



Council of the
European Union

025186/EU XXVI. GP
Eingelangt am 08/06/18

Brussels, 8 June 2018
(OR. en)

10476/02
DCL 1

EVAL 29
ELARG 225

DECLASSIFICATION

of document: ST 10476/02 RESTREINT UE
dated: 11 July 2002
new status: Public

Subject: Draft revised country report on Lithuania

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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THE EUROPEAN UNION**

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RESTREINT UE

**EVAL 29
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REPORT

From : the General Secretariat
To : the Collective Evaluation Working Party
No. prev. doc. : 10807/2/00 EVAL 40 ELARG 112 REV 2 RESTREINT
Subject : Draft revised country report on Lithuania

I. INTRODUCTION

In its analyses the Working Party has dealt with the progress made by each acceding country and has examined shortcomings which still have to be eliminated in order to catch up with the EU Acquis in the field of Justice and Home Affairs.

The first series of country reports pointed out the precise areas where the most serious shortcomings existed and where substantial efforts by the candidate country were still needed, while at the same time acknowledging progress already made and refraining from a final judgement, thus helping Member States in selecting programmes to finance (e.g. bilateral programmes, PHARE), as well as the Commission in adjusting the priorities and objectives of the accession partnerships and feeding the discussions on enlargement.

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The point of departure for the present second series of country reports, whose structure has been refined, is to identify exactly where in the process of alignment the candidate country finds itself and what remains to be done, focusing on operational conclusions. The key elements of this new structure, reflected in each chapter, are:

- adoption of the “acquis”, including shortcomings,
- administrative capacity, including an assessment of structure, staff, resources etc. and
- implementing performance, covering issues such as quality, efficiency and independence.

The conclusions drawn at the end of the report are the result of extensive discussions within the Collective Evaluation Working Group on the basis of the information presented.

In line with this approach, all other relevant background information can be found in the thematic analyses-documents constituting the basis of these reports.

As the process of alignment and the collection of relevant data is a continuously evolving and ongoing process, the findings and conclusions in the present report cannot be considered final or exhaustive. Updates will therefore continue to be presented on a regular basis.

II. OVERVIEW OF DEVELOPMENT

A. Border Security

N.B. This part will follow at a later date

B. Migration

1. Formal acquis

Lithuanian visa policy broadly complies with that of the EU, with the important exception that Russians of Kaliningrad may still enter Lithuania without a visa and stay for 10 days. The same applies to train passengers and lorry drivers crossing the territory of Lithuania to and from Kaliningrad,¹ as well as to Belarussian citizens living in the border zone².

¹ Seemingly, because other sources say these drivers and train passengers are granted visas at the border, which would also be contrary to the acquis.

² Other sources say "Belarussian citizens older than 60 years".

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In addition, some countries¹ are still visa required for entering Lithuania while this is not the case for the EU (visa lifting is ongoing). Finally, despite the fact that there is no binding EU acquis thereon, it is worth noting that Lithuania, contrary to all Schengen States, does not require visas from holders of diplomatic and service passports of China.

As to admissions rules, there is still a need to state clearly that workers will not be admitted unless they receive prior authorisation, abroad, to take up employment.² In addition, workers cannot enter with their family, and the waiting period for obtaining the right to apply for family unification is too long (five years at least) both in comparison to current EU practice, as in light of Article 8 ECHR.³

Finally, despite improvements in 2000, the provisions on detention before expulsion still do not respect human rights.⁴

Whereas Lithuania's intentions are clear regarding visas (introduction of visas is planned for 2003 for all categories currently dispensed contrary to the acquis), the plans concerning legislation on admission and on detention are more vague.

¹ Argentina, Brazil, Israel, Korea, Malaysia, Mexico, Singapore, and Uruguay

² Visas, including employment visas valid for up to two years, are issued not only at consulates abroad but also inside the country in Vilnius, Klaipeda and Kaunas, on a quite regular basis.

³ Workers cannot enter with their family. They cannot apply for family reunification before having been granted a permanent residence permit, i.e. only after five years (at least) under the temporary residence regime.

⁴ The court decides whether the foreigner should be kept in detention whilst awaiting deportation. Detention itself is however based on ministerial instructions only, and there is no time limit for this loss of liberty. Justice no longer intervenes after its initial decision. Detention of illegals in some cases lasted up to 1,5 years. It is not even clear whether the principle of a court decision on detention before expulsion applies to all foreigners: the principle of a judicial decision for such a detention was introduced in the Law on Refugees, and applies to asylum seekers only, seemingly: Refugee Law Article 2. "Basic Definitions of this Law 4. Detention of Alien is the restriction of movement of an alien under this Law."

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2. *Administrative capacity*

Lithuanian consulates have good experience in issuing visas (250.000 per year). But the issuing-conditions are far from the Schengen ones: for 22 countries including Belarus, Russia and Ukraine, there is no need for an invitation or for proof of accommodation, and the visa can be granted upon mere presentation of cash¹. In addition, the computerised system for issuing visas does not yet have an on-line connection to national databases². (This is planned for 2003, together with additional technical equipment for checking travel documents.) Above all, the consular (and border) organisation for coping with the introduction of visas for Russians of Kaliningrad and other categories, is not yet in place.³

Visa stickers are modern. By contrast, the national passports issued since 1991, do not meet EU security requirements. The Issuing of new modern ones (machine readable) will start at the end of 2002; the current ones will be in circulation until 31 December 2007.⁴

The Migration Department at Vilnius, the local migration services, police and border guards work together but still lack of a shared database on aliens.⁵ Legislation and institutions for data protection do exist, but there is still little information on their use in the specific field of protection of police/justice data.

¹ Money in cash or in travellers cheques is of course mentioned in the acquis, but as one piece of the combination/range of "supporting documents", and not as a single element too easy to provide.

² There is a file on undesirables and on forged passports, which is updated every two weeks. (The whole process was observed at the consulate in Brussels.)

³ 1.2 million Russian citizens entered Lithuania from Kaliningrad in 2001, according to Russian authorities. Lithuania is planning to strengthen consular services in Kaliningrad and Belarus, however it meets with difficulties, since it has received no reaction to its requests for permission to open Consulates in Grodno (Belarus) and in Sovetsk (ex Tilsit, in the Kaliningrad region.)

⁴ Lithuania hints that this date "could be pushed closer, if personal identity cards, the issue of which ... will start at the end of 2002, are acknowledged by the Member States of the European Union as sufficient documents for entering those countries."

⁵ The Migration Department, Border Guard and Consular Missions have a common database on undesirables. The Migration Department keeps data on illegal entrants. Fingerprints are accumulated in the Criminal Expertise Service. Police uses several registers. All these tools are separate. A tender was launched in 2001 for setting up a " National Register of Wanted Items" which is meant to be the base for the future integrated, on-line, secure information system (NSIS). The Register of Foreigners will be established by 1 July 2003.

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3. *Implementing performance*

Performance varies. As to transit between Kaliningrad and the mainland of Russia (which is by far the main issue), the performance of migration control will not be assessable before signature of the accession treaty, due to the postponement of the introduction of visas.

On the other hand, Lithuania being regarded as a transit country where illegal immigrants, coming from Russia via Belarus, try to cross the border to Poland or to Scandinavia, it is possible to say that Lithuania takes action and obtains results. The "Foreigners' Registration Centre" was set up in 1997 and its "prison-like" living conditions have much improved since its creation. The necessary legal mechanisms for migration control have been established, and legal sanctions against illegal entry and stay, trafficking of human beings and illegal employment have been introduced, broadened and sharpened between 1996 and 1998¹, they exist not only in theory but are implemented in practice. This could be one of the reasons for the reported decrease in illegal entries in Lithuania since 1997, although the opening of more favourable roads further south may play a role, too.²

Despite the absence of re-admission agreements with Russia and Belarus (a dossier where EU support is of course essential), these countries accept repatriation of their nationals and of third country citizens (just after illegal entry). An agreement meeting EU standards would however facilitate readmission of, notably, non-Russian illegals caught inside the country. This is indeed the main current difficulty, since voluntary returns were successfully organised in the period 1998-1999 with EU and IOM help, but where forcible returns are concerned, funding has not been allocated. Thus, deportation is not carried out and the foreigners remain in detention. Other problems concern women trafficked from, to and through Lithuania; investigative actions should be strengthened in this field.³

¹ Some of the smugglers are sentenced to 10-12 years of prison. 50 offences are registered per year, related to lodging or employment of illegals, an offence generally poorly prosecuted in other applicant countries.

