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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 11 December 2001**

**11033/1/01  
REV 1**

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**EVAL 28  
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## **REPORT**

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From : the General Secretariat  
To : the Collective Evaluation Working Party  
No. prev. doc. : 11033/01 EVAL 28 ELARG 185 RESTREINT  
Subject : Draft revised country report on Slovenia

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### 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, focussing 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<sup>1</sup>.

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

Slovenia's geographical location poses a number of special requirements for Slovenia's national border security system. Slovenia is still a transit area for illegal immigrants trying to reach Italy and other EU-countries but it is also becoming a target country. The level of the Slovenian border security system has improved rapidly and remarkably but it does not yet fully meet the EU-requirements, especially from a practical point of view. **Slovenia has made very clear and comprehensive plans<sup>2</sup> on how to fulfil EU requirements and many things have been implemented accordingly. However, some elements still only exist on paper but not yet in practice.**

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<sup>1</sup> I.e. docs 11034/01 EVAL 29 ELARG 186 , 12130/01 EVAL 31 ELARG 212 , 13267/01 EVAL 39 ELARG 266

<sup>2</sup> E.g CONF-SI 74/01 (Additional information on JHA-chapter, 28 November 2001)

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## 1. *Formal acquis*

According to several sources, Slovenian legislation related to border issues broadly aligns with the EU requirements. Many key laws have been drafted recently together with MS experts. However, some very important parts of legislation, like the Borders Act<sup>1</sup>, are not yet in force **and have therefore not yet been implemented** in everyday practice. **Other** parts of the legislation are still missing; there are inter alia no sanctions for carriers **in the sense of the Schengen acquis**<sup>2</sup>. **Slovenian authorities are well aware of these gaps and the required improvements are clearly indicated in different action plans e.g. Schengen action plan.**

The situation regarding Slovenian and Croatian border disputes has improved but has not yet been solved. Slovenia and Croatia have **signed but not yet ratified** an agreement on part of the land-border (75 km) and the sea-border in the Bay of Piran.

**Slovenia has signed and ratified an agreement with Croatia allowing local inhabitants to cross the external border by using special border passes and tourists (incl. third country nationals) to cross the external border by using a border crossing permit together with an identity card or passport. There is no information on whether or not border checks at these crossing points are going to be carried out according to Schengen principles.**

## 2. *Administrative capacity*

In Slovenia, there is neither specialised border police nor specialised foreigner police. Units and policemen performing tasks of border and foreigner affairs are included in the Slovenian police but there is no organisation whose main task is border control. The police organisation consists of three levels: local, regional and state level. Slovenian authorities have recognised the need for a specialised border police and they have improved their national system in this respect. However, and taking account of the special character of the Slovenian borders, there is still room for more clear specialisation and a solid commanding and control system.

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<sup>1</sup> This act is planned to come into force 1 June 2002.

<sup>2</sup> The Carrier has a responsibility to remove aliens without valid travel documents at their own expense but there are no penalties for air or sea carriers who have brought in aliens without valid travel documents.

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The lack of specialised trained border police is a well known fact in Slovenia and there are plans to fill this gap in the nearest future. The current small number of specialised border police officers<sup>1</sup> is most alarming at the Croatian border, where approximately 600 officers perform the border control of the 670 kilometre long external border. This is far less than some other Candidate Countries with a much easier border situation and lower cross-border crime pressure. According to Slovenian plans the number of police officers responsible for border security will increase up to 3600 (+2300) by the end of 2005.

Training of these officers will be a big challenge and the lack of experience will be reality for quite a long time. This huge increase of officers responsible for border security is a big challenge for the management system and personal managerial skills, raising the question of necessary training and reorganisation<sup>2</sup>. In addition to that, if 30-40% of the future police staff is working in the field of border management there may be a serious need for some organisational restructuring within the police.

### 3. *Implementation performance*

The Slovenian national border security concept has improved rapidly and the implementation level in some areas is said to be fairly good and very close to the EU requirements. The general approach towards border security is also very much Schengen-like, thanks to good advisers from the Member States. It is, however, clear that the challenges and resources do not yet meet. Even though the results at the borders have improved, the number of illegal immigrants who successfully pass through the system is relatively high. Despite very serious efforts, it seems that Slovenia is still a "sieve" when it comes to illegal immigration towards the EU.

Implementation performance suffers from the lack of staff and some basic infrastructure. It is also possible that the complex commanding system causes some problems of implementation, especially if priorities of tasks are not crystal clear. It is also possible that the current commanding system does not allow for rapid national reactions, necessary in some cases due to short distances between different borders - like Croatia and Italy.

