in Carinthia or similar institutions and facilities in Burgenland.

It is also particularly important to me to appeal to all political decision-makers to take seriously the results of the official country review by the UN Committee on the Rights of Persons with Disabilities. Any existing legal provisions with a discriminating effect must be replaced by general rules dedicated to the principle of inclusion. Compliance with universally applicable human rights must not fail due to the distribution of competences between the Federal Government and the *Laender*, which regrettably must - still - be emphasised.

### 2.4.2 Ombudswoman Gertrude Brinek

The past year brought a number of changes. The AOB's preventive activities unfolded to their full effect. It became apparent that the AOB is generally well-prepared to perform its new tasks assigned on 1 July 2012 both organisationally and in terms of content.

In this context, I would like to thank the former members of the Austrian Ombudsman Board, Ms Terezija Stoisits and Mr Peter Kostelka, who both completed their terms at the end of June 2013, for their excellent work and close co-operation. This allowed the new team at the AOB to continue its work seamlessly after 1 July 2013.

I believe that it is especially worth mentioning that federal and regional administration, as well as the directors of private institutions and facilities now subject to our visits, were consistently co-operative and made every professional effort to rectify any deficits identified and to launch improvement initiatives.

It was also new for the AOB that we are now legally required to offer education. This particularly relates to the human rights area. Not least because of my professional background, I focused strongly on young people.

New publication on young people's rights

The day before the International Day of the Child, the AOB presented its most recent publication "*Junge Menschen und ihre Rechte*" (Young People and Their Rights). This set a new focus on raising the awareness of young people of human rights and socio-political issues. In my opinion, human rights regrettably remain nothing more than a political claim until they have found a "home" in people's lives and have led to solid consequences. The rights of children (as specific human rights) must also be tangible and lived in everyday life. They only become effective for the long term once children and adolescents know their rights and can deduce the consequences. As an author and ombudswoman, I also hope that my book will make an active contribution to establishing human rights.

Close co-operation with educational institutions

We warmly invite pupils and students from across Austria to visit the AOB as part of their curriculum (and especially during their studies to become a teacher) and to get to know human rights work in theory and in practice. We also provide each school group with our publications for a closer look at the rights of the child and at human rights in general during lessons. Several classes already made use of this service during the reporting year, and I am hoping that interest will widen further in the coming years. To supplement this, I intensified my co-operation with the working groups "Teachers for Political Education". We are currently developing a concept for a teaching module called "Political education". The aim is not only to further promote the clarification and discussion of essential elements of the legal state but also to introduce the activities of the AOB. I would like to thank the Polis Centre at the Ludwig Boltzmann Institute for Human Rights and the representatives of NGOs for their co-operation so far, especially in the area of the rights of the child.

It was equally important to me - in making every effort to implement the new areas of activity at the AOB - to also remain fully available for people approaching the AOB for advice and help, and to not focus only on issues to do with public administration.

The significantly increased number of complaints during 2013 demonstrates that many citizens are struggling with the world (of public authorities), which is perceived as ever more complex. On the one hand, the information on offer grows each day. On the other hand, more and more people experience this as a "jungle" rather than helpful. Often, a feeling of powerlessness and unequal treatment clouds the relationship to legal institutions in general. As a result, complaints often focus first on personal plight and only secondly on failures of administration. This is particularly apparent in complaints about legal guardians. In this context, it is perceived as intensely degrading that those affected, often including their relatives, are not involved in decisions regarding everyday life, or of larger financial transactions. As ombudswoman, I am supporting efforts for improvements for this increasingly large group of individuals. I will miss no opportunity to draw the attention of the general public, politics and society to this problem.

Complaints often an expression of personal plight

I also come across such plight in the area of regional planning and housing as well as building law. This, in addition to municipal administration, is a main focus of my activities based on our new Allocation of Responsibilities and Duties. Quite possibly, buildings across Austria were once constructed contrary to permits and home-buyers at times only learnt about this decades later through the intervention of the building authorities and were then confronted with the legal and financial consequences. Nevertheless, action by the building authorities to restore legal conditions now puts many in genuine distress due to a lack of financial means. This is further intensified by the feeling that they were treated unfairly whereas their neighbours apparently remain unchallenged by the authorities, which is particularly problematic where we identify that this is actually the case. I can only stress yet again that the principle "no claimant, no judge" results in a severe loss of trust in public administration and that this should in no way be seen as a friendly gesture on the part of the authorities.

Unequal treatment results in a lack of trust

A large quantity of information and range of services is required especially during federal practice to make sure that citizens do not lose trust in the legal state. The AOB plans to offer help and information in full and as far as possible - wherever it can.

### 2.4.3 Ombudsman Peter Fichtenbauer

Monitoring remains a cornerstone of our activities

It was with great pleasure that I took up my role as a member of the Austrian Ombudsman Board on 1 July 2013. After working as a member of parliament for several years, I was already very familiar with the AOB and its responsibility for the population's concerns. The allocation of the new tasks under OPCAT may have attracted much media attention, but it is important to me to stress that monitoring of public administration continues to be a cornerstone of our activities as ombudsmen. Dealing with the complaints presented to the AOB is an important requirement of the Federal Constitution, which the AOB aims to meet to the best of its knowledge and in all conscience.

It is not infrequent for complaints to reveal neglect or undesirable trends in legislature when investigated. As such, the AOB's work often goes far beyond individual cases. I will not cease looking critically at the legislature and to present improvements to the National Council and the Federal Council. It is not always possible to be aware of all consequences in legislation. Some misjudgements or undesirable trends only show up in practice. However, the AOB is able to investigate just such cases and to offer important advice to the legislator.

Improvements to legislation as primary objective

It is very encouraging whenever the suggestions for the legislator made by the AOB are actually taken up, such as in the solution for so-called putative Austrians, which had been suggested since 1984. These are individuals who - much like the authorities - had believed all their lives that they were Austrian citizens. Since 1 August 2013, conditions for special acquisition have now been included in the Austrian Citizenship Act. As a result, those affected must now no longer undergo an arduous and expensive award process.

It is less encouraging if the AOB's suggestions for legislation are ignored even though their implementation is critically urgent. For instance, I could mention those World War II "relics" that remain hidden underground and come to light every now and then. Such discoveries generally attract great media attention because they endanger many people. The basic problem has not changed - even if now, it is no longer the mine clearing services of the Federal Ministry of the Interior, but the Federal Ministry of Defence and Sports, which is responsible for defusing these stray bombs. The landowners on whose properties such war relics are found must still bear the costs and risks of finding and unearthing them. A task which should be performed by the Republic of Austria.

Better security for soldiers

There are also many whose job it is to secure the safety of the general public, e.g. soldiers. I found out that their job security is not satisfactory. Instead of being offered a different role, soldiers injured in training (e.g. during exercises) are advised to leave voluntarily. This is not a case of maladministration, but rather one of insufficient legal provisions. In the police, precautionary arrangements are available for such cases. The same applies to former regular soldiers, who completed their military service before 1 January 2005. In spite of strenuous work, they are forced to accept reductions in pensions, because only 30 months are counted towards their pension.

However, people should also respect and acknowledge the important work performed by the authorities. When I heard in the media that a man sent in a photograph for his driving license of himself wearing a colander on his head and the authorities still accepted this photograph, I wanted to find out more. It turned out that this “joke” was not in line with legal requirements. People working for the authorities make an important contribution to ensuring that we can live together as we do. I consider jokes at their expense to be inappropriate. As an ombudsman, I expect the authorities to treat people correctly - and in the same way, I expect people to behave correctly towards the authorities. Respectful conduct is imperative.

One event in June 2013 will continue to occupy the AOB for quite a while yet: the floods which greatly impacted people in the Eferding Basin in Upper Austria. Looking back at the last 20 years or so reveals that dramatic flood events return at regular intervals. The Federal Government and the *Laender* are paying compensation to those affected - but extensive plans for protection measures are also under way. This takes time and money. It is my objective to move away from the current system of “distributing handouts” and to re-design payments for such disasters with a new insurance law system. Victims will then no longer depend on payments from disaster relief funds - as they do today. I am intending to present specific suggestions to the legislator in the future.