² The number of illegal immigrants intercepted at borders or readmitted into Lithuania increased between 1993 and 1997 (maybe partly due to improvements in border control activities); this evolution was stopped and reversed as of 1998. As there is no evidence suggesting any reduction in the detection rate, it can be concluded that the flow of illegal migration reduced substantially. It can be related to the efforts of Lithuanian authorities.

³ Five officers from the Office of Criminal Business Investigation at the Organized Crime Investigation Service of the Police Department are directly involved in ant trafficking activity. In July 2000, the border police were instructed to pay more attention to young persons, particularly females, travelling abroad. Some NGOs state that the customs and border guards are believed to be very corrupt, and neglect the fight against trafficking. According to the IOM, approximately 9 percent of Lithuanian youths have directly or indirectly been exposed to the trade in women and trafficking of persons abroad to work as prostitutes.

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4. *Summary*

Russians of Kaliningrad, together with other categories, may still enter Lithuania without a visa. Therefore, the visa system is not applied to the most important and recurrent flux of foreigners. Admissions rules require amendments on workers (principle of a prior work authorisation issued abroad) and on family unification. Provisions on detention before expulsion still do not respect human rights.

Lithuanian consulates have good experience in issuing visas, but the issuing-conditions are far from the Schengen ones concerning the proof of accommodation/resources and on on-line connection to national databases. Above all, the consular (and border) system for coping with the introduction of visas for Russians of Kaliningrad and other categories, is not yet in place. Passports do not yet meet EU security requirements. A modern information system, integrated and shared, is still lacking.

With regard to the implementation of the fight against illegal immigration (and bearing in mind that the main issue (circulation to and from Kaliningrad) has not yet been tackled), it is possible to say that Lithuania takes action and obtains results. The question of re-admission agreements with Russia and Belarus needs EU support. However, efforts are still needed in the field of forced expulsion of non-Russian illegals and trafficking in women.

C. **Asylum**

1. *Formal acquis*

Since the Amendments of June 2000 to the Law on Refugees, setting up a proper appeal system, formal provisions on asylum no longer raise concern, with two exceptions.

- The (too expeditious) admissibility procedure at the border, in case of manifestly unfounded applications, cannot be considered as a fair asylum procedure.¹ This is all the more necessary since applications are mostly made in Lithuania at the border crossing points.

¹ In the admissibility procedure at the border, the Migration Department has only 48 hours to decide whether a person has arrived from a safe third country and whether his claim is manifestly unfounded. This time span of 48 hours is undoubtedly too short, even if all practical conditions (interpreters, connections with the central authorities and with police) were met, which is not yet the case. Moreover, the appeal against such a decision has no suspensive effect, and the Law does not provide for "additional sufficient safeguards" as stated in the Resolution of 1995 to permit such exceptions to the general principle of the suspensive effect of appeal.

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- The Refugee Law regulates detention of asylum seekers. However, despite progress, this regulation still suffers from serious shortcomings in respect of human rights.¹

2. *Administrative capacity*

The absence of a central register for foreigners and of a shared information system on asylum-seekers, required for accession to the Dublin Convention and Eurodac, does not facilitate cooperation between border guards, police and central authorities.²

There is now some experience. Although the lack of qualified, experienced staff no longer stressed no longer needs to be stressed, an information Centre on countries of origin must still be established and training of judges is also still necessary.³

The financial involvement of the authorities on asylum issues is slowly increasing regarding legal assistance (deemed to be of good quality) but most funds for the latter are still granted by UNHCR and the EU, as is the case for interpretation (except for Russian).

Accommodation conditions have improved at the Foreigner Registration Center (where those illegals are temporarily detained who are applying for asylum), and at the Refugee Reception Centre special provisions are implemented for minors and vulnerable individuals. Detention conditions at the border are however still very harsh.

¹ There is no time-limit. There is no mention of any safeguards such as the right to be informed, reasons for detention, the right to challenge the decision to detain and the right of review of the detention order.

² Almost every institution involved (The FRC, the RRC, the Migration section...) has its own local database. A computer network connecting all units and instances working in the asylum sector is planned in the framework of the general programme of computerisation in Migration fields, the so-called asylum and migration IS/IT accessible to all responsible institutions, which will also include information on countries of origin and on available interpreters. This ambitious (PHARE) project is to be decided on in 2002.

³ The establishment of a case registration system would be very useful.

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3. *Implementing performance*

The steady number of applications received and processed, and the fact that at the same time, the illegal migration trends are stable or even receding (see 'Migration'), show that Lithuania does indeed implement its legislation: access to the procedure is possible, at least seems likelier than in other Baltic candidate countries. However, the rate of recognition tends towards zero,¹ which is very worrisome: per se, as well as in the future context of the Dublin Convention. It will have to be checked whether this trend is related to the recent sudden increase in the number of Chechen cases², or to other matters.

In addition, the 'safe third country' and 'safe country of origin' notions are not properly implemented. The first one should contain the criterion that the asylum-seeker must be guaranteed access to the territory and to a fair asylum procedure in the third country, and the second one should not automatically consider as safe the country whose nationals constitute more than 5% of the total number of asylum-seekers in Europe and the recognition rate is less than 5%.

4. *Summary*

Legislation complies with the *acquis*, with the exception of a too expeditious admissibility procedure at the border in case of manifestly unfounded applications, and of inadequate regulations on detention of asylum seekers.

Administrative capacity has improved, but a shared information system is still to be established, as well as information on countries of origin. Training of the judges is still necessary. The financial involvement of authorities in asylum issues is still weak (legal assistance, interpretation.) Detention conditions at the border are still very harsh.

¹ In 2001, 256 applications were received, 145 decisions were made (and 93 cases were "otherwise closed", notably because of fleeing before the end of the procedure), and zero cases were recognised according to UNHCR. Of course Lithuanian authorities put forward 169 "applications for residence permits on humanitarian grounds", out of which 35 have been granted permits. However the latter, which concern mostly Russians, are not part of the formal *acquis*, whereas the Geneva convention is part of the *acquis*.

² Chechens getting off Moscow-Kaliningrad, Kharkiv-Kaliningrad, and Homel-Kaliningrad transit trains and requesting political asylum, some of them being said, by MPs, to "hold radical, Wahhabite views, and to terrorize the other refugees from Asia and Africa".

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In Lithuania, access to the procedure is really possible, but the rate of recognition tends towards zero, threatening the future implementation of the Dublin Convention. This evolution could be related to the recent sudden increase in the number of Chechen cases. In addition, the 'safe third country' and 'safe country of origin' notions are not properly implemented.

D. Police and customs

a) Police

1. *Formal acquis*

In the field of data protection some progress has been achieved: Parliament ratified the European Convention for Protection on Individuals with regard to Automatic Processing of Personal Data and on 8/11/01, Lithuania signed its Additional Protocol regarding supervisory authorities and transborder data flows. The Law on Amendments to the Law on the Legal Protection of Personal Data was ratified on 22/1/02. Lithuania expects to ratify the 1999 UN Convention for the Suppression of the Financing of Terrorism by the end of 2003. The new Criminal Code and the new Code of Criminal Procedure are expected to enter into force on 1/1/03. The latter takes into account the instruments on judicial co-operation in criminal matters including the EU Convention of 29 May 2000 on Mutual Assistance in Criminal Matters and its Protocol.

2. *Administrative capacity*

Structure and organisation

The Ministry of the Interior (MoI) carries out the Government's policy in the spheres of protection of public order, public security, prevention of crimes and other violations of the law and protection of civil rights. The MoI directs the activities of the police.