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<sup>1</sup> The total number of police officers responsible for border security is 1368 (Croatia 563, Hungary 83, Austria 320, Italy 265, airports 100, central command 37).

<sup>2</sup> Slovenia has recognised this need and some new actions can be found in document CONF-SI 53/01/6.11.2001

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The general level of equipment at the border crossings is said to be fairly good, in some cases even excellent. However, some of the crossing points at the newly established Croatian border are still based on containers. This solution was understandable since it offered a rapid establishment of necessary basic infrastructure some ten years ago but renovation and remodelling is necessary in order to be able to fulfil checking requirements according to the Schengen principles. Situation at some international train border crossing points needs also further improvement since police officers do not have portable laptops or document checking devices at their disposal.

The situation at the "green border" along the Croatian border is not as good as at the border crossing points. As regards the equipment available there is certainly room for improvement. Basic mobility is still limited, only some service-dogs are available and a helicopter supports border surveillance only 1-2x/month. Night-vision-devices are expected to come reasonably soon and the arrival of suitable vehicles is also planned.

Given the fact that there is a need to increase the number of specialised trained border police officers especially at the Croatian border, implies that the situation will arise where many of the border guards are not very experienced. This lack of experience decreases the overall level of implementation performance.

## 4. *Summary*

The Slovenian border security system has developed steadily and rapidly. Slovenian authorities have made very detailed plans on how to fulfil EU-requirements in due time and there are no doubts about their good will to implement these plans. The fact is, however, that the Slovenian border security system as it is today is not yet ready to meet the challenges it faces. The biggest problems are the lack of specialised trained professionals and limited capacity for border surveillance at the Croatian borders. Some managerial problems related to the implementation of border security may also occur since the commanding and **control** structure of the police **units** responsible for border control is still rather **fragmented**. **There is neither a special unit within the police nor a specialised organisation at national level** whose main task is border control and **who commands all national resources needed for consistent and unified implementation of border control**.

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## B. Migration

### 1. *Formal acquis*

Slovenia has almost completed the "legalisation" of former Yugoslavs living in its territory in 1991 not yet having become Slovenian citizens.

Visa policy is **practically** aligned.<sup>1</sup> However, nationals of Croatia may still enter Slovenia with a mere identity card, and nationals from Turkey, FYROM and Bosnia can enter without a Slovenian visa if they are holders of a residence permit or a valid Schengen visa.<sup>2</sup> The list of countries subject to airport transit visas will be set up in 2002.

Legislation on aliens on the whole is compliant with the *acquis*, with the following exceptions:

- As **for (...)** "**Slovenian emigrants or their direct descendants who do not have Slovenian nationality**", (...) their work permits are **not** subject, as they should be, to prior control of the national workforce.<sup>3</sup>

- With regard to family reunification, the -still unclear- question on how the quotas apply, will have to be monitored<sup>4</sup>. Moreover, an alien who has received a work permit under the quota regime cannot exercise his right to family reunification if he did not specify this intention before entry while applying (abroad) for his first residence permit. This condition may be considered as not complying with the *acquis* insofar as it is open-ended, without a time-limit for its expiration.<sup>5</sup>

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<sup>1</sup> **The single exception concerns a few remote countries belonging to the EU "white list", still under visa-requirements; abolition thereof is ongoing.**

<sup>2</sup> This allowance actually implements the Schengen Convention in anticipation, and could therefore be considered dangerous insofar as the Slovenian Police does not yet have the same knowledge of the innumerable EU residence permits as do Border Guards from Member States.

<sup>3</sup> **Of course, on 30 June 2001, the number of Slovenian emigrants or their direct descendants possessing a temporary residence permit, therefore requiring a work permit, was only 34. But it is a question of principle, and Slovenia is not the only country concerned by these issues.**

<sup>4</sup> **Because the implementation of quotas may easily conflict with the right to family unification.**

<sup>5</sup> **Slovenia is aware of this non-compliance and intends to harmonise this question when the act amending the Aliens Act is adopted, normally by 30 June 2002.**

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In addition, at the airports, detention before expulsion is not regulated but is left to the police's discretion. Finally, the current twinning on Migration has led to a number of technical recommendations aiming at improving legislation, - e.g. on organising the division of powers among authorities notably for expulsion, or on deterrence of marriages of convenience<sup>1</sup>: these recommendations should be taken into account in the legislative amendments Slovenia has planned for 2002.

