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ANTIFRAU
DE CATALUNYA

Anti-Fraud Office of Catalonia:

PREVENTION AND FIGHT AGAINST CORRUPTION

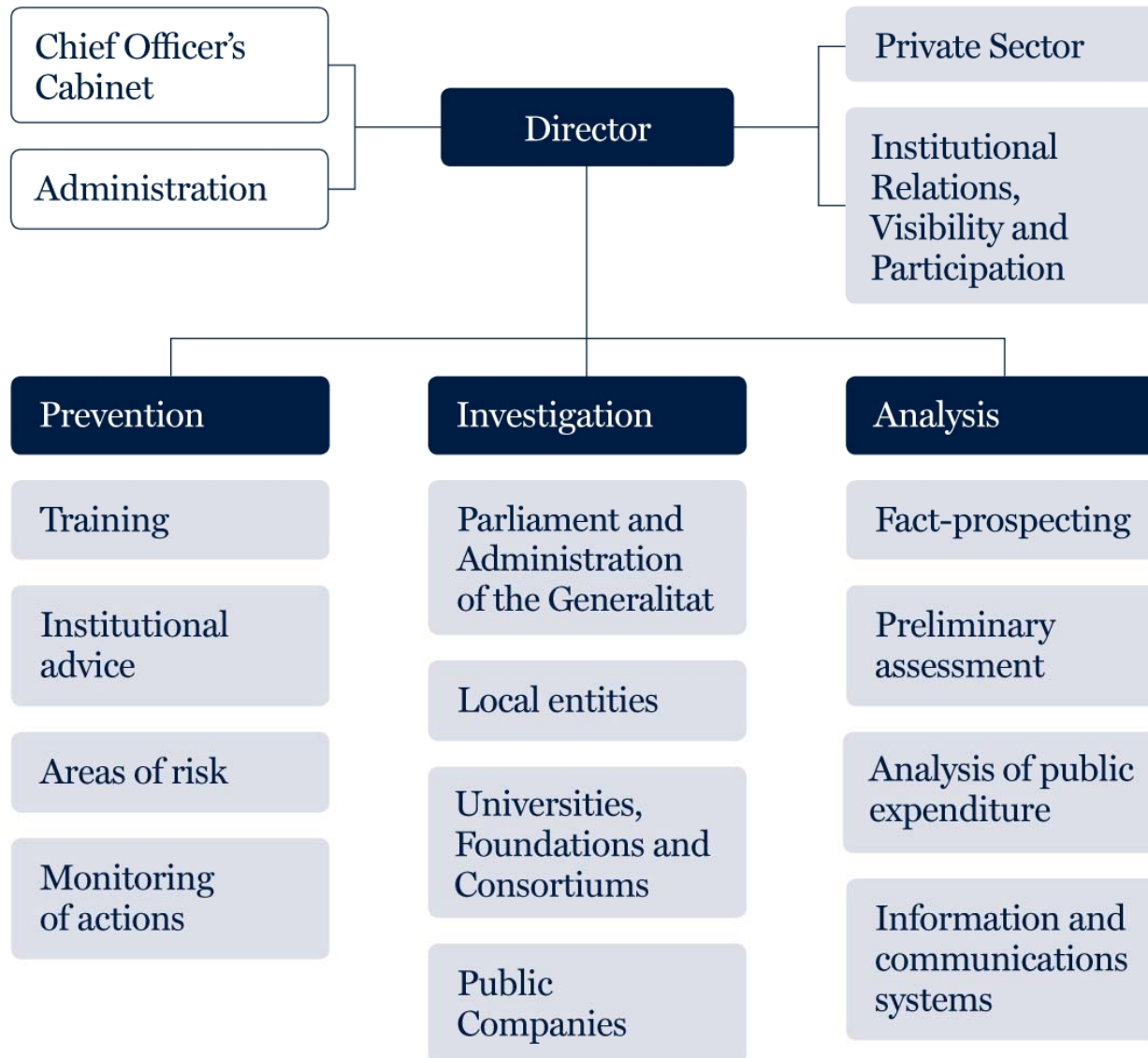
An independent parliamentarian institution

University of Passau, 09 to 16 October 2010
“Lecture and workshop in Good Governance and Reform”