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The Central Police Department is headed by a Commissioner General and four Deputy Commissioners General. There are 10 territorial county divisions. Besides the Police Department at the Ministry of the Interior, there are the Criminal Police and the Public Police Bureau headed by Deputy Police Commissioners General. The Criminal Police Bureau consists of the Organised Crime Investigation Service, Investigation Service, Operation Activity Service, International Relations Service, Witness and Victims Protection Service, Strategic Information Service and Forensic Science Centre. In addition, the Police Information Centre and the Police Quick Response Team (AEAS) are subordinate to the Lithuanian Criminal Police Bureau. The Public Police Bureau includes the Prevention Service, Public Order Service and Traffic Control Service. The Police Protection Organisation Service and the Police Information Centre are subordinate to the Lithuanian Public Police Bureau. The third deputy Police Commissioner General is responsible for administrative services of the Police Department at the MoI. The fourth deputy Police Commissioner General is the Head of the Investigation Department at the MoI.

The total number of police officers is 13.400. The average age of the staff is 30-35 years. Basic grade staff has to attend one-year police training. The legal status, rights, duties, requirements and ethics of police officers are primarily laid down in the Law on Police Activities of 1 October 2001. Police officers must furthermore observe the Statute of Service of Internal Affairs, including the Code of Honour. The Law on Police Activities provides for a more efficient management of the police organisation under the responsibility of the new Police Department. Structures and procedures have been optimised in order to allocate more resources to the performance of primary police tasks and to allow for more autonomy at regional and local level.

Staff, training and equipment

At the moment, the Lithuanian Law University (LLU) provides for the training of Lithuanian police officers. Qualification improvement courses are organised on a regular basis for police officers at the Police Faculty of the LLU, at the Higher Police School of Klaipeda and at the Training Centre of the Police Department. 3060 police officers attended various courses during 2001. Police officers participate regularly in training courses organised by the Nordic Baltic Police Academy as well as in training courses under different bilateral co-operation programmes. The LLU is responsible for training higher police officers. This means that the training is independent of the MoI. This situation can hamper co-ordination of the training with actual practice. Police education in Lithuania is only administered partially by the MoI, which is responsible for basic police training only.

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The present system cannot ensure implementation of the police training programme in a flexible way. Furthermore, training in police investigation methods is still insufficient as it tends to concentrate on the legal framework and is therefore very theoretical. More attention should be paid to methods of investigation and practice. Training of specialist staff responsible for combating organised crime should be stepped up. Expertise is also needed in other, new types of crime (financial crime, money laundering, high-tech crime). A long-term strategy should be established to modernise the existing system. A new model for training and further development of qualifications of police officers, giving priority to practical training and taking into account EU requirements, was to be ready by 1 July 2002; it is therefore too early to assess the implementation of the new training model.

The social status of the police is not considered high according to public opinion. It is necessary to improve the relationship with the public in the coming years and any mistrust that exists must be eradicated. There is full awareness about the high level of corruption within the police force in general and the traffic police in particular. In this sector there is a clear imbalance between the relatively low salaries of the traffic police staff and their extensive powers to impose high fines on the spot for traffic offences. The salaries of police personnel are low. This not only has a negative effect on staff motivation, it is also becoming increasingly difficult to interest high quality candidates in a career within the police. Many police officers are forced to take a second job. In addition, an increasing number of police officers are moving into another sectors after having received police training.

Technical equipment is generally inadequate for efficient police work. Priorities in purchasing of new equipment should be better defined. Modern technical equipment and forensic technology is not yet sufficient despite significant recent efforts. Improvement is necessary in order to develop the automatic dactyloscopic identification system, the computerised ballistic identification system and the national DNA database. The most important institutes that conduct forensic examinations in connection with criminal investigations are the Forensic Service Centre (FSC) of the MoI and the Institute of Forensic Examination of the Ministry of Justice (which plays an important role in the development of new methods on scientific research). In the past few years the examinations conducted by both institutes have increased sharply. Forensic examination has started to play a more important role in investigations.

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In principle, the FSC conducts technical examinations in connection with criminal inquiries. It has a total staff of 325, 227 of whom are forensic experts. Many of the staff came from the Criminal Police and have not had any extensive additional training. There are five departments (in the five major cities) for conducting examinations in different parts of the country. The regional departments are directed and co-ordinated nationally by the Forensic Science Service in Vilnius. The quality of forensic examinations is said to be acceptable. Various methods are used in technical examination: examination of fingerprint, DNA, voice, shoeprints, tool-marks, handwriting, paint, glass particles, ballistic, hairs, and fibres, documents, food products, drugs and psychotropics and chemical/biological substances. However extra investments should be made in equipment, infrastructure and the development of new methods in the coming years. At the moment, independent of the quality of the examinations, a shortage of facilities implies waiting times for certain forensic examination disciplines.

3. *Implementing performance*

Strategic plan for police activities for 2002-2004

The Police Department has prepared a Strategic Plan for Police Activities for 2002-2004. whose main priorities are to reduce the total amount of registered crimes and increase the focus on crime prevention. The Programme foresees all necessary financing and investments needed to implement the National Schengen Action Plan, the police related components of the National Programme for Adoption of the Acquis, as well as the police reform. In 2002, a total of €116 million is to be allocated from the State budget for implementation of this programme, and €180 million is expected to be allocated in 2003-2004. A programme for the Police System Development 2002-2010 is also under preparation.

Organised crime

Organised crime has increased progressively each year, mostly offences against property. In most cases, theft is committed by individuals. There is also evidence of gangs operating in a regular basis. Another common phenomenon is smuggling (cars and goods subject to levies). The fight against organised crime needs more in-depth investigations on the part of the police in order to gain insight into the organisational structures of criminal organisations and the methods used. This requires an approach going beyond the investigation of individual cases. An inquiry can only be effective if the underlying organisations/criminal activities are tackled following criminal investigations.

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Broadening the approach to organised crime requires more intensive co-operation between the different sections of the Police and between the Police and other agencies, such as the border police and customs.

The police must not only focus on the traditional forms of crime (theft, smuggling, stolen vehicles) but must re-orientate its work to other forms of crime (financial and economic crimes, new technologies etc.). The Criminal Investigation Department tends to focus on cases which are recognisable to them and in which they already have some experience. The capacity to engage in new developments must be increased.

It is necessary to develop a strategy for criminal investigations. The investigative process is mainly *ad hoc* at present. With a strategy, separate investigations can be put into a broader context and cases can be linked. A strategy can help authorities to establish the extent to which objectives have been met and can also help determine whether the actions or objectives need adjusting.

In November 2000, the Police, Border Police and Customs departments signed a co-operation agreement on the fight against crime (exchange of information, prevention, co-operation in operational activities, joint training exercises). In practice this agreement is applied only superficially; the exchange of information is poor and joint operations are rare.

Trafficking in human beings

Trafficking in human beings has become a considerable problem in recent years. Organised criminal groups are generating important proceeds by transporting women from eastern countries to Western Europe. It is necessary to improve the measures and programmes directed towards preventing women from becoming victims of this type of crime (increasing the information available to risk groups on how to tackle traffickers in human beings, counselling for victims, improving international co-operation). The police and the border police will have to invest in knowledge and methods over the coming years, and try to create adequate networks. On 17/1/02, the Government adopted a programme for the control and prevention of prostitution and trafficking in human beings for 2002-2004. The results of this programme should be monitored.

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Money laundering

Financial crime has developed in a relatively short space of time. The nature of financial crime is currently comparable with that in other European countries. The Lithuanian approach to financial crime is evolving. Much had already been done in recent years, but there is still a long way to go in terms of improvement. There is a lack of knowledge and experience when it comes to implementation of new legislation. Co-ordination among the various institutions responsible for detecting and investigating illegal conducts in the financial sector and international co-operation should be improved. Co-operation between financial institutions and investigative authorities is of particular importance. Banks especially must play a key role in the detection of unlawful financial transactions.

Lithuania should comply as soon as possible with the *acquis* and other international standards on the fight against the misuse of the financial system, in particular money laundering, including Directive 2001/97 EC amending Directive 91/308/EEC on Prevention of the Use of the Financial System for the Purpose of Money Laundering. Co-operation between the financial intelligence units of the various competent bodies needs to be improved, and their independence reinforced.