## 2. *Administrative capacity*

Consulates indeed exist and are already issuing visas according to Schengen categories. Their on-line connection with central authorities is ongoing and was applied in 50% of visa procedures in 2000. Consular instructions have been copied from Schengen ones. The share of border-issued visas is rapidly declining.

Visa stickers, identity cards and residence-permits comply with EU standards, and Slovenia has started to issue modern passports: old ones will cease to be valid on 05.08.2002.

On the other hand, the number of staff is **clearly** insufficient for dealing with illegals as well as for investigations on traffickers (**Increase of the number of staff is planned**). Coordination between the existing units and authorities should be improved. The number of places and the material conditions of detention of aliens are still very insufficient according to all reports.<sup>2</sup> (**Creation of new detention places is ongoing.**)

There is a countrywide information system for all police units, which contains the necessary computerised databases on aliens (without fingerprints, however), but the data transmission network and local equipment are obsolete. Slovenia plans to modernise this infrastructure in three phases from 2002 to 2005, with a clear priority as to the future external border of the E.U.

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<sup>1</sup> Current provisions grant immediate unlimited residence to the spouse of an alien holder of an unlimited residence permit; the same may go for the spouse of a Slovenian citizen.

<sup>2</sup> Including those of the Ombudsman, publicly available - and translated - in a most transparent way.

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## 3. *Implementing performance*

Illegal employment is **considered a common phenomenon** in Slovenia, **but currently very little is done to fight it.**<sup>1</sup> The practical implementation of the newly adopted "Prevention of Illegal Work and Employment Act" will require monitoring.

Slovenia actively practices readmission, thanks to agreements with all its neighbours and with nearly all Balkan countries **and even China**. Moreover, the number of entry refusals, expulsions as well as voluntary repatriation is not small. Lately, the prosecution of traffickers also seems to have increased considerably. Despite these evident efforts, Slovenia is still a major transit country for illegal immigration into the EU. Nearly 36 000 illegal border crossings were "recorded" by police in 2000, and the real number is likely to be higher. Part of the aliens concerned are readmitted and expelled, but the majority cross the -sometimes narrow- territory. (...) **In addition, most of the aliens readmitted from Italy to Slovenia are left unattended, and may hence try to re-enter the EU.**

Of course, in 1999-2000 Slovenian authorities had just started to implement new legislation and a visa system. In any case, the results of the fight against illegal transit will require close and continuous monitoring, because Slovenia has been a massive transit country for several years, and despite recent stabilisation<sup>2</sup>, these trends are likely to last.<sup>3</sup>

## 4. *Summary*

Citizenship questions are broadly settled. Visa policy is **practically** aligned. Legislation on the whole is compliant with the *acquis* but technical improvements would be useful and clarifications are required on family unification and on work permits.

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<sup>1</sup> **19 measures were taken in the period from 1 January 2001 to 30 September 2001 against employers of foreign nationals without work permits.**

<sup>2</sup> Which may partly be related to a tighter visa policy in Bosnia, notably towards Iran.

<sup>3</sup> The year 2000 has shown that, contrary to certain beliefs, these trends were not much related to the Kosovo war.

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Administrative capacity does not raise much concern for consulates and for technical preparations for the SIS, but it does raise concern for dealing with illegals and investigations against traffickers. The fight against illegal employment is insufficient. There is a need to clarify what the authorities really do after readmission from Italy. Despite evident efforts, Slovenia is still a major transit country for illegal immigration into the EU.

## C. Asylum

### 1. *Formal acquis*

Legislation on asylum is compliant with the acquis. The single exception concerns the provisions on integration of refugees, which need to be further elaborated. **Two of the three bylaws, foreseen in the 1999 Asylum Law (as amended on 25 July 2001), are still to be adopted.**<sup>1</sup>

### 2. *Administrative capacity*

Staff (eligibility officers) remains insufficient in number. Interpreters and "refugee counsellors" do exist and are financed by the state. The main problems concern accommodation. Of course asylum seekers' detention is exceptional, and the applicants can ask, if they can afford it, to live outside the Asylum home. However, the center is overcrowded. Special premises for the detention of minors, although provided for by law (...), are non-existent in practice, due to lack of space. **Adults, minors, asylum seekers and illegals are detained together.** There is a very serious need for improvements in infrastructure. A new asylum home is planned for **2003**, and separation of asylum-applicants from people awaiting deportation has started.

Other reasons for concern are the fact that nothing has been arranged or planned in case of applying for asylum at the airport, technical implementation of the Dublin Convention and EURODAC, which will require additional funding, and finally that there is a lack of effective mechanisms and institutions for integration assistance.