Re-design  
compensation for  
flooding

### 3. Ex-post control

#### 3.1 Anti-discrimination

##### 3.1.1 General perception

The importance of economic, social and cultural rights for minorities and groups at risk of discrimination is often underestimated in legislation and administration. There is still a lot to be done.

National Human Rights  
Action Plan

The Federal Government has set itself the objective of strengthening its commitment to human rights and the rule of law. As one measure, a “National Action Plan for Human Rights” is to be compiled with help from the AOB (Programme of the Austrian Federal Government 2013-2018, p. 75). This National Action Plan is to include existing sector action plans and show where there is a need for action.

The state is the main party responsible for ensuring that human rights obligations are observed, with society following second. Human rights in relation to the state include different obligations, which can be briefly summarised as duties of respect, protection and warranty duties. In relation to non-discrimination, this means above all that the state is not only obligated to take no discriminating measures itself. Its obligation to protect means that it must also guard against discrimination by private individuals and create legal and institutional conditions which allow victims to effectively defend themselves against discrimination by governmental and non-governmental actors. In addition, the observance of human rights assumes appropriate convictions and attitudes, which cannot be asserted with legal means alone.

Its many years of experience in monitoring administration have given the AOB an insight into the effects of administrative action on people’s everyday lives, where this results in discrimination or where this is not prevented. Discrimination and human rights violations are the most severe deficits imaginable in administration. In keeping with this, the AOB has always investigated human rights and discrimination in public administration. These tasks were further amplified and extended as of July 2012, when the AOB was assigned an explicit mandate under constitutional law to protect and promote human rights. Preventive monitoring and control aims to prevent human rights violations before they occur where possible. Both ex-post and preventive monitoring and control reveals how diverse the problems experienced by groups at risk of discrimination are.

The AOB also hopes to integrate the results of its investigative activities into the legislative process by making suggestions for draft laws and amendments for

existing legal provisions. For example, the most recent amendment of the Austrian Federal Equal Opportunities Act (*Bundes-Gleichbehandlungsgesetz*) incorporated several suggestions by the AOB to improve protection against discrimination and tools under constitutional law.

The AOB's recommendations and suggestions on administration and legislation always not only take into account national requirements but also Austria's international obligations and EU law on protection against discrimination, above all the European Convention on Human Rights (ECHR) and EU provisions as well as UN Human Rights Conventions.

It is worth mentioning in this context that in 2013, the AOB reported to two UN committees on its perceptions of whether and how Austria is currently meeting its obligations under international human rights conventions. In September 2013, the responsible UN committee (Committee on the Rights of Persons with Disabilities) evaluated the country report for Austria in respect of the implementation of the UN Convention on the Rights of Persons with Disabilities. A large proportion of the AOB's work relates to economic, social and cultural problems of groups at risk of discrimination, particularly persons with disabilities. We are happy that the AOB's work as National Human Rights Institutions (NHRI) and as an independent authority under Article 16 (3) UN CRPD was honourably mentioned in this Committee's General Comments. In November 2013, the fourth country report for Austria in respect of the implementation of the UN Covenant on Economic, Social and Cultural Rights was evaluated by the responsible UN committee (Committee on Economic, Social and Cultural Rights).

AOB reports to UN committees

Non-discrimination rules as structural principles of human rights protection are particularly important because they are an indispensable component of all human rights. They list characteristics, which cannot be used to justify preferential or discriminatory treatment. Examples include: skin colour, ethnic origin, sex, religion and ideology, language, political conviction, sexual orientation and sexual identity.

All of these human rights - freedom of faith, freedom of opinion, fundamental legal rights, the right to education, health and access to the labour market etc. - must be available to all persons without discrimination. Currently, these rights are attracting particular attention where discrimination results in people not having access to economic and social human rights, such as work, accommodation, education, health care or protection against life risks, or where such access is significantly impeded.

It is encouraging that the agenda of the new Federal Government includes the inclusion of persons with disabilities in all areas of life as one objective of its policies regarding persons with disabilities (Programme of the Austrian Federal Government 2013-2018, p. 54). It is not a new insight that restrictions suffered by persons with disabilities are not an unchangeable personal tragedy but are at least partially due to social prejudices and exclusion mechanisms. "Aid" and "compassion" for persons with disabilities must be replaced with full "participation"

Inclusion as the aim of policies on the rights of persons with disabilities

under equal rights in all areas of life. Equality without equal opportunities negates the different initial conditions of persons with disabilities, if the aim is to be able to design one's life based on one's own needs and desires. Equality without extensive accessibility only means opening doors without removing those barriers faced by persons with disabilities. Equality without inclusion means coercion to adapt to given structures, which leaves little space for individuality, identity and development. It is precisely because the principle of non-discrimination in UN CRPD is accompanied by the principles of inclusion, equal opportunities and accessibility that we must assume that factual and legal equality must be the aim of efforts contributing to humanization of cohabitation as a whole.

For instance, the AOB does not find it acceptable to accommodate younger mentally ill individuals or persons with multiple disabilities in retirement or nursing homes. The AOB is also pleading in favour of a de-institutionalization of care homes to enable persons with disabilities to live together in smaller, self-determined units.

Equal right to work and employment

Unequal treatment of persons with disabilities at work is another area in need of reform. In Austria, around 20,000 persons with disabilities work in occupational therapies. This is not viewed as gainful employment but as a disability aid measure. Persons with disabilities are not paid a wage for their work in such workshops but primarily a very small amount of pocket money. This occurs even where the institutions generate profits. The AOB considers such low pay to create a risk of exploitation for persons with disabilities. It is obvious that work to be performed must be assessed objectively and that an equal amount must be paid for equal work. Another problem consists in the fact that these occupations do not entail a claim to a pension so that persons with disabilities are in a worse position even if they receive a disability pension or orphan pension.

Relationship between disability and poverty

In the reporting year, the AOB scored a success in its work towards equal treatment of persons with disabilities in needs-oriented minimum benefit. An amendment was planned in Lower Austria, which specified that the minimum standard for adults with disabilities entitled to family allowances would be reduced by at least 25 %. The AOB vehemently opposed this suggestion and pointed out that there is a direct relationship between poverty and disability. The increased family allowance for adults with disabilities, who are likely to remain unable to integrate themselves into a work process in the long term, aims at covering the additional costs in respect of disabilities. However, marginalization and poverty intensify if dedicated government contributions, such as the family allowance, give rise to advance cuts of benefits under the needs-based minimum benefit system for persons with disabilities. The urgent appeals of the AOB and other institutions against this planned law amendment were successful. These objections have been incorporated in the recently passed law.

Discrimination against people with non-Austrian citizenship

Individuals with non-Austrian citizenship are one group frequently affected by discrimination. Their problems in obtaining family allowances were presented in detail in the last report to the parliament. Many problems were solved; others - such

as unjustified time limits to family allowances - still exist. This year, an important improvement was achieved in respect of care allowances for those entitled to subsidiary protection.

The situation of asylum-seekers regarding economic, social and cultural rights must also be classed as difficult. For instance, the AOB identified severe human rights violations in refugee accommodation during several investigative proceedings in the reporting year. Yet even individual accommodation does not provide sufficient care options. Asylum-seekers receive a maximum monetary amount for food, rent, clothes and allowance, which is significantly below the legally determined poverty line for Austrians and others entitled to live in the country. Since this poverty line represents a minimum standard for humane life and human rights are universally valid, egalitarian and indivisible, the AOB believes that the basic provisioning system must be adjusted in line with the minimum benefit system.

Work options and poverty line for asylum-seekers

In addition - particularly given the at times extended duration of asylum proceedings - the AOB considers it reasonable in respect of human rights to give asylum-seekers the opportunity to earn their living through work. So far, this is only possible within very strict limits. There is also little impetus for asylum-seekers to perform these legal jobs, which are limited in time, because their income is deducted from their basic allowance or their basic allowance is no longer paid at all. This means, for example, that asylum-seekers lose their accommodation and are only able to reapply for their basic allowance after their work has finished (e.g. during the max. six weeks of harvesting). This involves a high level of red tape and involves the risk of ending up in a different accommodation than before.