The new Law on the Financial Crime Investigation Service was adopted on 1/4/02 (together with amendments to the Law on Prevention of Money Laundering, aligning legislation to the Council Directives in this field). It aims to improve the efficiency of the services dealing with taxation and financial crimes and strengthen co-operation between these services in the spheres of tax administration, detection and investigation of crimes and other legal offences. According to the Law, the Tax Police was reorganised into the Financial Crime Investigation Service, a public body accountable to the MoI, which was appointed the contact institution for co-operation with the OLAF

Drugs

The nature of drug-related crime has changed considerably in recent years. Where it used to be restricted primarily to international smuggling, Lithuania is now being confronted with the production of narcotics, an increase in domestic trafficking, consumption and availability of different varieties (synthetic drugs). Implementation of the National Anti-Drug Plans largely depends on the available funds for financing, so that its implementation and progress are uncertain.

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In 2001, a budget of €417.000 was allocated for the implementation of the National Drug Control and Prevention Programme for 1999-2003. Thus funds were allocated for the purchase of equipment for searching and detecting drugs, the logistic strengthening of the forensic expertise agencies and specialised police units responsible for the fight against drugs, strengthening of the Customs training centre and staff training.

A new Inter-Governmental Drugs Control Commission was established in January 2001 with the objective of co-ordinating interministerial activities in the field of drug control and -prevention. It is a permanent inter-ministerial body, chaired by the Minister of Health, and including representatives of 14 ministries, departments and other institutions, and is responsible for the implementation of a uniform drug policy in Lithuania. The Drugs Control Office of the Organised Crime Investigation Service of the Lithuanian Criminal Police Bureau, is responsible for co-ordination of the law-enforcement agencies' actions in combating drug trafficking and for the management and co-ordination of the information related to the illegal circulation of narcotic and psychotropic substances and their precursors, as well as for the handling of the data-base and the organisation of international special operations aimed to control illegal circulation of drugs.

The State Border Guard Service is authorised to carry out drug controls at the borders and the frontier zone. Customs are responsible for the control of narcotic materials at the ports of entry and the police forces conduct drug control within the territory of the country. In 2001, border guards, customs and police officers participated in several drugs training seminars.

The National Focal Point for co-operation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) was established on 1/11/01 in the State Public Health Centre. The National Drug Information Point will be staffed upon establishment of the REITOX network in the first half of 2002.

Lithuania signed (22/3/02), but not yet ratified, the Agreement on Illegal Trafficking by Sea implementing article 17 of the 1988 United Nations' Convention on the Fight Against Illegal Circulation of Narcotic and Psychotropic Substances.

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Terrorism

Lithuania has associated itself fully with the conclusions of the Extraordinary European Council on 21/9/01, in particular as regards the need to systematically evaluate relations with third countries in the light of support which these countries might give to terrorism. The National Programme for the fight against terrorism was adopted on 22/1/02. The State Security Department is responsible for co-ordination and implementation of the Programme, which includes legal, administrative and operational measures aimed at fighting terrorism. Lithuania expects to ratify the 1999 UN Convention for the Suppression of the Financing of Terrorism by the end of 2003.

Police co-operation/liaison officers

At present only ministers are authorised to provide for the secondment of liaison officers.

National legislation will be amended to allow the Police Department to directly appoint liaison officers. The amended regulations are to come into force 1/9/02. The Police Department, the Customs Service and the State Border Guard Service should be able to appoint their liaison officers as from January 2003. The Police Department plans to second police liaison officers to Europol and Poland, and to either Germany, Spain or Russia.

In 2001, the issue of representation of common interests of the law enforcement institutions of the Baltic countries in third countries was examined in the framework of Baltic co-operation via the law enforcement attachés. Discussions will continue in order to achieve agreement on this issue, the main obstacle being the lack of funding.

Europol

A co-operation agreement with Europol is expected to be signed in the second half of 2002. The National Europol Bureau should be operational by the end of 2002 with a staff of approximately 10 officers. Lithuania will second a liaison officer to Europol headquarters, once the agreement has been signed.

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Police co-operation agreements

An agreement on co-operation in the fight against organised crime, terrorism and other serious crimes was signed with Germany in February 2001. Lithuania, Latvia, Estonia and Finland signed an agreement on co-operation in operational activities to combat organised crime (exchange of relevant information, appoint contact officers, and organise joint seminars and training, etc. in June 2001). New bilateral agreements on police transborder co-operation with Latvia and Poland are under preparation

Crime prevention

The police should make a more active contribution towards crime prevention. More co-operation with other institutions such as local and social well-being authorities is needed as well as a multi-agency approach to crime prevention. Activities must be broadened beyond mere enforcement of criminal law. Some steps have been taken in the field of juvenile crime and drug use. In practice, attention for prevention is still too limited and seems to be restricted to a relatively small groups of officers. Crime prevention has developed as a specialisation. Only a few officers are responsible for implementing concrete projects. Prevention can only be effective if extended to a large number of officers. Tasks and responsibilities in the field of crime prevention should be incorporated into general police duties and included in police training. It is finally necessary to increase the financial resources to implement preventive policing, as these are at present too limited because the main priority is given to crime fighting.

b) Customs

1. Formal acquis

Lithuania continues its preparatory work for participation in the Convention on Mutual Assistance and Co-operation between Customs Administrations of 18 December 1997 (Naples II Convention), and the Convention on the Use of Information Technology for Customs Purposes (CIS Convention).

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2. *Administrative capacity*

On 1/1/01, the Customs School was reorganised into the Customs Training Centre. Its aim is to organise and implement basic training and continuing qualification improvement for customs officers. In 2001, the budget allocated to the Customs training centre was €380.000. In spite of these efforts, a number of measures still remains to be adopted, e.g. a long term strategy for training, taking into account the legislative developments and changes in the system of the Customs Services. Substantial training will be needed to improve the intelligence capacity of the Customs Service.

As of 1/1/02 the Fraud Prevention and Investigation Service was reorganised into the Customs Criminal Service which should operate as a separate structural unit of the Lithuanian Customs, with a more effective management of enforcement functions, and creating the pre-conditions for further development and strengthening of the service in terms of financing and human resources. It is too early to make an assessment of this reorganisation; its effects must be monitored.

Efforts have also been made to improve the management and organisation of the customs administration. A new structure of the Customs Department came into force on 1/7/01 and the Internal Audit Division became directly subordinated to the Director of the Customs Department. Its main functions are to detect and prevent cases of misuse of office and negligence in the duties of customs officials and to detect cases of conflict of public and private interests. Currently the Internal Audit Division consists of 4 officials.

In 2001 the Customs participated in five joint surveillance operations.

Lithuania should accelerate the implementation of the IT strategy of the Customs administration and implement the customs ethics policy.

4. *Summary (Police and Customs)*

Some progress has been achieved in the field of data protection. The amendment to the Law on the Legal Protection of Personal Data is expected to be adopted in 2002. The new Code of Criminal Procedure and the new Criminal Code should enter into force on 1 January 2003. Lithuania expects to ratify the 1999 UN Convention for the suppression of the financing of terrorism by the end of 2003.

RESTREINT UE

The new Law of the Police Activities provides for a more efficient management of the police organisation. National legislation will be amended to allow the Police Department to directly appoint liaison officers. Preparations for the signature of a co-operation agreement with Europol should continue. A new model for police training will be prepared in July 2002. A programme for the Police System Development 2002-2010 is under preparation. Efforts should continue in order to improve the technical equipment of the Police service. Inter-agency co-operation in the field of organised crime should be strengthened.

Corruption continues to be a systematic and serious problem within the police and customs. To combat this phenomenon an anti-corruption programme was adopted on 17 January 2001. (See also chapter G. Corruption.)

In the field of money laundering, Lithuania should comply as soon as possible with the *acquis* and other international standards on the fight against the misuse of the financial system.

Preparatory work for a participation in the Naples II and CIS Convention continues. A new structure of the Customs Department has come into force in order to improve the management and organisation of the customs administrations; the effects of this restructuration must be monitored.

E. Justice

1. Formal *acquis*

Lithuania has made significant progress with the adoption of the *acquis*. A number of issues still need to remain tackled.

With regard to criminal law, the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters has not yet been signed. The new Criminal Code and the new Code of Criminal Procedure are foreseen to enter into force on 1 January 2003. The new Criminal Code should bring Lithuanian legislation in line with the Joint Action of 1998 making it a criminal offence to participate in a criminal organisation and will take into account the Conventions between the EU Member States on (simplified) extradition and mutual assistance in criminal matters as well as judicial co-operation in the framework of Schengen. Lithuania has stated that it is further taking note of the new *acquis* in this field (European Arrest Warrant, Eurojust, terrorism).