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<sup>1</sup> Adoption is planned in July 2002.

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## 3. *Implementing performance*

In the very peculiar context of the asylum outburst in 2000 <sup>1</sup> and the massive exodus towards the EU of **bogus** applicants during the procedure, Slovenia has focused on the reduction - now almost completed- of the huge backlog: therefore it has essentially taken refusal decisions (case closure.) (...) This does not fully explain however why only 10 decisions of recognition have been taken since 1991, concerning 20 persons. The recognition ratio is derisory.

Therefore the way in which the Geneva Convention is being interpreted seems peculiar. This raises all the more concern since Slovenia is likely to be, as from accession, an important "responsible State" in the meaning of the Dublin Convention, whose task will be not only to refuse, but also to grant, the refugee status on behalf of the other Member States.

The accelerated procedure, though legally established, is not implemented in practice. The same goes for the concept of manifestly unfounded application. As to the concept of safe third country, it was misused insofar as the **Government** has taken the (...) decision to declare Croatia to be such a country, **whereas there is no real asylum procedure in Croatia**. The decision is still valid but is no longer implemented. Yet these concepts have been rightly established, and should be (properly) implemented in practice, since Slovenia has to try to screen applicants rapidly, in order not to be inundated (in 2000 the asylum-seekers represented 0,5% of the population, the highest ratio in Europe).

The last subject-matter of concern is the fate of the 2646 remaining Bosnian refugees who have refused or are unable to be repatriated, some of whom have been in Slovenia for already 7 years and whom Slovenia leaves in poor conditions with i.a. very restricted possibilities for work (8 hours per week or a few weeks per year.) Since 1 May 2001, the Government has increased financial assistance for repatriation in an effort to terminate this legacy of the past. Amendments to the "temporary status" are also being prepared, in line with the Council Directive of 20 July 2001, **in order to integrate those who will remain**.

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<sup>1</sup> (9000 to be compared to some hundreds the years before)

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## 4. *Summary*

Legislation on asylum is compliant with the *acquis*, with the exception of provisions on the integration of refugees.

The staff remains insufficient in number, but the main capacity problems concern accommodation. A new asylum home is planned for **2003**. Applications at the airport, preparations for the Dublin Convention and integration of refugees are also matters of concern.

Slovenia has focused on the reduction of the huge backlog and has completed it. But it has taken refusal decisions only, and the recognition ratio is derisory. Accelerated procedures and manifestly unfounded applications, though legally established and also necessary, are not implemented in practice. The concept of safe third country was misused.

The fate of the 2646 remaining Bosnian refugees, some of whom have been living in Slovenia for already 7 years with i.a. very restricted possibilities for work, has not been settled yet but solutions (increased repatriation financial assistance (...) **and granting of permanent residence permits to the others**) are under discussion.

### D. **Police and customs**

#### a) **Police**

##### 1. ***Formal Acquis***

The Republic of Slovenia considers that legislative alignment to the *acquis* has been achieved. The main legal bases in the area of policing are the Constitution, the Police Act of 1998, the Criminal Proceedings Act, the Penal Code, the Laws on Road Safety, Minor Offences, Minor Offences against Public order, Control of the State Border, Foreigners and Personal Data Protection as well as the Code of Police Ethics.

In 1999, the Government adopted "Rules on the Organisation and Structure of the Police", introducing inter alia anti-corruption departments at both national (Ministry of the Interior) and regional (Police Directorate) level.

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**Article 297 of the Criminal Code defines/incriminates a criminal association as an independent criminal offence (rather than as an aggravating circumstance) under which the founder and the members of a group are punished where there is intent to commit criminal offences for which a punishment exceeding five years of imprisonment may be applied.** Furthermore, the State Prosecutor Act describes organised crime as "officially prosecutable criminal offences committed by an organised criminal association with internal rules of conduct, which functions in a commercial way and as a rule uses violence or corruption with a view to acquiring unlawful proceeds or social power." In practice, Slovenia acts cf. the definition laid down in the Joint Action of 21.12.98 (Making it a Criminal Offence to Participate in a Criminal Organisation in the EU MS). **The Pre-accession Pact on the Repression of Organised Crime, signed in 1998, is a well-functioning tool for co-operation in this field. Finally, Slovenia is party to the UN Convention against Transnational Organized Crime (Palermo December 2000) and its two protocols<sup>1</sup>.**

The new Act on the Prevention of Money Laundering passed by Parliament on 26.9.01, meets EU legal requirements. Money laundering as a criminal offence is defined in the Criminal Code of 1995 as amended in 1999. Although sanctions are considered adequate and proportionate, no analyses have been carried out as to their dissuasive or preventive effect; **moreover**, due to well-developed techniques used by suspects and abuse of procedural norms meant to protect basic rights and freedoms of the accused, specific problems exist in the detection of such crimes and conviction of offenders.