Organisational, functional and budgetary independence of the Anti-Fraud Office

- **Independent institution** created by Law (Act 14/2008, of November 5th)
 - Implements **article 6 UNCAC** for the first time in Spain
 - Public-law entity with a legal personality of its own and full capacity to act
 - **Prevents and investigates** corruption within the Catalan public sector
 - **Comes under Parliament** which legitimates it and guarantees its independence
 - Its activity is **controlled by the Parliament of Catalonia** though the Annual Report rendered annually
 - The Anti-Fraud Office enjoys **autonomy of budgetary management**
 - The mandate of the director is **nine years** and cannot be renewed
 - The director **selects, appoints and hire** its personnel.
 - The director may terminate in the post only for gross and serious negligence in fulfilling the obligations and duties of the post.
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Organisation Chart



Special investigative tools

The Anti-Fraud Office of Catalonia

Refers the investigation to the Public Prosecutor's Office or the competent administrative bodies with sanctioning powers in the administrative sphere

Following a check on the likelihood of the facts, it can carry out, among other actions:

- ▶ **Entry without warrant**
- ▶ **Personal interviews**
- ▶ **Access to information on current accounts**

These actions are always undertaken under the utmost confidentiality. A reservation of identity from the personnel of the Anti-Fraud Office can be granted by written undertaking

Special treatment of personal information : Non-disclosure of identity

- Duty of secrecy by the personnel in the service of the Office.
 - Anybody complaining of or reporting facts or conduct, if they so request, and with the prior explained agreement of the director, obtain a written undertaking that their identity will not be revealed to third parties.
 - The particulars of the complainant/informant and details of any background information allowing his/her identification have to be kept in secret by the personnel in the service of the Office.
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Whistleblower Protection (I)