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Information is on alignment of Lithuanian legislation with the Joint Action on Racism and Xenophobia would be desirable.

In the area of drugs, Lithuania has recently signed but has not yet ratified the 1995 Council of Europe Agreement on Illicit Traffic by Sea, implementing Art. 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. As for instruments on terrorism, the Lithuanian Programme for the Fight against Terrorism foresees ratification by 4th quarter of 2003 of the UN International Convention for the Suppression of the Financing of Terrorism (1999), the UN Convention for the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic agents (1973) as well as the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988). Lithuania is taking note of the 1995 La Gomera Declaration.

Regarding civil law, Lithuania has not yet signed the 1980 European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, the 1954 Convention on Civil Procedure, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) nor the Convention on the Civil Aspects of International Child Abduction (1980).

In the field of Data Protection, Lithuania has ratified the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and has signed the Additional Protocol regarding supervisory authorities and transborder data flows. As to an independent Inspectorate, amendments to the Law on Legal Protection of Personal Data (passed by the Parliament in January 2002) extended the scope of application of the Law in order to meet the requirements of the 1981 Convention and of Europol. Draft Amendments to the Law which should ensure full compliance with the EU legislation -in particular by strengthening the independence of the Inspectorate- will be submitted to the Parliament in the 2nd quarter of 2002.

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2. *Administrative capacity*

Out of a total of 675 positions for judges, 44 positions are vacant. Most of them concern the district courts (31). According to Lithuania, the lack of human resources does not constitute an obstacle to the proper functioning of the judicial system. Lithuania aims to reduce the vacancies in the courts to a minimum and fill the vacant positions. The number of court staff is 1650. However, another source states that with the increase of workload over the past ten years, allocations have not increased accordingly. Despite the increase in the number of judges, the enormous increases in the number of cases has increased the average workload considerably. Judges of the district courts have the heaviest workloads, which increased from 40.48 cases per month in 1997 to 52.68 in 2000.

Nonetheless, the backlog of cases is continuously decreasing¹. The number of criminal cases under investigation for more than 6 month in first instance courts decreased from 1120 on 1 January 2000 to 412 on 1 January 2002. The number of civil cases under investigation for more than 6 month in the first instance courts decreased from 2.812 on 1 January 2000 to 964 on 1 January 2002. The backlog of unsolved criminal cases in first instance courts decreased from 4.856 on 1 January 2001 to 4.158 on 1 January 2002 (15%) whereas the backlog of civil cases decreased from 15.670 to 15.037 within the same time period.

The total number of prosecutors (893) seems to be sufficient. There are no vacancies reported. There is currently no information on the number of bailiffs.

As to a satisfactory system of training for judges, prosecutors, as well as other categories of personnel working within the legal system, training has become a top priority for the Ministry of Justice. The Lithuanian Judicial Training Centre provides training (including in EU Law) of judges, bailiffs and staff of the central institutions involved in judicial matters. In 2001, it conducted 43 seminars for 3.574 participants (3.237 of them were judges). The PHARE Twinning project "Strengthening Capacity of Lithuania's Judiciary" will also provide training of the judiciary and personnel of central authorities in the field of judicial co-operation in criminal and civil matters.

¹ viz. analysis Justice for tables

RESTREINT UE

The Training Division of the Prosecutor General's Office (PGO) is responsible for the organisation of public prosecutor's training. It co-operates with the Ministry of Justice, the Lithuanian Law Institute, national/foreign institutions and NGO's. In 2001, over 30 training programmes were conducted with the participation of more than 400 prosecutors of various specialisations. The programmes focused on combating organised crime and corruption; protection of witnesses and victims, crime in international banking and money laundering; investigation of economic crimes, the illegal turnover of telecommunication programmes, copyright and intellectual property. Training on combating juvenile crime and crime against minors was a top priority. The PGO, while implementing the Juvenile Justice programme, concluded several agreements with educational institutions for research on the causes of juvenile delinquency, and the influence of prosecutor's offices and institutions of public administration in this process. Methodical recommendations will be prepared. The PGO and the Ministry of Justice further plan to organise common studies of the new Criminal Code and Code of Criminal Procedure.

A satisfactory statute for judges and prosecutors and favourable working conditions, in particular with regard to wages and access to case law

The reduction of the salaries of judges which took place in the end of 1999 was declared unconstitutional by the Constitutional Court and the level of judges' salaries was restored to previous one. According to Lithuania, the salaries of judges are the highest among the civil servants and public officials. The new Law on Courts provides for the rules concerning pension guarantees for judges. The state social insurance pension will be awarded to judges who have reached the pension age and whose term of office has expired. Judges with over 15 years of working experience, who reached the pension age and whose term of office has expired, will receive a pension in the amount of 45% of their last wage as a judge. In total, there will be two pension schemes applicable for retired judges: ordinary pension maintenance (social security) and special judges' pension.

Prosecutors enjoy almost the same level of salaries as judges, while salaries of private lawyers are quite varied and often higher. The salaries of court employees (secretaries, registrars) are very low, which may cause corruption in the administration of the courts and in the processing of claims and cases.

RESTREINT UE

According to Lithuania, the lack of material resources does not constitute an obstacle to the proper functioning of the judicial system. However, one report states that the physical infrastructure of courts and the conditions in which judges work are unsatisfactory. Budget allocations for construction have lagged behind the amounts needed. Even though some courthouses have been built or renovated, others are reported to be in very poor condition¹. In district courts, about 40% of cases are tried in judge's offices. The efficient functioning of courts is hampered by the lack of necessary technical equipment, e.g. computers, typewriters. Some district courts even lack basic furniture and writing supplies. However, under the LITEKO programme computerisation of the courts system (installation of common network/installing PCs) will continue and today 85 % of the courts have Internet connections. From July 2000 onward, all decisions and judgements of regional courts and the Court of Appeal are published on the website of the Ministry of Justice, and decisions of the Supreme Court on its website.

A high level of transparency within the court system, including access to previous judgements

One report states that access to information is inadequate in that judges do not all receive the official gazette (although most have access to printed codes) and legal information can be accessed only by computer in courts that have installed LITLEX (a legislative databank) or are connected to the database via the Internet. LITLEX is available to the great majority of judges in the regional, appellate courts and the Supreme Court, but some district court judges do not (yet) have access to it.

3. *Implementing performance*

With regard to *guarantees on independence of judges vis-à-vis the executive power*, Lithuania has made substantive progress over the years. Fundamental guarantees of judicial independence and the separation of powers are enshrined in the Constitution and a ruling by the Constitutional Court in 1999 mandated a significant restructuring which -with the entry into force of the new Law on Courts- should put an end to the undue influence of the executive over judges.

¹mentioned are the Vilnius Second District Court, Vilnius Regional Court, the Court of Appeal and provincial courts

RESTREINT UE

In 1999, several Members of Parliament requested the Constitutional Court to review the constitutionality of certain articles of the Law on Courts dealing with the Ministry of Justice, arguing that the provisions created direct and indirect opportunities for the Ministry to interfere with courts' activities and thereby contradicted the Constitutional principles of separation of powers and judicial independence. The Court's 21 December 1999 ruling found 16 provisions of the Law on Courts unconstitutional.

According to the Constitution, a legal act is not applicable from the day a Constitutional Court ruling finding the act in contravention of the Constitution is published. Thus, from the ruling to the (foreseen) entry into force of the new Law in May 2002, an institutional and legal vacuum existed creating problems in practice concerning the question of who had the authority over core judicial administrative issues and the situation of inadequate funding, working and salary conditions for the judiciary. In that period, courts did not have effective control of their budgets, the executive's involvement in the budgeting process and the allocation of funds was significant and the budget process itself remained insufficiently transparent. The Ministry of Justice exercised extensive administrative control over the courts, and judges' pensions were far lower than many other State officials involved in law enforcement. Regarding appointment of judges, despite the changes mandated by the 1999 ruling, the executive still retained undue influence over the careers of judges, especially during their initial probationary appointment. In some cases, the Council of Judges had taken over functions of the Ministry of Justice, but in others (for example, when court division presidents' terms expired) it was not clear which authority was competent to act.