**Slovenia's Office for Money Laundering Prevention co-operates with the EU's OLAF.**

**Slovenia has aligned its legislation to the existing EU acquis on drugs.**

The new Personal Data Protection Act of 1999 complies with the acquis, *the Convention for the protection of individuals with regard to automatic processing of data (Strasbourg, 1981)* and the two relevant EEC Directives. In addition, it includes the provisions of the Schengen Agreement (...).

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<sup>1</sup> **The Protocol to prevent, suppress and punish trafficking in persons, especially women and children and the Protocol against the smuggling of migrants by land, sea and air.**

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The establishment of the legal framework required for international co-operation with Europol, an agreement with which was signed 01.10.01, is still ongoing and developments must be monitored, notably concerning transmission and use of data provided by Europol, the establishment of review periods for received data, and the treatment of sensitive data. Although the legal framework for the latter is well-established, actual implementation and general safeguards are somewhat lacking.

## 2. *Administrative Capacity*

### *Organisation*

The Slovenian police are part of the Ministry of the Interior and are composed, at national level, of the General Police Directorate divided into 9 separate Directorates responsible for co-ordination, supervision and planning; 11 regional Directorates responsible for basic investigative activities, and 99 Police Stations at local level in charge of prevention, detection and investigation of all (minor) criminal offences. All police authorities fall under the command of the General Director of Police.

The Slovenian police total 6 882 police officers, 716 crime experts (criminalists) and 88 special unit members as at 01.01.2001. With a population of approximately 2 million inhabitants, Slovenia currently has 344 police officers per 100 000 inhabitants (384 counting the entire police staff).

No progress has been made regarding financial devolution, allegedly because of the absence of technology and of adequate local management/command structures.

The Office for Prevention of Money Laundering established in 1994 on the basis of the Law on Prevention of Money Laundering, comes under the responsibility of the Ministry of Finance and is charged with the gathering and dissemination of analyses of data and information received from financial institutions. The police are responsible for investigating money laundering offences. Despite legislative alignment, demonstrated efficiency and high standard of this Office, general administrative capacity is poor. Priority should be given to the seizure and confiscation of proceeds from crime, strengthening of specialised joint training, awareness-raising and maintaining of experts (at present only young inexperienced staff, thanks to the financially much more attractive private sector), establishment of links with the private sector, addressing the lack of IT equipment and of vehicles, and finally adequate premises.

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## *Co-operation and co-ordination*

Top-down communication seems to be functioning satisfactorily, bottom-up however clearly requires improvement. There are apparent problems of co-operation and co-ordination between the police, social welfare and community authorities.

At present, Slovenia has concluded a number of co-operation agreements and has signed or is negotiating a number of Memoranda of Understanding. The agreements govern co-operation in the field of prevention of (organised) crime, terrorism and drug abuse. Agreements with neighbouring countries also include provisions on the strengthening of border-zone co-operation.

There is no formal permanent body in charge of co-ordinating the activities of agencies involved in the fight against organised crime. In practice however, effective co-ordination between the Organised Crime Section, the Office for the Prevention of Money Laundering and the special group of public prosecutors exists. In a number of other areas however, investigations are executed by police only due to prosecutors being overburdened, thereby posing a risk for law and order. Co-ordination and more robust structures responsible for combating organised crime are therefore needed. Police and customs lack a systematic concept for the exchange of information at (subordinate) operational level. Co-operation is based on personal contacts rather than taking place on a structural, institutionalised level.

## *Training, salaries, career and equipment*

Police personnel is generally highly motivated and enjoys high public esteem. Salaries are above the national average, which leads to a greater interest in policing-jobs and allows for a qualitative selection process. High turnover of experienced staff due to attractive redundancy packages offered in the past however weakened the police's capacity to investigate economic crimes and organised crime. There have been recruitment drives since to redress this situation. Nonetheless, the criminal investigation police (still) lose about 10% of their staff per year due to the private sector posing an increasingly attractive alternative. Main training gaps occur in languages, knowledge of relevant EU legislation / measures, and information technology. There appear to be overlaps between the Police and the Public College.