This - in no way comprehensive - overview demonstrates the complexity of problems faced by groups at risk of discrimination. In the following, several current cases are presented as examples.

### 3.1.2 Discrimination based on illness or disability

#### No wheelchair access to doctor's practice

Persons with disabilities must be granted the right to access free or affordable health care to the same extent and according to the same level of quality as persons without disabilities.

Accessible practices are rare

A young father of a family from Burgenland has been suffering from a severe muscular disease since 2011, making him dependent on an electric wheelchair. He regularly has to visit different doctors, which is difficult, because accessible national insurance practices in the city of Eisenstadt and the surrounding area are rare. The father of two cannot afford to visit the accessible Eisenstadt health centre because of the high consultation fees. His health insurance, the Burgenland Public Regional Health Insurance Office pays only a proportion of the costs for selected doctors.

No free choice of doctors

This situation is not in keeping with the international requirements of equal rights for persons with disabilities. The Austrian National Council of Disabled Persons - the umbrella organization for disability associations in Austria - also recorded in its 2013 report that the limited offer of accessible practices results in persons with disabilities only being able to visit the doctor of their choice infrequently. The AOB brought up this case in its TV show „*Bürgeranwalt*“ (Advocate for the People) that is broadcasted by the Austrian public broadcaster ORF and demanded that affordable access to health services be granted to persons with disabilities to the same extent and according to the same level of quality as for people without disabilities - as set out in Sections 9 and 25 UN CRPD. An improvement in the information regarding accessible access and facilities at doctor's practices was also requested.

Improvements have been announced

The Burgenland Public Regional Health Insurance Office promised in the TV show that it would make the necessary updates to its list of doctors for 2014 and provide details as to which practices are wheelchair accessible. However, the Burgenland Public Regional Health Insurance Office stated that it would not pay the full doctor's costs for the man in question.

The Burgenland Public Regional Health Insurance Office asserted that accessible access to consultation rooms has been a requirement for new insurance contracts since a master contract between the Central Association for Social Insurance Companies and the Medical Association for Burgenland from 1999. According to the responsible Federal Ministry of Health, similar agreements exist for Carinthia, Vorarlberg, Salzburg and Vienna. In terms of practices constructed and approved before 1999, the Burgenland Public Regional Health Insurance Office referred to the Austrian Federal Act on the Equalisation of Persons with Disabilities (*Bundes-Behindertengleichstellungsgesetz*). According to this, such practices must achieve

accessibility only from early 2016, if reasonable.

International institutions and the AOB have already repeatedly criticised this extremely long transition period. The AOB believes it to be urgently necessary to drive forward the renovation of doctors' practices to make them accessible.

Individual case: VA-BD-SV/1022-A/1/2013

## Government blocks employment of persons with disabilities

The Austrian Contractual Employment Act (*Vertragsbedienstetengesetz*) states that as a condition for employment, a person must have full legal competence. As a result, the Federal Ministry of Defence and Sports was only able to employ a young woman suffering from a mental disability as a kitchen assistant under a special agreement.

Persons with disabilities face great obstacles on the employment market - including in civil services. The example of a young woman with moderately reduced mental capabilities, who was represented by a legal guardian in her contact with the authorities and in terms of unusual legal transactions, demonstrates this yet again.

The young woman worked for a temporary employment agency, who placed her with the Federal Ministry of Defence and Sports as part of a project. She performed her tasks as kitchen assistance at General-Körner Barracks to the fullest satisfaction of her supervisors. The Military Command Vienna had the intention of offering her a full employment position. However, this was contrary to the Austrian Contractual Employment Act (*Vertragsbedienstetengesetz*), which states that a person must have full legal competence as a condition for employment.

Law prevents full employment in civil services

The AOB brought up this case in its TV show *„Bürgeranwalt“* (Advocate for the People) and demanded a solution from the Federal Chancellery responsible for employment. In the end, the Federal Ministry of Defence and Sports was able to agree a special contract to employ the young woman as a kitchen assistant with the Federal Chancellery's approval.

Recourse to special contract

In spite of this solution in an individual case, the Austrian Contractual Employment Act (*Vertragsbedienstetengesetz*) urgently requires an amendment. Recourse to a special contract cannot be the norm. It is incomprehensible that persons with disabilities should be in a worse position regarding employment in civil services than in private companies. The Federal Chancellery confirmed that it would re-evaluate this issue and that it would hold discussions both with social partners and the departments in the course of the next employment law update.

Legal amendment required

Individual case: VA-BD-BKA/0012-A/1/2013; GZ S91154/35-PMVD/2013

### 3.1.3 Discrimination on the grounds of nationality or ethnicity

#### Discrimination against individuals entitled to subsidiary security regarding care allowances

Since the Act to Reform Care Allowances (*Bundespflegegeldgesetz*) in 2012, individuals entitled to subsidiary security, who received basic care, were no longer paid a care allowance. The AOB criticised this course of action as contrary to European law. The Federal Ministry of Labour, Social Affairs and Consumer Protection now concurs with this legal interpretation.

Based on previous regional care allowance acts, individuals entitled to subsidiary security were able to claim a care allowance for the duration of their residence permit. In 2012, these regional care allowance acts were replaced by the Federal Act to Reform Care Allowances (*Bundespflegegeldgesetz*), which does not explicitly refer to individuals entitled to subsidiary care allowances as entitled to claim the allowance. Since then, the responsible Austrian Pension Agency has been rejecting applications for care allowances by individuals entitled to subsidiary security, who receive basic care.

Equal treatment in respect of core benefits is an EU requirement

This is contrary to applicable European law provisions, as demonstrated by the AOB. According to Section 28 of the EU Directive 2004/83/EC, member states are obligated to at least grant those core social benefits to individuals entitled to subsidiary security as are received by their own citizens. According to Recital No. 34 of the Directive, these core benefits include, for example, sickness benefits, and hence also the care allowance, because the European Court of Justice classes the Austrian care allowance as a benefit paid in the case of sickness (see also Greifeneder/Liebhart, *Pflegegeld*, 2013, marginal note 114; Peyrl, *Der Anspruch von Subsidiär Schutzberechtigten auf Pflegegeld*, ÖZPR 2013/77). The same can be said of the new EU Directive 2011/95/EU.

The Federal Ministry of Labour, Social Affairs and Consumer Protection now agrees with the AOB's legal interpretation and has amended its take on Section 3a (2) Z 1 Federal Act to Reform Care Allowances (*Bundespflegegeldgesetz*). Individuals entitled to subsidiary security can now also claim the care allowance if the other conditions are met - irrespective of whether they receive basic care or not. A consideration of the new Directive 2011/95/EU, which replaces the previous 2004/83/EC, also leads to this result.

Individual case: VA-BD-SV/0643-A/1/2013

## Human rights violations in accommodation for asylum-seekers

It is the aim of the basic care agreement (*Grundversorgungsvereinbarung*) according to Article 15a of the Federal Constitution to provide uniform standards for basic care institutions for asylum-seekers across the country. Hopefully, these standards will be available soon, and severe human rights violations at accommodation for asylum-seekers will be a thing of the past.

Around 20,000 asylum-seekers currently live in Austria. Most of them do not have money, are not allowed to work and therefore depend on the state for support. According to EU Admission Directive 2003/9/EC, or the new EU Directive 2013/33/EU, the member states are obligated to ensure that asylum-seekers in need of help receive appropriate accommodation and means of subsistence, which protects their private sphere and provides a minimum of autonomy in life. Failure to provide humane means of subsistence for asylum-seekers can also constitute a violation of the prohibition of inhumane or degrading treatment according to Article 3 of the European Convention on Human Rights (ECHR) (European Court of Human Rights, ECtHR, 21 January 2011, *M.S.S. vs. Belgium and Greece*, No 30696/09).