On 31 May 2001, a new Law on Courts, taking the conclusions of the Constitutional Court into account, was submitted to Parliament. It was adopted on 24 January 2002 and its entry into force was foreseen on 1 May (to be verified). Under the new Law, the Minister of Justice does not have any right and competence in the procedure of appointment and dismissal of judges, in their professional carrier nor in the administration of the courts' work. The courts are independent managers of the budgetary allocations. The Council of Judges remains the main player concerning procedures of selection, appointment and disciplinary measures for judges. The Council's main functions are to advise the President on the appointment of judges, the establishment and administration of the Court of Honour, the management of the National Court Administration and other functions provided for in the Charter of the Judges.

RESTREINT UE

The Council will set up a Selection Commission to advise the President on the appointment of judges. Disciplinary cases against judges are heard by the Court of Honour of Judges. Only the presidents of courts and the Council of Judges have authority in the administration of courts. The Council of Judges consists (to be verified) of 23 members, including the chairmen of the Supreme Court, the Court of Appeal, the Superior Administrative Court and the Regional Courts and an additional 9 members from the judiciary. Other members are the representatives of the Ministry of Justice, the Ministry of Finance, President Office, the Chairman of the Parliament's Committee on Legal Affairs.

The "Rules of Ethics of Judges", regulating issues such as judges' independence and their (extra-) judicial and activities, were approved in 1998. They have no legal force, but may be taken into account in interpreting disciplinary liability under the law. Judges may not take part in the activities of political parties/other political organisations, may not hold any other elected or appointed post and may not work in other branches of the State. They may not be employed in any business, commercial, or other private enterprise or institution and are not permitted to receive any remuneration other than their judicial salary, except payments for educational, academic or creative activities.

Rules on impartiality limit a judge's scope of participation in a case. Judges must recuse themselves if they have participated in a previous phase of the same case; if they are a relative of a party or other person participating in the case; if they or their relatives are directly or indirectly interested in the outcome of the case or if there are other circumstances raising doubts concerning their impartiality.

Court presidents, their deputies and division presidents have no right to exert influence upon other judges when the latter administer justice or in any other manner that compromises judicial independence. Instructions that would contradict the order established by law and exert influence on a decision are considered "gross interference in case processing" and are subject to disciplinary sanctions. There have been no reports of such interference. Judges are generally not overly dependent on their court presidents; they do not depend on them for performance assessments (these are conducted by the Department of Courts) nor for any benefits or promotions.

RESTREINT UE

With regard to *(objective) distribution of tasks*, cases in first instance courts are assigned by the court president either alphabetically according to name of the defendant; numerically according to the case number or by a combination of these two also taking into account a judge's specialisation. The court president must follow one of these methods, but can change procedures the next year if it proves to be ineffective. Although there is no formal legal prohibition, in practice court presidents cannot reassign a case except under exceptional circumstances (illness, a business trip). Consequently, "judge shopping" hardly exists.

With regard to *confidence of the public*¹, a report published in 2001 states that the judiciary operates in a 'not always hospitable' environment and that courts and judges are, on the whole, mistrusted and not fully respected by a number of politicians, as well as substantial segments of the general public and media. A clear lack existed (due to the attitude of some politicians) of public respect to support the separate position of the courts/independence of the judiciary. For example, in 2000, certain Members of Parliament ignored repeated summons to appear as witnesses in a case before the district court in Svencioniai, leading the judge to fine them. Particularly in matters that have attracted media attention, public officials have on occasion pressed judges to avoid acquittals in criminal cases or to reach decisions favourable to specific parties in civil cases.

Further, public attitudes towards the judiciary as reflected in public opinion polls and in the media are generally negative. According to 2 surveys, a high percentage of the population mistrusts the judiciary and believes them to be corrupt. There have been several cases in which judges of the district courts have been sentenced for corruption. Periodically, individual judges are criticised in the media for allegedly unfair, partial, or biased decisions, and for being highly paid. The lack of respect for courts manifested by statements of politicians and journalists was seen as one of the main reasons for the lack of public confidence in the judiciary.

Concerning *effective access for all citizens to justice including the right to defence and the existence of an effective system of legal aid*², Lithuania has stated that all necessary legal acts in this respect are in force and that the system of state guaranteed legal aid functions properly. An amount of LTL 5.390.000 was allocated from the state budget in 2001 to pay the lawyers providing state guaranteed legal aid.

¹ more information from the Member States on this issue is awaited

² more information from the Member States on this issue is awaited

RESTREINT UE

The status of victims is defined in the Code of Criminal Procedure which provides for the legal basis of rights and obligations of victims to crime. The victim has *inter alia* the right to legal counsel during pre-trial and court proceedings and is entitled to appeal against the acts or decisions of an investigator, prosecutor, judge or court. Furthermore, legislation is being drafted which will provide for the granting of financial assistance to victims who suffered from serious violent crimes, and for the establishment of a special Foundation to provide such assistance. The draft legislation is based on the provisions of the European Convention on the compensation of victims of violent crimes.

Regarding the severity of minimum sentences, the current Criminal Code was amended in November 1999 in order to abolish or lower sentences in cases which do not constitute a high degree of danger for society (e.g. theft, fraud). Moreover, the new Criminal Code does in many cases not provide for a minimum sentence, thus giving the judge the possibility to adjust the sentence to the particular circumstances of the crime and the offender. It also provides for alternative sanctions, which do not relate to deprivation of liberty.

Information is awaited on *the courts' handling of criminal cases, respect of 'reasonable delays' (ECHR Article 6) for judicial procedures (incl. pre-trial detention, particularly as concerns minors) and a satisfactory policy, with sufficient means, as regards dealing with minors.*

In January 2002, the Government adopted the Programme for Trafficking in Human Beings and Prostitution Control and Prevention for the years 2002-2004. Information on the implementation of the Joint Action on trafficking in human beings and sexual exploitation of children is desirable. With regard to an *effective system of witness protection*¹, the Programme for Witness and Victim Protection from Criminal Influence was adopted in 1994. In 1999, the Witness and Victim Protection Service was established in the Police Department. The Agreement between Lithuania, Estonia and Latvia on Co-operation in Witness and Victim Protection between Lithuania, Estonia and Latvia is in force since July 2001.

¹ practical information on this issue would be desirable

RESTREINT UE

In 2001, the Division of International Relations and Legal Assistance of the Prosecutor General's Office prepared and distributed among the relevant law enforcement authorities a manual on 'Legal Co-operation in Criminal Matters'. It describes the requirements set for the request for legal assistance addressed to foreign authorities, specific issues of extradition as well as the procedure for the execution of foreign requests to carry out procedural acts and transfer proceedings in criminal matters.

Regarding direct contacts between competent judicial authorities, direct contacts in civil matters are facilitated by the Ministry of Justice, which is the central authority for judicial co-operation in criminal and civil matters. Requests for the service of documents from Lithuanian courts in civil matters are already addressed directly to central authorities indicated in the declarations of the countries concerned. Moreover, the project "Strengthening the Capacity of the Lithuanian Judiciary" should further facilitate the establishment of direct contacts between judicial authorities.

More information from the side of the Member States on *judicial co-operation in criminal matters/extradition as well as in civil matters and efficient international judicial co-operation bodies with sufficient human and material resources* is awaited.

As to *practical, effective enforcement of court decisions, in particular in civil matters (which implies the existence of qualified professionals)*, civil rulings are enforced by court bailiffs. One report states that as a rule, judicial decisions are respected by political authorities but that civil judgements often go unenforced. The ineffective system of enforcement is reported to be one of the main reasons for public mistrust in courts. The problems seem to be caused by the significant increase of the number of cases on the one hand, and the current system of poorly qualified bailiffs with insufficient resources on the other. Both the number of writs of execution and the backlog of judgements not yet executed are increasing (192.818 in 2000, 236.576 in 2001).