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Basic police training is currently under review, which should be finalised by mid-2002<sup>1</sup>. Candidates can presently attend basic 4-year training at the Police Academy and/or higher education (middle-management and senior employees) at the 4-year College of Police and Security Studies, which is an associated member of the University of Ljubljana. The College also provides upgrading courses and various types of special training as well as organising seminars and conferences. Practical field-training is provided by a special centre outside the capital. International co-operation in education and training has been established through a number of international institutions.

As far as the scientific police are concerned, staffing and the level of equipment should be reviewed (updated and completed at all levels). The Forensic Science Institute, an internationally respected, high-quality laboratory, urgently requires larger premises. Another concern is its dependence on the Criminal Police Directorate rather than it being an independent agency. Additional funding is required for implementation of EURODAC and FADO systems as currently there are neither plans nor is there information on FADO; officials are asking for updates and additional information allowing them to properly prepare themselves.

Police officers particularly lack the experience needed to investigate economic crimes. Expertise is also needed for other new types of crime (other types of financial crime such as cartel agreements and intellectual piracy, money laundering and "high-tech" crime). Training of specialist staff responsible for combating organised crime should be stepped up. According to the Slovenian authorities, the police lack appropriate equipment in the field of intelligence technology, Automated Fingerprint Identification System (AFIS) and technology equipment, which will be needed for implementing the Schengen Agreement.

### 3. *Implementing performance*

Generally speaking, the organisational model (complex role of the Ministry of Interior in co-ordination of all law enforcement authorities) is over-complicated, hampering communication and overall effectiveness.

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<sup>1</sup> As of 1.9.02 all candidates must have passed high school and military service, after which they can apply for a basic 1,5 year training at the Police Academy. After 5 years practical experience, they can apply for a middle-management course of 2 years at the same Academy. Police officers require a university degree and the Police College will be fully integrated in the university.

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*Organised crime* in the Republic of Slovenia is characterised by increased professionalism of both national and foreign criminals (FYROM, ex-Soviet Union), although criminal organisations from Russia have not yet established themselves in Slovenia. Crime in general has become more organised as well as increasingly violent. There **continue to be** an estimated 72 organised criminal associations in the Republic of Slovenia with approximately 630 members (...), **increasingly involved in drug-trafficking**.<sup>1</sup> The principal organised crime activities in Slovenia include organised trafficking in drugs, arms, stolen vehicles, human beings, and money-laundering, new forms of crime (extortion) are on the increase and the crisis in the region is noticeable thanks to an increasing number of organised illegal border crossings uncovered (Balkan Route).

**Regarding police co-operation in investigating serious forms of crime, the following new units were created in 2000 in the framework of re-organising the Criminal Investigation Police and its Organised Crime Section : a corruption department, a computer crime department and a crime analysis department.**<sup>2</sup> Efforts should be intensified to further develop the latter (...)<sup>3</sup>. Combating organised crime at central level is becoming increasingly complex and time-consuming due to international obligations and requirements and more personnel is needed. Proper management and co-ordination on the one hand and the challenge posed by new tasks on the other, requires an increase in personnel at central level. Finally, increased public awareness and systematic channels for the exchange of information between customs and police are needed. **A co-operation agreement between the two services is underway (2001) .**

Concerning *drugs*, Slovenia is primarily a transit country (Balkan Route), although it is also turning into a consumer country. Criminal groups and individuals use road connections from Croatia and Hungary via Slovenia to Austria and Italy, as well as the Port of Koper and also Ljubljana Airport. Some of the cocaine smuggled out of South America reaches Western Europe via the Northern Adriatic coast and through Slovenia.

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<sup>1</sup> Slovenia became very popular with criminal associations involved in illicit drug trade, as a potential logistic starting point. The perpetrators in producer countries (esp. Turkey, lately also Albania and Columbia) increasingly use Slovenian territory and citizens for the transport of drugs.

<sup>2</sup> Units for the prevention of money laundering, financial crime, trafficking in human beings already existed.

<sup>3</sup> A twinning project entitled "Prevention and Suppression of Organised Crime" is ongoing. Within the PHARE programme 2002, a twinning project on "Police Co-operation" is planned.

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The National Office for *Money Laundering* Prevention established in 1995 under the Ministry of Finance, acts as the Slovenian Financial Intelligence Unit. It was clear from the previous country report that despite a considerable number of reported transactions, investigations, prosecution and convictions were minimal. Administrative capacity remains poor due to a serious lack of IT equipment, poor premises, young/inexperienced staff and lack of vehicles. Moreover the MS Embassies also report that in this area, co-operation and information-sharing between the law-enforcement and intelligence agencies remains limited; the capacity for implementing existing money-laundering legislation therefore remains poor.