International obligation for humane conditions

Extensive AOB investigations in two *Laender* demonstrate that these international obligations are not always met. The investigative proceedings were triggered by media reports as well as reports from NGOs and private individuals, who approached the AOB with numerous complaints about deficits in several places of accommodation for refugees in Carinthia and Burgenland. The allegations primarily related to the so-called "*Saualm*" facility and to another institution in Carinthia, as well as to several basic care institutions and facilities in Burgenland.

Complaints about refugee accommodation

The AOB identified severe shortcomings during the investigative proceedings: At the refugee accommodation "*Saualm*", the hygienic conditions were hazardous to health. Food had sometimes gone off or was insufficient so that the people frequently went hungry. Hot showers and heating were at times permitted for only half an hour up to one hour per day. The facility's manager urged the asylum-seekers to perform illegal work on renovating the building without sufficient health and safety measures. The allowance was at times paid out with great delays. The security services commissioned by the *Land* Carinthia randomly inspected rooms using dogs and visibly wearing weapons and handcuffs. Prayers were disrupted needlessly. All of this made residents even more insecure.

AOB identifies human rights violations

Although traumatised asylum-seekers were housed at *Saualm*, no psychological support was available. With the exception of insufficient German lessons, the managers also provided no integration measures and instead hindered initiatives and support provided by the local population and the local priest. Bans on entering the property further hampered integration measures. Transport to residential areas was not provided in spite of a legal obligation to that effect, which was especially problematic because of the facility's remote location.

The AOB also found that access to medical care was insufficient. Asylum-seekers were not allowed to call a taxi for patient transport or emergency medical services and were forced to obtain the manager's approval first, which was rejected at least once. No physicians visited Saualm. Even adult residents were not allowed to access their medication because these were held and administered by the manager or security personnel.

*Land* fails to meet its monitoring role

Those responsible at the level of the *Land* Carinthia were largely aware of these courses of action and tacitly tolerated them for a year without demanding improvements. It is likely that the regional contacts appointed by the *Land* Carinthia were insufficiently qualified for their tasks. They were clearly unable to cope with fully documenting deficits. Whenever they reported deficits, the *Land* in many cases either failed to respond at all or did not respond appropriately. There was no complaint management, which forms the basis for compliance with legally prescribed monitoring of institutions and facilities.

The AOB also identified severe shortcomings at the second refugee accommodation in Carinthia for which complaints were received. The same applies to several such properties in Burgenland. Asylum-seekers were at times housed in inhumane conditions, subject to human rights violations and an objective health risk. Many accommodation managers failed to provide integration measures in spite of their legal obligation to this effect. Those responsible at the Burgenland administration were aware of these deficits and tacitly tolerated them for years. In spite of repeated criticisms by the AOB, asylum-seekers were still dismissed from basic care without notification.

Based on these results, the AOB's members unanimously agreed on 22 March and on 1 July 2013 that Carinthia and Burgenland are sites of human rights violations and deficits in respect of basic care. Not only were the regional basic care acts, the basic care agreement and EU law violated, but also human rights obligations such as the right to health and food and the prohibition of inhumane or degrading treatment according to Article 3 of the European Convention on Human Rights.

AOB demands compliance with human rights standards

The AOB urgently recommended that the regional government of the *Land* ensure appropriate provisioning for asylum-seekers in keeping with human rights standards. Psychological care and integration measures must be provided, and individuals from outside the accommodation must not be generally prohibited access. In addition, all asylum-seekers accommodated in basic care must be given self-determined access to medical care and good connections to the public transport network. Their security must be ensured as well as possible. It must be ensured that complaints from asylum-seekers are also pursued, and deficits must be rectified immediately.

The AOB recommended that the Federal Ministry of the Interior makes sure that all *Laender* meet their tasks according to the basic care convention, Article 15a of the Federal Constitutional Act and ensure care of asylum-seekers in humane accommodation in keeping with national and international standards.

In its statement to the AOB, the regional government of the *Land* Carinthia stressed in particular that both properties for which complaints were received were closed during the AOB's investigation. The regional government of Burgenland informed the AOB that additional, in some cases new, personnel were assigned to the basic care unit as a response to the AOB's investigation and that additional changes were also implemented.

Writing to the AOB, the Federal Ministry of the Interior stressed its efforts to develop uniform standards for basic care of foreigners across the country, particularly in relation to quality management. The Coordination Council of the Federal Government and the *Laender* set up a working group for this purpose at the start of 2013. According to media reports, the *Laender*, at the time that this report was compiled, had agreed on a draft for uniform minimum standards across the country.

Draft for minimum standards for the whole country

Hopefully, this will lead to fundamental improvements. All *Laender*, not just those subject to investigations, should examine whether their accommodation for asylum-seekers conforms with national and international requirements. The AOB will continue to follow up all complaints regarding care for asylum-seekers.

Individual cases: VA-K-SOZ/0025-A/1/2011, VA-B-SOZ/0015-A/1/2011 etc.

## 3.2 Federal Chancellery

### 3.2.1 Fundamental rights

#### Correct spelling of surnames with diacritic letters is a requirement of the Federal Constitution

For years, the AOB has been lobbying for a change to the software and hardware used by administration to save and display diacritic characters so as to allow surnames to be spelled correctly.

Right to respect for own name

Article 8 of the European Convention on Human Rights (ECHR) contains a right by order of the Federal Constitution to respect private and family life. In light of the relevant legislation by the Constitutional Court and European Court of Human Rights (see Collection of decisions of the Austrian Constitutional Court 13.661/1994 and 15.031/1997 as well as the rulings by the European Court of Human Rights in the case "Burghartz" dated 22 February 1994 and the cases "Stjerna" and "Guillot" dated 25 November 1994 and 24 October 1996), there can be no doubt that the right to respect for private life also comprises the right to respect for one's name by order of the Federal Constitution.

This then raises the question under the Federal Constitution whether the scope of protection of the right to respect for one's own name also includes the right for first and surnames to be spelled correctly by the authorities.

AOB demands correct spelling of names

As the AOB reported in detail in its Annual Report of 2007, substantial arguments can be presented in favour of answering this question in the affirmative. In December 2007, the members of the AOB therefore unanimously agreed that a failure to take suitable measures to save and present diacritic characters correctly with the software and hardware used by the Federal Computing Centre must be qualified as a deficit in administration. A letter was sent to the Federal Chancellery to rectify this deficit, recommending that the software and hardware used by the Federal Computing Centre should be adjusted to allow diacritic characters to be saved and displayed and surnames to be spelled correctly (in steps).

Need for action across federal administration

The Federal Chancellery responded to this recommendation by stating that all characters of the format UTF-8 (8 Bit Unicode Transformation Format) cannot currently be displayed in the Federal Electronic Records Management System. However, the Federal Electronic Records Management System is to be modified so that diacritic characters can be saved, displayed and used in notifications in the future. In addition, the current problem was discussed repeatedly at information and communication technology meetings where the individual federal ministries also presented specific implementation plans.

Unfortunately, it is still unclear when the AOB's recommendations will be implemented in full. However, in the meantime the understanding that a uniform handling of diacritic characters would be desirable for interoperability and/or cost reduction reasons alone has spread across nearly all areas of administration. But the need to adapt a number of Austrian e-government applications to deal with diacritic characters is nevertheless an extensive project.

The Federal Ministry of Finance is now able to reproduce names to the letter. IT processes applied by the Federal Ministry of Finance must support the input, processing and output of Unicode to handle diacritic characters in the names of individuals, addresses and the names of legal entities based on the convention on "Diacritic characters". If individual software is developed, the software library "Diacritic characters" must be used. The Federal Ministry of Finance has obtained a federal license for this library. The software library "Diacritic characters" comprises the transformation, verification, presentation and input of diacritic characters (in an input screen).

Substantial progress can be seen

The SAP process at the Federal Ministry of Finance (federal budget and personnel management) has already been converted to Unicode and can therefore process diacritic characters. Tax and customs applications are currently being converted for use with diacritic characters as part of the program E-Finance Tax and Customs. April 2014 has been set as the planned completion date for this IT process.