RESTREINT UE

However, Lithuania is taking steps to improve the system. The system of court bailiffs has been undergoing reform since 1999, starting with the adoption of the Guidelines for the Institutional Reform of Bailiffs. In January 2002, a draft Law on Bailiffs was submitted to the Seimas. It was expected to be adopted in the 1st quarter of this year (updated information on the state of play desirable). The legal basis for the reform of the bailiffs' system (i.e. the Law on Bailiffs and other necessary legislation) is expected to enter into force in the 4th quarter of the year. Lithuania expects that the reform of the Court bailiffs system will significantly improve the effective enforcement of judgements.

Under the draft Law, a bailiff is not a civil servant but rather a person with rights empowered by the state with delegated functions to establish factual circumstances, to implement documents concerning court decisions and with the competence to serve documents. The draft provides for more strict requirements for persons willing to become a bailiff; a bachelor of law education, an irreproachable reputation and at least 1 year practice as an assistant to the court bailiff. It further prescribes self-government, i.e. self co-ordination of bailiffs' activities, representation of their interests in the state institutions and international organizations, responsibility for organizing and implementing bailiffs' education and training. The Minister of Justice will have a broad authority with regard to assuring the development of the execution system and guaranteeing its effectiveness. The Minister has the right to employ and fire a bailiff; to institute a disciplinary case against a bailiff and to perform control over bailiffs' activities.

Information on *alternative methods of dispute solving* is awaited.

4. Summary

Lithuania has made good progress with regard to the adoption of the formal *acquis*. A number of issues still need to remain tackled. The new Criminal Code and the new Code of Criminal Procedure are foreseen to enter into force on 1 January 2003. The new Criminal Code should bring Lithuanian legislation in line with the *acquis* on a number of issues (participation in a criminal organisation, extradition and mutual assistance in criminal matters). A number of instruments, both criminal (drugs, terrorism) and civil, remain to be signed and/or ratified.

RESTREINT UE

As to the question of administrative capacity, Lithuania aims to reduce and full those judges' posts that are still vacant. Although Lithuania does not consider the lack of human resources to be an obstacle to the proper functioning of the judicial system, the average workload remains considerable. The backlog of cases is however decreasing. Training, both of judges, prosecutors and other relevant personnel, has become a top priority and thus been clearly stepped up. Training on the new Criminal Code and Code of Procedure is equally foreseen. The restored salary levels for judges seem to be relatively high, and with the new Law on Courts the pensions for judges are guaranteed. Salaries of secretaries and registrars are, however, very low. Improvement of the physical infrastructure of the courts still appears necessary. On the other hand, technical equipment of the courts is underway and access to case law being ensured.

As to *implementing performance*, the (foreseen) entry into force on 1 May 2002 of the new Law on Courts should further and fully guarantee independence of judges vis-à-vis the executive. The period of uncertainty, i.e. the institutional and legal vacuum that existed over the past years, should thereby also come to an end. The distribution of tasks seems to be objective, although the confidence of the public in the judiciary and system still needs to be improved. The system of legal aid seems to function properly. More information on a number of issues (in particular the situation in practice) is awaited. The enforcement of court decisions needs to be improved. The new Law on Bailiffs, expected to enter into force this year, aims to tackle this problem. Information on the current or foreseen number of bailiffs would be desirable.

F. Human rights

N.B. This part will follow at a later date

G. Corruption

1. Legislation and relevant international instruments

(N.B. This part will follow at a later date.)

2. National programmes and strategies

On 17 January 2002, Parliament adopted the National Anti-Corruption Programme, comprising the National Anti-Corruption Strategy and the Action Plans for the implementation of the Strategy with the objective of enhancing anti-corruption activities. The Programme is being implemented with technical assistance from the EU, namely through the technical assistance projects 'Support to the Lithuanian Government's Anti-Corruption Commission' and 'Review and Implementation of the National Anti-Corruption Programme, the Preparation and Implementation of Sector Anti-Corruption Strategies and Actions Plan'. Implementation of the latter project started in January 2002.

A number of inter-institutional anti-corruption co-operation initiatives have also been established, (i.a. between the Special Investigation Service, the State Security Department, the State Control Office, the Customs Department, the Police Department etc.)

On 15 January 1999¹, the Government of the Republic of Lithuania approved the National Program for the Prevention of Organised Crime and Corruption. The Program set forth strategic and tactical objectives and was to be implemented in three stages, the first one lasting from 1999 to 2001. During this stage, the state of organised crime and corruption was to be evaluated and the necessary measures to strengthen their control and prevention as well as to ensure implementation of the enacted legislation were to be identified.

¹ Source: Report on Lithuania's National Integrity Systems 2001 (by Dr Severinas Vaitiekus), TI in cooperation with the Centre for Fraud Management Studies, Liverpool Business School

RESTREINT UE

During the present second stage (2002 - 2004), the main elements for the prevention and control of organised crime and corruption must be formed, i.e. the improved legal basis, the system of subjects of control and prevention and the system of legal, social, economic, financial, organisational, informational-analytical measures. The third stage, for the year 2005, provides for the identification of new directions for the prevention and control of organised crime and corruption as well as for the evaluation and determining of the measures that are already under implementation, taking into account the new conditions and prospects for the future. The authors of the program have realised that improvements of laws and the system of their implementation should not be limited to criminal legislation, but rather that priority should be given to the eradication of reasons and preconditions for the existence of corruption, i.e. on the legal regulation of economic, commercial, financial, administrative and other social activities and aspects of life. At the institutional level, the authors emphasized the need to create a balanced system of subjects and their functions, to strengthen not only law enforcement institutions, but, first of all, prevention agencies (for review, expert analysis, audit, control, and so on), and to effectively ensure co-ordination of activities at national, local and institutional level. The Program is thus geared not only towards law enforcement institutions, but also towards social prevention measures and towards development of civil society. The Program did not avoid shortcomings. It focuses on the problem of organised crime while corruption is perceived as a derivative phenomenon or as a phenomenon related to organised crime. The draft of the program was analysed by the experts of American Bar Association Central and East European Law Initiative (CEELI)¹, which stated, *i.a.*, that the tasks and goals of the program were too broad and too abstract, while the time-table for its implementation was overly extended in time, therefore, specific actions might prove to be inadequate when faced with reality and specific demands. Although the authors of the program did take into account some of the observations of the American lawyers and some other commentators, they failed to create a uniform, consistent and effective control mechanism for the implementation of the program.

¹ Analysis of the Long-term Comprehensive Program for the Prevention of Organised Crime and Corruption in Lithuania.-1998

RESTREINT UE

In 1998-1999, the state of corruption in Lithuania was analysed by a group of independent experts led by the State Security Department and financed by the Phare program. The authors of this work¹ came to the conclusion that it was necessary to prepare a corruption prevention strategy based on and organised at two levels and in two cross-sections, i.e.: nation-wide and institutional or branch-wide (individual strategies per institution).

On 2 March 1999, the Government set up a multi-institutional working group for the fight against corruption and authorized it to co-ordinate the preparation of the National Anticorruption Strategy. This working group was led by the Government Chancellor and consisted of the heads of the principal institutions of the country, representatives of non-governmental organisations and scientists. Due to the frequent changes of the Governments in 1999-2000, however, the preparation of the National Anticorruption Strategy took longer than originally planned. The Strategy was elaborated by a commission lead by experts of the Special Investigations Service (SIS) in co-operation with specialists of the Danish consulting company PLS Ramboll Management and the Rome International Law development Institute.

The goal of the Strategy is to bring down the level of corruption in Lithuania, to seek that its interference with economy and democracy is lowered and to strive towards social welfare.

Fighting corruption is perceived not as an isolated phenomenon, rather it must be brought in line with essential state reforms: in government, privatization, social affairs, tax administration, business and other spheres, by attempting to limit the preconditions for corruption and improve the efficiency of the fight against corruption.

The Strategy is based on prevention, investigation of violations of law and education of the public and ensuring the latter's support. It provides for actions and measures on limiting political and administrative corruption; and fighting corruption in the spheres of taxes, customs, public procurement, privatization and health care.

¹ Preliminary Evaluation of the Situation of Corruption in Lithuania and Preparation of Fundamentals of the Anticorruption Strategy. Closing Report.- Vilnius, 1999.