## **b) Customs**

### **1. *Formal Acquis***

The basic legal framework for the work of the Customs consists of:

- the Customs Law and its implementing acts (as of 1.1.99),
- the Customs Service Law, which came into force on 14 July 1999 and regulates and determines the functions and organisation of the customs service, powers of officers, collection, protection and security of data, particular aspects of employment relations, details of liability for disciplinary offences and liability for damage, and
- the Customs Tariff Law.

The Republic of Slovenia is taking both organisational and operational steps to implement the necessary legislative measures.

### **2. *Administrative Capacity***

#### *Organisation*

The functions of the customs service are exercised by the Customs Administration of the Republic of Slovenia, established in 1991, as an administrative body within the Ministry of Finance. It currently employs 2 271 staff. The Customs Administration has developed into a modern service, led by the Director General who heads the General Customs Directorate which consists of nine departments in charge of implementation, explanation, instructions to officers and control of procedures. Nine Customs Directorates operate at regional level.

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## *Co-operation and co-ordination*

Police and customs lack a systematic concept for the exchange of information at (subordinate) operational level **although a co-operation agreement between the two services is underway**. Co-operation **was hitherto** based on personal contacts rather than on a structural, institutionalised level. Furthermore, an increase in public awareness is needed. A first step in this direction was taken in a special campaign launched in December 2000 calling on the general public to report smuggling acts via a free telephone line set up for this purpose.

## *Training, salaries, career and equipment*

A central computerised programme for risk analysis is in the course of development and is to be included in the customs information system. In parallel, the information support to investigations is being developed and is planned to meet all criteria required; this will have to be monitored.

### **3. *Implementing performance***

According to the Slovenian authorities, the Customs administration could increase its effectiveness in the area of detection of economic and commercial fraud, primarily in cases of false documents in customs procedures, etc. An increased use of multidisciplinary teams **could** promote structured exchanges of information at the operational level (...).

The effects of the earlier-mentioned special campaign launched by the Customs Administration in December 2000, to strengthen activities against smuggling of cigarettes, drugs, arms etc., will have to be monitored.

### **4. *Summary (Police and Customs)***

**The legal framework for policing is generally well-established. In a number of cases however, problems exist regarding actual implementation (e.g. detection of crimes, conviction, abuse of procedures, insufficient administrative capacity and lack of general safeguards).**

## RESTREINT UE

The police-organisation is complicated, thus hampering communication and overall effectiveness. The organisation suffers from lack of financial devolution, experience with and expertise in new types of crime, languages, IT and relevant EU legislation, and (institutionalised) co-operation and co-ordination (notably at subordinate level) with other authorities, notably Customs. Contacts on an informal/personal basis however appear to be efficient and effective. A number of new units (whose functioning will be monitored) have been set up following reorganisation of the Criminal Investigation Police and an agreement with the Customs is underway.

The Office for the Prevention of Money-Laundering is efficient and of a high standard but general administrative capacity is poor. The same goes for the scientific police and the Forensic Science Institute.

There is no one institution responsible for co-ordinating activities in the fight against organised crime. Here again, although effective practical co-ordination exists at times, investigations are often carried out by the police instead of by prosecutors, who are allegedly overburdened.

Concerning Customs, the legal framework is also well-established. A central computerised risk-analysis program is in the process of being developed together with information support to investigations. Here too there is a communication deficit at operational level. The Customs appear to lack effectiveness in the area of detecting economic and commercial fraud.

### E. Justice

Over the last years, Slovenia has made many efforts to align its legislation to the acquis related to judicial co-operation in both civil and criminal matters, to improve the capacity of its judiciary as well as its implementing performance. Many of these efforts have already provided positive results.

# RESTREINT UE

## 1. *Alignment with the acquis*

Since the previous CEWG report, Slovenia has continued and achieved to a large extent alignment of its legislation with the *acquis*. In 2000, it ratified the 1970 European Convention on the International Validity of Criminal Judgements and the 1977 European Convention on the Suppression of Terrorism. Those instruments that remain to be signed are (...) the Additional Protocol to the Convention on the Transfer of Sentenced Persons and the Civil Law Convention on Corruption<sup>1</sup>. Slovenia has also harmonised its legislation **entirely** to the *acquis* on drugs. **With regard to the fight against fraud and corruption, Slovenia will by the end of 2001 start the procedures for the adoption of the Act amending the Criminal Code to include protection of the financial interests of the EC and its members. The Act is expected to be adopted by the end of 2002.**

**Slovenia's legislation already provides for the possibility of direct communication between judicial bodies<sup>2</sup>.**

In the area of civil law, Slovenia has not yet signed the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 1980) **but intends to have the Convention ratified by the end of 2002 at the latest.** (...) In 2000, Slovenia ratified the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters (1965).