Individual case: VA-BD-BKA/0026-A/1/2009

### **AOB criticizes excessive duration of proceedings by the Austrian Data Protection Commission**

The AOB believes that a duration of nearly two years for monitoring and ombudsman proceedings by the Austrian Data Protection Commission must be classed as an administration deficit.

In its Annual Report of 2010 and in its Annual Report of 2012 the AOB already criticised the excessive duration of proceedings by the Austrian Data Protection Commission. Cases during the reporting year demonstrate that the measures promised by the Data Protection Commission are apparently not yet sufficient for ensuring swift processing of all notifications received.

Long duration of proceedings

The AOB identified that an investigation under Section 30 of the Federal Act concerning the Protection of Personal Data 2000 starting in March 2011 was only completed with a notification dated February 2013.

This duration of nearly two years led the AOB to identify a case of maladministration. This is the case not least because the Data Protection Commission failed to take any action between May 2011 and January 2012.

Case of maladministration

The AOB believes that it is especially vital in a sensitive legal area like data protection for the Data Protection Commission (or the Data Protection Authority from 1 January 2014) to process any notifications received within a reasonable period.

Individual case: VA-BD-BKA/0017-A/1/2012, DSK-K087.116/0002-DSK/2013

### 3.3 Europe, Integration and Foreign Affairs

#### 3.3.1 Fundamental Rights

##### Data protection violations

All embassies are required to strictly comply with data protection provisions in performing the tasks with which they have been entrusted.

Fundamental right violated

Based on a complaint by Mr N.N., the Data Protection Commission and the AOB unanimously determined that the Austrian Embassy in Ankara violated N.N.'s constitutional right to non-disclosure of personal data (data protection). The embassy had passed on an employee's report stating his name to different authorities without a legal basis.

Violation must not be without consequences

In light of these investigative proceedings, the AOB informed the Vice-Chancellor that it would be appropriate for the Austrian Embassy in Ankara to formally apologize to Mr N.N. for the violation of his constitutional right to non-disclosure of his personal data. In addition, the embassy should be instructed to ensure in the future that it performs its tasks under data protection requirements more precisely. Finally, it would be advisable to send Mr N.N. a final completion letter for his request sent to the Austrian Foreign Ministry taking account of the results of the investigation by the Data Protection Commission and the AOB.

Insufficient response from the Ministry

However, the Austrian Foreign Ministry only confirmed to the AOB that it had taken this case as an opportunity to discuss a co-operation with the data protection contact at the representative authorities of the Federal Ministry of the Interior. For reasons not clear to the AOB, the department did not take further action regarding the suggestion that the Austrian Embassy in Ankara formally apologize to Mr N.N. for the violation of his right to non-disclosure of his personal data. This is regrettable simply because each violation of a constitutionally guaranteed right represents a severe case of maladministration per se.

Individual case: VA-BD-AA/0012-A/1/2012, BMeiA-AF.4.15.08/0076-IV.2a/2013

## 3.4 Interior

### 3.4.1 Fundamental rights

The Innsbruck branch of the Federal Asylum Office interrogated a girl about genital mutilation performed on her and re-traumatised her. In doing so, the office violated the prohibition of degrading treatment under Article 3 ECHR.

The Austrian Red Cross approached the AOB representing her family and complained about the type of interrogation used for a child in an asylum process. The AOB's investigation revealed that the Federal Asylum Office (Innsbruck branch) had interrogated a twelve-year-old girl about the genital mutilation suffered by her, even though her mother had agreed to a gynaecological examination. The interrogation intensified the child's pre-existing mental and health problems.

In its statement, the Federal Ministry of the Interior admitted that this course of action was not in accordance with the binding standard for questioning the victims of intrusions in their sexual self-determination.

Ministry admitted its mistake

Article 3 ECHR includes the prohibition of inhumane and degrading treatment of a person. Treatment is deemed to be degrading if it grossly disrespects human dignity (Constitutional Court, dated 6 October 1977, B 350/76). According to the European Court of Human Rights, the age and health condition of the person concerned are also important for this evaluation (European Court of Human Rights, dated 10 July 2001, ZI. 33394/96). The Federal Constitutional Law on the Rights of the Child obligates all institutions and facilities to primarily take into account the child's welfare in each measure taken.

In this specific case, an examination by a specialist would have been sufficient as evidence and preferential for the child's welfare. From the AOB's perspective, questioning a minor who has suffered traumatic childhood experiences constitutes impermissible degrading treatment by the Federal Asylum Office. Encouragingly, the Federal Ministry of the Interior has instructed the Federal Asylum Office (Innsbruck branch) to refrain from interrogations in similar cases and to only commission an examination.

Examination instead of interrogation

Individual case: VA-BD-I/0462-C/1/2013, BMI-LR2240/0368-III/5/2013

## Federal Asylum Office disrespects right to private and family life

In family proceedings, the Federal Asylum Office also prevented or delayed the entry of relatives during the reporting year. This violates the constitutionally guaranteed right to respect for private and family life.

Article 8 ECHR obligates the state to respect family life. The Asylum Act (*Asylgesetz*) enables relatives of individuals entitled to asylum or subsidiary security to apply for entry at the Austrian representation authority abroad. Family members must be granted the entry visa if the Federal Asylum Office informs the embassy that relatives are likely to be granted the same security as the person approved for asylum. According to the Asylum Act (*Asylgesetz*), the term "relative" only includes the spouse, unmarried children who are minors, as well as the parents of an unmarried child who is a minor.

No reference to DNA analysis

In July 2012, the wife and daughter of a refugee whose status was acknowledged in Austria applied to the Austrian Embassy in Nairobi for a family consolidation. The father did not state during the asylum process in 2010 that he had a daughter. He only learnt that she was born later on. The Federal Asylum Office doubted the family relationship and made a negative decision. The AOB's objection was that the Federal Asylum Office neither asked Mr N.N. about the contradictions nor gave him an option to prove his paternity by DNA analysis.

The AOB identified another violation of Article 8 ECHR in another case of family proceedings. Even though the Austrian Embassy at Addis Abeba had already suggested DNA tests when passing on the application, the Federal Asylum Office only asked the representation authority to inform the applicant of this four months later. The person granted for asylum was also only informed later. Subsequent steps in the proceedings were also sluggish.

More information for affected parties

In response to an earlier case (see annual report of 2012), the Federal Ministry of the Interior stated that the course of action of the Austrian representation authority in the proceedings had changed according to Section 35 of the Asylum Act (*Asylgesetz*). The Federal Ministry of the Interior implemented an opinion by the Administrative Court of Austria (dated 13 December 2012, 2012/12/0211-5) according to which the asylum authority is obligated to notify the applicants if an application is rejected. The representation authorities now only inform applicants in writing if the Federal Asylum Office releases a negative statement and state the reasons for the rejection. In addition, it sends a notification that reapplication is possible at any time.

Individual cases: VA-BD-I/0113-C/1/2013, BMI-LR2240/0092-III/5/2013; I/0475-C/1/2012, BMI-LR2240/0691-III/5/2012, I/0099-C/1/2012, BMI-LR2240/0418-II/3/2013

## Unlawful detention pending deportation

A foreigner was arrested during a police search. Instead of allowing her to return to Germany, the Federal Police (now: Regional Police) Salzburg detained her in custody pending return for two days and violated her right to liberty according to Article 5 ECHR.

Mr N.N. approached the AOB because his wife was detained by the Federal Police Salzburg for two days. During the investigative proceedings, the AOB found that Mrs N.N. worked in Salzburg illegally and that she was arrested by the police on 16 February 2010. The Federal Police Salzburg imposed custody pending return for this citizen of a third state on the same day to ensure that she would be subject to residence prohibition proceedings. The authorities released Mrs N.N. from custody pending return on 18 February 2010 and transferred her to Germany.

Mrs N.N. had a valid residence permit, residence and family life in Germany and stated during her custody that she wished to leave Austria as soon as possible. Mr N.N. even agreed to provide the foreign police authority with his wife's passport.