RESTREINT UE

The Strategy underlines that development of democracy and strengthening of civil society and the state of law as well as implementation of the principle of separation of powers are among the most important factors eliminating the manifestation of political corruption. In order to ensure the coordination of the activities of various institutions involved, the Strategy provides for a joint coordination mechanism, i.e. the Strategic Planning Committee on Fight against Corruption.

Thus, the Strategy and its implementation Action Plan which together make up the National Program on Fighting Corruption, form a qualitatively new step in the organization and implementation of the fight against corruption in Lithuania.

3. *Current trends*

a) Border management

N.B. This part will follow at a later date

b) Migration

N.B. This part will follow at a later date

c) Police and customs

The Lithuanian Police have a general obligation to initiate investigation concerning any crime they come across. Corruption cases, including those within the police services, are normally submitted to and investigated by the SIS or the organised crime and corruption investigation department of the Prosecutor General's office. In 2000, 405 disciplinary cases were brought against police officers. In the same year, 20 police officers were convicted by courts, 58 police officers released from service and 104 received an administrative sanction.

In the new structure of the Customs department, the Internal Audit Division is directly subordinated to the Director of the Customs Department. The main functions of the Division are to detect and prevent cases of misuse of office and negligence of duties of customs officials. There is general awareness within the law enforcement bodies of the existence of internal corruption. Some measures are already in place: screening and rotation of staff, training, raise in salaries, codes of conduct, internal control mechanisms, and new routines at border crossing points. The Customs department has signed memoranda of understanding with private enterprises in order to avoid corruption.

RESTREINT UE

Whatever the progress made, there is still room for improvement, in particular with regard to prevention of corruption and overall co-ordination. There are several police institutions each of which deals with fighting of corruption within its respective area of operation. It would be useful to devote more attention to the preventive side in the broad sense, strengthening anti-corruption prevention measures in order to strike a good balance between preventive and repressive measures.

d) Justice

N.B. This part will follow at a later date

4. *International organisations*

Lithuania ranks 38 on *Transparency International's* (TI) Corruption Perception Index (CPI) 2001 with a score of 4.8 (behind e.g. Slovenia (34), Hungary (31) and Estonia (28)). Compared to previous years, its position has improved: its rank being 43 in 2000 and 50 in 1999. There is however still insufficient public control over government decisions. The laws provide for control, but it is rarely exercised in practice. Furthermore, civil society is weak, and civic groups do not play a sufficiently strong role in the policy-making process.

According to a survey presented by TI in October 2001, a majority of the general public and entrepreneurs consider corruption as a widespread and increasing phenomenon, the institutions perceived as most corrupt being the courts, the government and the Seimas (parliament); the Traffic Police, Border Police, Tax Police, and penitentiary institutions. Furthermore the Customs Office, the Privatisation Agency, the State Tax Inspectorate and the Public Procurement Office are also considered to be corrupt.

(From: Report on Lithuania's National Integrity Systems 2001 (by Dr Severinas Vaitiekus), TI in cooperation with the Centre for Fraud Management Studies, Liverpool Business School)

In Lithuania, the conception of corruption as a phenomenon, its links with economic crimes and abuse-of-office as well as the essence of its prevention came gradually rather than early on. Corruption continues to be a systematic and serious problem in some Lithuanian institutions and is generally considered as a rather widespread phenomenon in society. The most frequent type of corruption is administrative corruption.

RESTREINT UE

The bureaucracy of the public bodies in Lithuania is generally slow and bribes are commonly used by the private sector in order to speed up procedures.

Some legal and organisational measures have been taken. The efforts made over the past years should be sustained and reinforced. Interagency co-ordination should be further strengthened in order to avoid overlap of operations and ensure efficient exchange of information. Greater involvement of civil society in the fight against corruption should be encouraged.

(from "Freedomhouse-Nations in Transit, 1998":)

Corruption and bribery are still widespread in many areas. Most adult citizens are believed to have resorted to bribery for some purposes. Bribes are usually paid to obtain a benefit, obtain more favourable treatment, or hasten the provision of services. The customs department is a well-known centre for corruption. Bribes are widely used to lower the costs of customs duties. Bribery is also widespread in tax inspections and hospitals (as an incentive to improve the quality of service). Businesses often have recourse to bribery while obtaining registrations and licenses and seeking compliance with state regulations and controls. Corruption is also pervasive in the police force. Salaries of civil servants, both at the national and sub-national levels, are higher than those paid to individuals with comparable qualifications and responsibility in the private sector.

Links between politicians and businesses are the subject of frequent press reports. In general, businesses have a greater influence on policy-makers than policy-makers have on business. One of the most influential business lobbies is the Lithuanian Industrialists Confederation, which signed a memorandum with the Conservative party before the 1996 parliamentary elections. One of the leaders of the confederation was appointed as economic minister after the Conservatives took power. In a celebrated 1997 bribery case, former Defense Minister Audrius Butkevicius was jailed briefly after being found guilty of accepting a \$15,000 payment to mediate with the prosecutor general in a court case. Butkevicius denied the charge. The case demonstrated that corruption has reached the top levels of government and that parliamentarians appear willing to pursue corruption charges on political or other grounds.

Most anti-corruption cases that have been publicized are pursued by prosecutors. Many of these cases involve the police or customs or tax inspectors. In 1997, several judges, lawyers, and investigators were sentenced to prison for accepting bribes.

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(from: CORRUPTION AND ORGANISED CRIME IN STATES IN TRANSITION (Octopus); Joint project between the EC Commission and the Council of Europe: FINAL RECOMMENDATIONS AND GUIDELINES FOR ACTION addressed to the Government of Lithuania. Report by Matti JOUTSEN, Strasbourg, 27 October 1998 - Octopus(98)3 Revised:)

The above-mentioned project led *i.a.* to the following recommendations:

The mechanism for the collection and analysis of data should be further developed (using international standards) so that the different data sets are brought together and provide a picture of corruption and organised crime, and of the offenders. Information should be readily accessible for national investigations and prosecutions and be effectively exchangeable at international level.

The National Council on Crime Prevention should be given a coordinating role in respect of the implementation of the recommendations on model local crime prevention projects and in respect of further measures to raise public awareness regarding the effects of corruption and organised crime.

Increased transparency in the bidding procedure for public contracts would be welcome. Those submitting bids should be required to supply detailed cost break-downs. Criminal organisations and their members should be excluded from participation in tendering procedures, receiving subsidies and/or governmental licences. Specific attention should be paid to the illicit origin of funds as a possible reason for exclusion from tendering procedures.

In view of the significant corruption reported among police, customs, banking and finance, the drafting of codes of conduct for these sectors might be considered by the appropriate bodies.

(From: Evaluation Report on Lithuania, GRECO EVAL I Rep (2002) 1E Final 8/3/2002:)

Lithuania has during the last years taken extensive action against corruption. Although there are some indications and estimations on the size of the problem, there is a general lack of research, including data and official statistics as a solid fundament for measures to be deployed in the future. Moreover, in-depth assessments with regard to certain institutions where there are particular problems of corruption would be of great value. Therefore, the Greco Evaluation Team (GET) recommended Lithuania to promote research on corruption with a view to developing a precise picture of the corruption situation in the country and in particular institutions affected and to develop the collection of data and statistics on corruption. These measures will assist in a proper evaluation of the responses to corruption in national strategies and in certain institutions.

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The GET had the notion that the main emphasis is on the enforcement of repressive methods. As an illustration, there are several separate police institutions each of them dealing with fighting of corruption within its respective area of operation. It would be useful to devote additional attention to the preventive side in the broad sense; educational/awareness approach, etc. The authorities should therefore reconsider the overall responsibility for the co-ordination of anti-corruption policies, with the view to establishing a specific body or, alternatively, to entrust an existing body with this responsibility and to consider the possibilities of strengthening anti-corruption preventive measures, in order to strike a good balance between preventive and repressive measures.

The GET was also concerned about the indications that it is generally difficult for the public and the media to have access to public documents, partly due to legal obstacles, partly due to a discretionary application of the regulations by public officials. In addition, information concerning inappropriately influenced journalists and media should be further scrutinized. Therefore, the GET recommended Lithuania to improve the transparency of public authorities vis-à-vis media and the wider public, in particular, with regard to access to public documents and information.

III. CONCLUSIONS

N.B. This part will follow at a later date

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