Information sheet on security vetting pursuant to sections 55\(^1\) et seq. of the Austrian Code of Police Practice (SPG\(^2\))

Security vetting is the process of checking an individual’s trustworthiness based on personal data which indicate whether there is any reason to believe that the individual might be a dangerous threat to security. Security vetting uses personal data which have been investigated by the security authorities in enforcement of the national and regional laws; furthermore, data may be requested from other authorities or elsewhere investigated if the person concerned occupies or seeks to occupy a position which involves access to secret information.

Information is classified (pursuant to § 55 (3) of the SPG) as

1. ‘confidential’ if it is subject to secrecy protection pursuant to criminal law and its non-disclosure is in the public interest;

2. ‘secret’ if it is considered confidential and its disclosure would threaten to cause substantial damage to the economic interests of a national, regional or local authority or to the foreign relations or jeopardise the State’s interests in maintaining public safety or national defence as a whole;

3. ‘top secret’ if it is considered secret and its disclosure furthermore is likely to cause severe damage as defined in § 55 (3) item 2 of the SPG.

Security vetting may be carried out:

1. in order to ensure the lawful exercise of duties and the non-disclosure of confidential information;

2. in order to provide preventive protection to officials of constitutional institutions (§ 22 (1) item 2) and to representatives of foreign states, international organisations or other subjects of international law (§ 22 (1) item 3) regarding individuals who are in the physical surroundings of the protected person.

Security vetting to ensure the lawful exercise of duties or the non-disclosure of confidential information shall be carried out:

1. upon request by the authority in which the person concerned occupies or seeks to occupy a position as a regular staff member which involves issuing direct orders or executing coercive measures in administrative matters or significantly influencing the other administrative acts or other important decisions made by the authority; or if the tasks the person concerned performs or seeks to perform on behalf of the authority require access to confidential information as defined in § 55 (3) item 1 in any other way;

2. upon request by the Federal Minister of Foreign Affairs prior to granting an exequatur to the head of a consular representation or an agrément to the head of a diplomatic mission;

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\(^1\) hereafter referred to as ‘§’

\(^2\) Sicherheitspolizeigesetz
3. upon well-founded request by the company in which the person concerned occupies or seeks to occupy a position involving access to confidential information which, if used in a foreign country (§ 124 StGB\(^3\)), may cause damage to the company;

3a. upon well-founded request by the company in which the person concerned occupies or seeks to occupy a position involving access to confidential information which, if used improperly, may cause lasting malfunction or destruction to a critical infrastructure (§ 22 (1) item 6);

4. if the person concerned is to receive access to information acquired through surveillance measures as defined in § 136 (1) item 3 of the Code of Criminal Procedure (StPO\(^4\));

5. if the person concerned lives in one household with a person who has access to top secret information and is full of age.

Furthermore, security vetting shall be carried out upon request by an institution of the European Communities or other international organisation if an Austrian citizen or a person with primary residence in Austria is to perform tasks which require access to confidential information of this organisation.

Except in cases of preventive protection of officials and granting of an exequatur or agrément, security vetting may only be carried out if the person concerned has given his/her approval and made a declaration regarding his/her past and current personal circumstances (security declaration). The person’s approval is also required prior to providing the results of the security vetting to the employer or the requesting authority.

Security vetting based on security declarations is performed centrally by Department 3 of the Federal Agency for State Protection and Counter Terrorism (BMI-II/BVT3). The data is processed by the Federal Agency for State Protection and Counter Terrorism within the framework of its file management. In this regard, we refer to “Information of the data subject” on the processing of the data within the EDIS file management system (office automation) pursuant to § 43 of the DSG (Federal Act concerning the Protection of Personal Data).

The following fees are charged for security vetting requested by companies depending on the level of confidentiality: € 297.-, € 593.-, € 890.-. The fees shall be paid by the requesting company. Security vetting is carried out after the payment has been made.

**Security declarations**

- **Security declarations classified as ‘confidential’ must be made using Annex A.**

- **Security declarations classified as ‘secret’ must be made using Annex B.**

- **Security declarations classified as ‘top secret’ must be made using Annex C.**

- **Security declarations by persons of full age (reference persons) who live in one household with an individual who has access to top secret information must be made using Annex D.**