Evidence of voluntary return

According to Section 76 (1) of the Foreign Police Act (*Fremdenpolizeigesetz*), aliens may be arrested and detained if this is required to ensure a deportation. According to the jurisdiction of the Supreme Courts (e.g. Constitutional Court dated 2 May 2011, B 1700/10, Supreme Administrative Court dated 23 September 2010, 2007/21/0432), the authorities must verify in each case whether custody pending return is necessary and appropriate. Foreign police authorities must weigh up the interest of the general public in securing a return and the protection of the affected person's personal liberty. If there is no need to secure the return, custody pending return must not be imposed. Section 46 (1) of the Foreign Police Act (*Fremdenpolizeigesetz*) allows for a return if the authorities issue a residence prohibition and are concerned that the alien might not leave Austria.

The AOB found that in this specific case, custody pending return was neither necessary nor appropriate. The Federal Police Salzburg therefore violated Mrs N.N.'s constitutional right to liberty. Based on the AOB's view, the conditions for a return were also not met.

Need to secure return did not apply

Individual case: VA-BD-I/0056-C/1/2012, BMI-LR2240/0371-II/3/2012

## Duration of Asylum Court proceedings - complaints are up

For years, the AOB has faced many complaints about the duration of Asylum Court proceedings (most recently annual report of 2012). Unfortunately, this situation has not relaxed but in fact intensified. Complaints were up by 27 % in 2013. This again raises the question of the efficiency of legal protection.

<p>Number of complaints is up</p>	<p>The number of complaints was up from 538 in 2012 to 683 in 2013. Almost all of these complaints related to the duration of the proceedings, with many asylum-seekers approaching the AOB for a second, third or even fourth time, requesting that it ask the Asylum Court again. This confirms the impression outlined in the Annual Report 2012 that those affected want to obtain certainty about their status.</p> <p>Unfortunately, the Asylum Court was again unable to report progress in many cases this year or predict when the proceedings would be completed. 574 complaints about the duration of proceedings were justified. In 38 cases from 2013, the Asylum Court announced that final results had been reached. Of the complaints relating to the duration of proceedings, 47 referred to Asylum Court proceedings which started in 2013, 350 in 2012, 146 in 2011, 79 in 2010, 22 in 2009 and nine in 2008.</p>
<p>“Legacy proceedings” still not completed</p>	<p>Only nine complaints related to “legacy proceedings”, i.e. proceedings which the Asylum Court took over from the Independent Federal Asylum Senate on 1 July 2008. This figure is low given the total number of complaints. However, it is important to remember that these proceedings have been open since 2004, 2005 and 2007. These asylum-seekers have been waiting for a result for up to nine years. This uncertainty must be especially difficult for those, who are already spending a significant part of their lives in Austria. They are nationals of Turkey, Zaire, Sudan, Congo and Afghanistan.</p>
<p>Afghan nationals submitted most complaints</p>	<p>Most of the complaints, i.e. 330 were submitted by asylum-seekers from Afghanistan, 167 from Somalia, 35 from Iran, 26 from Syria, 13 from Sudan and 11 from Iraq. The remaining complaints were split between various nationalities. As the Allocation of Responsibilities and Duties of the Asylum Court specified country senates, it is likely that some senates, e.g. the Afghanistan Senate, faced an excessive workload, but that there was no, or not always, a timely response to this situation.</p>
<p>Federal Administrative Court takes over “backlog”</p>	<p>In its activity reports and in communications to the AOB, the Asylum Court repeatedly referred to the decreasing number of pending complaint proceedings. Unfortunately, this is not reflected in the complaints received by the AOB. The Federal Administrative Court, responsible since 1 January 2014, has taken over around 11,600 pending complaint proceedings according to its president, which were distributed between approx. 160 judges. Where court proceedings have already taken place, these are to remain with the previously responsible judges.</p> <p>Individual case: VA-BD-ASY/0180-C/1/2013, AsylGH 100.920/0260-Präs/2013 etc.</p>

## Degrading treatment during the arrest of an adolescent

Several measures deserving criticism were employed when arresting an adolescent. The police notified the parents too late, detained the adolescent for significantly longer than necessary and endangered his safety as well as his personal rights. The Federal Ministry of the Interior has initiated extensive steps to analyse this official act.

The parents of a 17-year-old complained that their son was treated in a degrading fashion when he was arrested. For instance, the alleged perpetrator was supposed to have been identified in the dark at a distance of approx. 10 meters, the parents were only informed five and a half hours after the arrest and the adolescent did not wear a seat belt in the police vehicle. The detention lasted around 15 hours, even though it had been admitted in the meantime that the young man had not been involved in the crime. In addition, he was mentioned as the perpetrator in a press release, even when it was already clear that he did not commit the crime.

Accusations against police personnel

The Federal Ministry of the Interior confirmed that the parents were informed much too late and that this is contrary to the relevant official instructions. Failure to put on the seat belt in the police vehicle was in violation of the Motor Vehicles Act (*Kraftfahrzeuggesetz*) and was also not justified by the exceptional rules. The acting officials have been instructed accordingly. The Regional Police Vienna performed an internal evaluation regarding the press release.

Official instructions not observed

In its statement, the Federal Ministry of the Interior apologised to Mr N.N. and his parents for the inconvenience caused and the inappropriate statement made by an official at the time of the release. However, the parents state that no personal contact or apology as announced had been received.

The Federal Ministry of the Interior evaluated the incident and the courses of action in respect of the line-up and arrest, handcuffing behind the adolescent's back, arrest transfer in a police car and time delay in notifying relatives. It concluded that the courses of action require improvements. The Quality Assurance Office at the Regional Police Vienna determined to analyse the incident anonymously and to refer to individual problems and legal fundamentals. There is to be a special focus on potential for improvement.

Extensive evaluation by the authorities

Moreover, the incident will be analysed as part of professional training for city police commandos in order to ensure that the information is transmitted as widely as possible. A separate analysis with the city police commando in question has already taken place, also with regard to handling complaints.

The press contact of the Regional Police Vienna have been told to ensure the press releases are up-to-date before they are sent out. Reference must be made to suspected innocence and the provisions of the Media Act must be observed in detail with regard to protecting the identity and highly personal life of individuals.

The AOB welcomed the extensive investigation by the authorities and the extensive measures implemented by the authorities. Such incidents can only be prevented with sufficient training and by sensitizing the officials.

Individual case: VA-BD-I/0452-C/1/2012, BMI-LR2240/0384-II/1/c/2013

### 3.5 Transport, Innovation and Technology

#### 3.5.1 Fundamental rights

##### Design approval partially unconstitutional

The provision of Section 32a (3) last sentence of the Railway Act (*Eisenbahngesetz*), according to which the content of the opinion attached to the application for design approval is assumed to be accurate until proven otherwise, is unconstitutional in light of the most recent legislation.

Law stipulates assumption that content of expert opinion is accurate

Previously, an amendment of the Railway Act (*Eisenbahngesetz*) had been planned which specified an evaluation by an internal expert for design approval processes for rail vehicles. However, this provision has been replaced with the requirement of an external expert statement. Section 32a (3) of the Railway Act (*Eisenbahngesetz*), as amended by Federal Law Gazette I No. 125/2006, stipulates that such opinions must be presented as evidence to show whether the rail vehicle (or amended rail vehicle) for which design approval is to be granted is "state of the art" in the aspects outlined in the law. As a result, according to Section 32a (3) last sentence leg. cit., the "assumption that the content is accurate until proven otherwise" applies to the expert opinion/s.

Constitutional Court determines unconstitutionality

The Constitutional Court in its ruling on 2 October 2013, G 118/12, overrode the provision of identical wording in Section 31a (1) Railway Act as unconstitutional. The Constitutional Court gave the reason that it is incompatible with the rule-of-law principle and with Article 11(2) of the Federal Constitutional Act (*Bundes-Verfassungsgesetz*) to deprive the authorities responsible for granting approval under railway law of their responsibility to independently determine the facts.