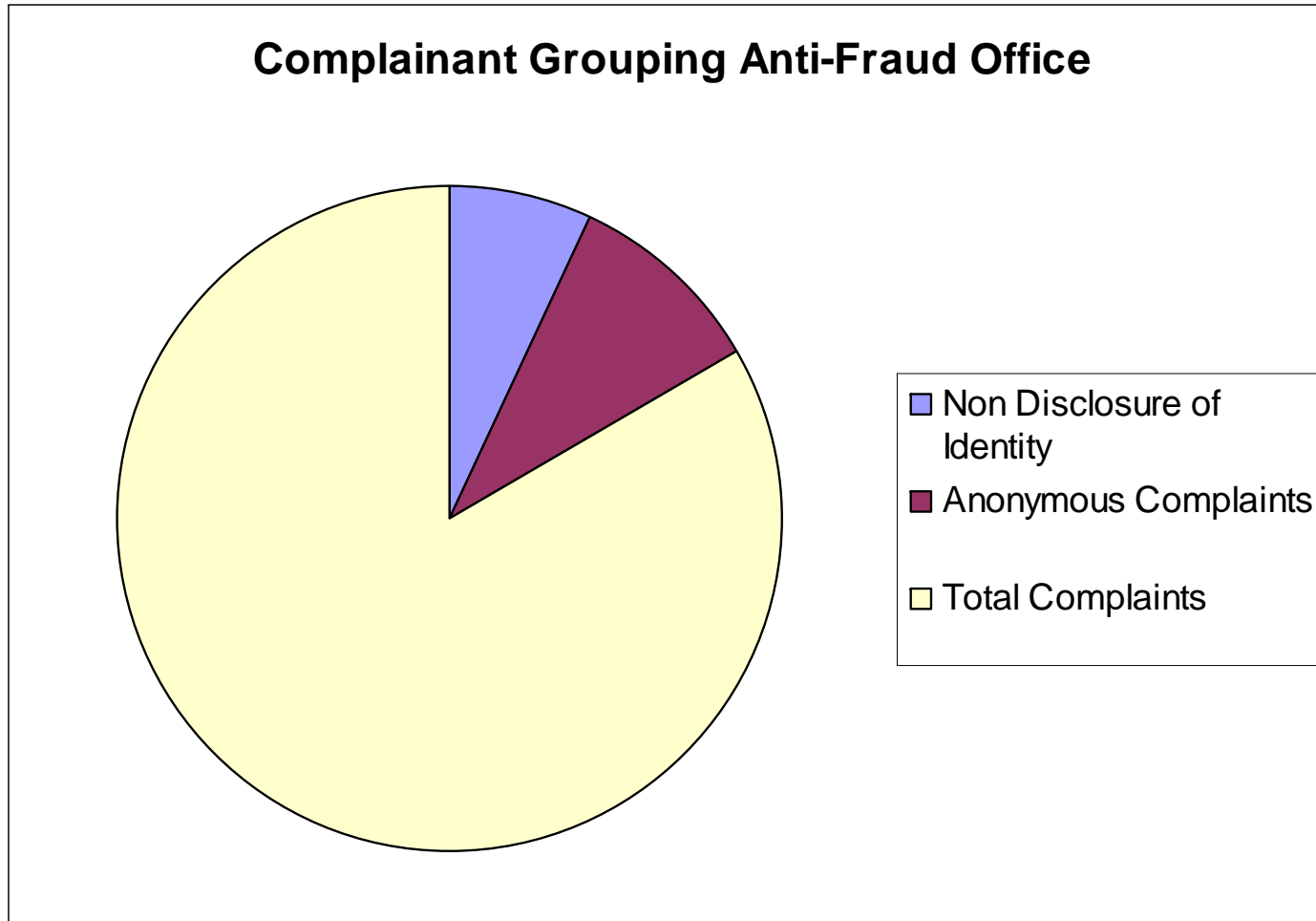


- Obligation to report facts constituent of corruption from directors or responsible of public institutions and in general, anybody carrying out public functions.
 - Assistance and advice to informants of good faith.
 - Legal advice/counseling on the issues the whistleblower might face.
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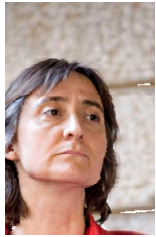
Anonymous complaints

- ▶ The informant does not fear reprisals
 - ▶ The detection of the truthfulness of the report (revenge or personal reasons)
 - ▶ Lack of communication with the complainant (no feedback) when more information is needed
 - ▶ Shortage of information to build-up a solid case/ no interviews for a better information gathering
 - ▶ The reporting is normally less carefully made
 - ▶ Increased risk of *mala fide/animus jocandi*
 - ▶ Full investigation to determine the veracity of the claims raised in the complaint
 - ▶ Statement of why determinate steps and documents are being presented
 - ▶ No possibility of protection from reprisals/intimidation acts
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Disclosure of identity in reporting to the Anti-Fraud Office



CORRUPTION INVESTIGATION: ILLEGAL PAYMENT OF LICENSES, DEATH THREAT AND EXTORSION



- City Councilor in Barcelona (*Ciutat Vella* District)
 - Blowed the whistle on a major corruption case where two members of the town council were asking payment of bribes for concession of licences to the district she was in charge of.
 - 500 licenses in just two months (also constructions and inspection procedures...)
 - Up to 70.000 € per license.
 - Her house robbed in April 2009 and end of the same year
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Piece of evidence

“You received a while ago, threats on the phone alerting you that you should get sick or ask for transfer...warnings that you seem to have ignored or you don't even consider...you are a ...which has even been said by your own colleagues...you are in this situation because you actually wanted it...You are being followed every millimeter and with the pictures we send you its proven. If you don't get sick or request a transfer we are gonna pass to action. We are an organisation and we are not going to explain more. You, for us, you are an animal and we have a mission to accomplish. In a short time, there are things that are going to happen around you. You'll get terrified and it won't be the result of coincidence. The pieces of the puzzle will fit perfectly very soon. What will happen to you when you are not protected? We are bad like you but we still have some ethics and we invite you for a second chance. Your destiny depends on you. Greeting and good luck.”

Cooperation with Sigma (OECD) on Witness Protection

- ▶ Comments by the Anti-Fraud Office on the Draft bill relating to the protection of witnesses, informants, experts and threaten victims (*Instance Centrale de Prévention de la Corruption, Morocco*).

 - ▶ Measures gathered in the draft bill:
 - Ordinary Protection Measures
 - Special Protection Measures
 - Financial aid Measures
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*“Whistleblower protection
provides a shield, not a sword”**

Source: Making whistleblower protection work: elements of an effective approach, U4, December 2008-No.24



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Thank you for your attention

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