Legal situation in accordance with Federal Constitution

According to the AOB, these findings also demonstrate that the provision of Section 32a (3) last sentence of the Railway Act is unconstitutional, because this uses the identical wording to the provision overridden by the Constitutional Court. It is now the legislator's responsibility to create a new, constitutionally unproblematic legal basis for the design approval process for rail vehicles.

Individual case: VA-BD-VIN/0029-A/1/2012

## Unlawful reduction in salary

The civil servants assigned to the Austrian *Postbus Ltd.* (bus company run by the Austrian Federal Railways) only received a flat amount, not their salary, for attending a mandatory further education event. This arrangement is against the law.

Mr N.N. is a civil servant assigned to Austrian Postbus Ltd., in the role of bus driver. He submitted a complaint that he did not receive his full salary for the time spent at training events and only received a flat amount of EUR 63 instead.

Mr N.N. was sent a notification immediately after the investigative proceedings were launched. The AOB found that the provisions of the *Postbus* Training Rules were implemented correctly. However, the AOB was unable to identify a legal basis for the salary cut specified in these rules. Instead, this appeared to be unlawful, particularly because Mr N.N. was obligated to attend these training events as part of his employment.

No basis for salary cut

*Postbus Ltd.* told AOB that, "before the Rules' release, the legal situation was evaluated extensively with external legal support and finally, the Rules were released - based on the legal opinion -, so that there is reason to assume that the current Rules are lawful". However, the AOB was neither informed of which "external legal support" the company employed nor was it sent the mentioned opinion. This lack of support for the AOB must be viewed as a violation of Article 148b (1) of the Federal Constitutional Act.

*Postbus Ltd.* does not present basis for its decision

It must be stated in this matter that the "external legal support" fundamentally misjudged the legal situation. Based on a complaint, the Federal Constitutional Court in its ruling on 17 June 2013, V 29/2013, overrode the provisions as unlawful. In the reasons for its ruling, the Federal Constitutional Court explained in detail that the Salary Act (*Gehaltsgesetz*) is a "closed system of benefits under salary law". As a result, benefits may only be cut or cancelled if the civil servant fails to perform his or her official tasks in full or in part. The Salary Act (*Gehaltsgesetz*) contains no further provisions or authorisations for the authorities of other circumstances in which benefits may be cut or cancelled. The AOB does not see how the authorities releasing the Rules could have reached a different legal interpretation.

Constitutional Court overrides provisions as unlawful

Since the Constitutional Court had not set a deadline for the provisions identified as unlawful to expire, they cease to be effective for all of the company's public services employees immediately from the announcement of the ruling overriding the provisions in the Federal Law Gazette. No further releases by the AOB were required with regard to the Constitutional Court's ruling.

Lawful remuneration ensured

Individual case: VA-BD-VIN/0182-A/1/2012

## Involuntary, unlawful retirement

After the Supreme Administrative Court had granted a complaint, the administrative authorities were obligated to ensure immediate compliance with the legal situation based on the Supreme Administrative Court's legal interpretation using the legal means available to them.

The Human Resources office at the Austrian Post (Austrian postal service) unlawfully decreed that Mr N.N. must retire against his will as of 31 August 2010. His appeal was rejected by a decree from the Human Resources office of the Austrian Post, ordering his retirement as of 30 April 2011.

Administrative Court  
overrides forced  
retirement

Since Mr N.N. wished to continue working at the Austria Post and considered himself sufficiently healthy to do so, he complained to the Supreme Administrative Court about this in his view unlawful forced retirement. The Administrative Court of Austria accepted this complaint on 23 January 2012 and overrode the decree in question based on its illegality through the violation of governance processes.

Continued employment

When the responsible authorities failed to issue a new decree, Mr N.N. complained to the AOB. Repeated AOB intervention was required to ensure that the Human Resources office granted his appeal on 11 January 2013 and overrode the contested decree. Mr N.N. can now continue working at the Austrian Post.

AOB criticizes  
excessive duration of  
proceedings

Even though this result is very encouraging for Mr N.N., the AOB felt compelled to state a case of maladministration. This was because the continued appeal proceedings took more than ten months after the appeal authorities received the overriding decree by the Administrative Court of Austria. According to Section 63(1) of the Administrative Court Act (*Verwaltungsgerichtshofgesetz*) in the version valid until the end of 2013, the administrative authorities were obligated, after the Administrative Court of Austria grants a complaint, to ensure immediate compliance with the legal situation based on the Administrative Court's legal interpretation using the legal means available to them. The AOB does not consider this to have been achieved when it took more than ten months.

Individual case: VA-BD-VIN/0033-A/1/2011

## AOB fights for accessible railway stations

The AOB considers it unacceptable that railway stations no longer have wheelchair access after renovation measures, where they were originally accessible.

During the reporting year, the AOB has been greatly committed to ensuring that the responsible parties at the Austrian Federal Railways provide barrier-free access to railway stations and that accessibility remains after renovations.

## 3.6 Science, Research and Economics

### 3.6.1 Fundamental rights

#### Still no barrier-free access to the Theseus Temple

Exhibitions at the Theseus Temple in the Vienna Volksgarten (centrally located public park) are not wheelchair accessible. Planning works for a transportable and temporary ramp may be complete, but its construction continues to be delayed.

The AOB already reported in its Annual Report 2012 that the Theseus Temple, which the Vienna Museum of Fine Arts uses as an exhibition space during the summer, is not accessible by wheelchair. As a result of the AOB's intervention, the Vienna Museum of Fine Arts, the Austrian *Burghauptmannschaft* (the authority responsible for the efficient management and the conservation of historic buildings owned by the Republic of Austria), the Austrian *Bundesdenkmalamt* (the Federal Office for the Care of Monuments) and the Austrian National Council of Disabled Persons are jointly looking for a solution.

A ramp was suggested which could be set up during the exhibition season between April and September/October. As a transitional solution, the Museum of Fine Arts provided additional staff during the summer of 2013 who offered and provided mobility-restricted individuals with help in reaching the Temple. The promised ramp has so far not been implemented.

Planned ramp not yet built

Individual case: VA-BD-WA/0099-C/1/2012

## 4. International activities

### 4.1 International Ombudsman Institute (IOI)

Headquarters in Vienna The International Ombudsman Institute (IOI), with headquarters at the AOB since 2009, links around 160 independent ombudsman institutions in more than 90 countries across the world in the regions Africa, Asia, Australasia and the Pacific, Europe, the Caribbean and Latin America and North America. Its members are institutions monitoring public administration on a national, regional and/or local level.

New Secretary General. On 1 July 2013, Ombudsman Günther Kräuter took over the role of IOI Secretary General. Mr Kräuter has shown great international commitment in the interest of democracy and the rule of law for expanding and strengthening ombudsman institutions across the world. He took up the role of former IOI Secretary General and Ombudsman Peter Kostelka and thanked him for his unfailing efforts, which made it possible for another international organisation to be brought to Vienna with the headquarters of the IOI General Secretariat in 2009.

Board meetings Already in April 2013, the IOI Board of Directors came together in an extraordinary meeting in Vienna to bid farewell to the former Secretary General Kostelka and to allow the newly elected Board members to get to know the General Secretariat and its staff more closely. The regular annual Board meeting took place in New York in September 2013. At these meetings, the Board of the IOI provided a brief overview of its activities and of implemented projects and also welcomed eight ombudsman institutions as new members of the international ombudsman family. The Board outlined its focus for the new membership year of developing a long-term strategic plan for the institute - with the aim of presenting this plan to the IOI General Assembly at the World Conference 2016 in Bangkok.

Training in Asia, Europe and Africa In 2013, the IOI again provided interesting training and further education opportunities. The IOI's co-operation with the Office of the Ombudsman of Thailand and the Asian Ombudsman Association made it possible to take the renowned training on investigative proceedings from Queen Margaret University (QMU), Scotland to Bangkok in April 2013. Especially members of the IOI's Asian region benefited from this training session for effective complaints handling.

An anti-corruption training focusing on transparency and anti-corruption as ideals in public administration took place for the first time in Laxenburg in September 2013 in co-operation with the International Anti-Corruption Academy (IACA). Renowned OECD and UN experts and guest speakers dealt with explosive topics such as corruption mechanisms, whistle-blowing and (re-)instating integrity. The IOI, with the support of the City of Vienna, was able to award scholarships for this training to financially weaker institutions, thereby ensuring that institutions in Albania, the

Gambia, the Cayman Islands, South Africa, Ukraine and Hungary were also able to attend.

In November 2013, the training format “Sharpening Your Teeth” developed by the Ombudsman of Ontario took place in Zambia with the support of the IOI. This training offers special skills for performing systemic investigative proceedings and - with reference to the French-speaking ombudsman community in the IOI’s African region - was held in both English and French.

The funds obtained from the IOI membership contributions were also used to subsidize regional projects organised by the IOI member institutions. In 2013, seven regional project proposals supported with a total of EUR 45,000, passed the IOI’s selection process. The funds made available can thus be used for ambitious projects in the next two years. In Europe, the Ombudsman institution of Latvia will initiate an information campaign against human trafficking; the Ombudsman of Northern Ireland will develop human rights standards as benchmarks for its work and the Children’s Ombudsman of Ireland is planning to create guidelines for child-friendly administration. The focus in Asia is on increasing awareness and on information: The Ombudsmen of the Punjab and Sindh regions in Pakistan will concentrate on increasing the level of public awareness of their institutions and attempt to build stronger awareness of women’s and children’s rights. In North America, the Ombudswoman of the City of Toronto is writing a manual for evaluating the effects of investigative proceedings, which will also be applicable beyond the region’s borders. In Australasia and the Pacific regions a starter kit will be developed to help new Ombudsman in their roles in performing their mandate.

Support for regional projects

## 4.2 International organisations and conferences

Austria must report regularly to the United Nations regarding the measures taken to meet its obligations based on the conventions it has ratified. As National Human Rights Institution (NHRI), the AOB regularly takes the opportunity to make statements regarding whether and how Austria meets its obligations under international human rights conventions.

UN country reports

During the official country review regarding compliance with the UN Convention of the Rights of People with Disabilities, Ombudsman Kräuter pointed out defects and deficits in the treatment of persons with disabilities in a statement before the responsible UN Committee (Committee on the Rights of Persons with Disabilities – CRPD) in Geneva.

CRPD

Before the evaluation of the Austrian country report in respect of the implementation of the UN Covenant on Economic, Social and Cultural Rights by the responsible UN Committee (Committee on Economic, Social and Cultural Rights - CESCR) in November 2013, the AOB as NHRI released a statement in which it informed the

CESCR

Committee of needs-oriented minimum benefit and youth welfare measures in Austria and reported based on its experience as National Preventive Mechanism.

ICC / OHCHR As the National Human Rights Institution (NHRI), the AOB is also represented on the International Coordinating Committee of National Human Rights Institutions (ICC of NHRIs) with a B-status after its re-accreditation in 2011. As a result, the then Ombudsman Peter Kostelka attended the ICC's annual meeting at the Office of the UN High Commissioner for Human Rights in Geneva in May 2013 (OHCHR).

ICC / ENNHRI The AOB followed the establishment of a Secretariat for the European Network of National Human Rights Institutions (ENNHRI) with great interest, which was completed in Brussels at the end of 2012. In April 2013, a talk took place between former Ombudsman Kostelka and the Director of the ENNHRI Secretariat, Debbie Kohner. The main tasks of the Secretariat consist in linking 40 NHRIs in Europe and coordinating co-operations with the ICC, UN, the Council of Europe and OSCE. The AOB also attended ENNHRI meetings in Vienna and Budapest and was able to actively contribute to the strategic planning of the network.

SEE NPM Network The AOB in its role as National Preventive Mechanism (NPM) is particularly interested in co-operating with other NPMs and Human Rights Institutions. Since October 2013, the AOB has been a member of the South-East Europe NPM Network (SEE NPM-Network). The purpose of this association of ombudsman institutions from Albania, Croatia, Macedonia, Montenegro, Serbia and Slovenia, who are entrusted with NPM tasks, is to swap experiences and knowledge and to support each other.

OSCE The AOB is actively involved in the OSCE dialogue on the tasks, challenges and further development options of National Human Rights Institutions. A meeting of the OSCE's Human Rights Dimension took place in Vienna in May 2013, where Ombudswoman Gertrude Brinek reported on the experiences of the AOB stressing the importance of preventive human rights monitoring.

FRA The traditionally close, positive co-operation of the AOB with the EU Fundamental Rights Agency (FRA) continued in 2013. For instance, former Ombudsman Kostelka accepted an invitation from the Director of FRA, Morton Kjaerum, to a work meeting at FRA. The AOB was also present at the annual meeting of the National Human Rights Institutions of EU member states, which took place in Vienna and was organised by FRA.

Network of European citizen representatives Ombudswoman Brinek attended the 9<sup>th</sup> National Seminar of the European Ombudsman Network of Citizen Representatives, which took place in Dublin in September 2013. Around 100 seminar participants from across Europe discussed "Good administration and the rights of citizens in times of austerity". Ombudswoman Brinek, who chaired one of the four meetings, drew attention to the need for equal treatment of all concerns, but also to the question of how to handle the many worries and requests which are not directly related to mistakes by the authorities. In addition, the AOB regularly provides expertise on specialised topics for work documents and reports by the network of European Ombudsmen.

An AOB expert attended the 9<sup>th</sup> International Human Rights Forum in Lucerne in April 2013, which focused on the key topic “Human rights and persons with disabilities”. Human Rights Forum in Lucerne

As part of the TAIEX programme by the European Commission, the Ombudsman of Macedonia organised a workshop in October 2013, whose topic was “The role of judges in monitoring the rights of detainees”. An AOB expert gave an overview of the legal situation during detention and compared the tasks of judges to those of ombudsman institutions and NPMs. TAIEX / European Commission

The AOB was also represented by an expert at a conference on developing minimum standards for detaining migrants, which was organised by the Council of Europe and the UK NPM and took place in Strasbourg in November 2013. Council of Europe

### 4.3 Bilateral contacts

In its role as NPM, the AOB in January 2013 welcomed the Federal Ombudsman of Belgium for an official visit in Vienna. The exchange of information primarily focused on the AOB’s experiences in implementing the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and in setting up the NPM. The head of one of the NPM commissions, Reinhard Klaushofer, delivered a first experience report based on the visits. The deputy chairperson of the Human Rights Advisory Council, Gabriele Kucsko-Stadlmayer, and the other members Christian Pilnacek and Heinz Patzelt offered valuable information on the work of the Human Rights Advisory Council. The establishment of a NPM in Belgium was still in the planning phase at the time of the visit and the Belgian delegation was able to use their visit to exchange valuable experiences and find incentives for further co-operation options. Exchange of experiences of NPM

Sir Nigel Rodley, Director of the Human Rights Centre at the University of Essex and Chairman of the UN Human Rights Committee made use of a stay in Vienna to attend a work meeting with the AOB. The then AOB members informed Sir Rodley of the AOB’s activities as National Human Rights Institution and particularly highlighted activities together with the commissions. The Chairwoman of the Human Rights Advisory Council, Renate Kicker, and commission head Ernst Berger reported based on their practical experiences.

In 2013, the AOB again used the opportunity of bilateral meetings to exchange knowledge and information internationally. For instance, the then Ombudsman Peter Kostelka welcomed a delegation from the Petitions Committee of the German Bundestag in April. Other guests in April included Salla Saastamoinen, the Director of the Department of Fundamental and Child Rights at the European Commission’s General Justice Directorate. A delegation of the parliamentary commission of the South African province KwaZulu Natal took the opportunity of their stay in Austria to obtain an idea of the many tasks of the AOB. Work meetings







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The unabridged version of this Annual Report is available in German and can be found on the website of the Austrian Ombudsman Board