With regard to Data Protection, Slovenia has ratified the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, but the independent institution has not yet been set up.

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<sup>1</sup> viz. Chapter Corruption: Legislation

<sup>2</sup> **The Criminal Procedures Act provides for the possibility of direct communication between inter alia domestic and foreign bodies that co-operate in pre-trial and criminal procedures, subject to reciprocity or if this is determined by international agreement. In practice, communication among judicial bodies mostly takes place through the Ministry of Justice, which is the central body under Convention on Mutual Legal Assistance in Criminal Matters but increasingly also directly between judicial bodies, mainly prosecutor's offices.**

# RESTREINT UE

## 2. *Administrative capacity*

The measures taken since 1999 aiming to increase the efficiency of courts also include the provision of adequate material and staffing conditions which are necessary for the work of courts and other judicial authorities. The number of judges increased both in 1999 and 2000 (...). The courts in Slovenia are at present reported to be relatively well equipped with all sort of technological facilities.

Training of judges is carried out by the Training Centre of the judiciary -operational since 1999-, through regular training sessions, ad hoc seminars, including on European Law, study visits and seminars abroad. Slovenia further participates in several Phare programmes and projects which aim to improve the functioning of the judiciary and the rule of law as well as judicial co-operation in criminal law matters.

However, despite these positive developments, more support still appears to be necessary<sup>1</sup> to improve the judicial system, i.e. with regard to the filling of vacancies, the permanent centre for training of the judiciary, activities of the Slovene Association of Judges (**seminars**<sup>2</sup>), the employment of more and better paid court staff, the adoption of legislation creating alternative civil dispute settlement instruments, the transfer of certain tasks from the courts to notaries as well as the need for qualified EU experts who have experience in successfully dealing with a Court's overload and the revision of legal procedures that contribute to such overload. **Attorneys** are satisfied about the co-operation with the judiciary, but made some critical remarks as regards the long duration of proceedings in criminal matters, the lack of specific training of magistrates and the limited access to data/records kept by the courts. More detailed and updated information on the situation regarding (the lack of) access to records would be desirable.

As salaries and the social status of judges remained low during the 90's, especially the ambitious and talented law graduates preferred a career as an advocate or a notary. The trend was only slightly reversed recently when the salaries for judges improved and the age threshold for a judge applicant was lowered to 30 years. (...)

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<sup>1</sup> Phare Mission Report 2001

<sup>2</sup> The Slovene Association of Judges is actively co-operating in all legislative projects concerning the Judiciary and its observations have an important value in the parliamentary procedure. It also plays an important role in the training of judges.

# RESTREINT UE

The main problem identified regarding the administrative capacities of the judicial system is the lack of supporting staff to take over the administrative workload of the judges of which the number is relatively high (743 for a population of 2 million). There are discussions about the introduction of such staff ('judicial assistant'<sup>1</sup>) including special training.

This shortage of staff, the difficulties in the area of court administration (court experts) and the lack of (...) enforcement officers cause problems such as the backlogs, lengthy judicial proceedings and **a backlog in the** execution of judgements. (...)

### 3. *Implementing performance*

At the time of the previous Collective Evaluation, the main problems identified were the sizeable case backlog, the inefficient condition of the judiciary, the non-execution of sentences and the lack of alternative methods of dispute solving. Since then, several measures have been or are still being taken touching upon both legislation and organisation.

Two Acts, the Act Amending the Courts Act (entry into force in April 2000) and the Act Amending the Judicial Service Act (adopted on 31 May 2001), aim to increase the efficiency of the judiciary from an organisational point of view. The Courts Act allows the drawing up by individual courts of programmes to solve backlogs and should ensure better supervision when a party feels that the court is taking an unjustifiably long time to settle a case. The amendment to the Judicial Service Act should facilitate the allocation of judges to those courts where work is hampered by an increased caseload, temporary absence of judges etc. **(the Hercules Programme). It is envisaged that the amended Act will take effect in 2002.**

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<sup>1</sup> like in the German and Austrian system (Rechtspfleger)

# RESTREINT UE

The Civil Procedure Act, which entered into force in April 1999, introduced measures aiming to disburden judges and speed up the settlement of disputes. From now on, all parties- including the clients and other participants- will be required to participate actively throughout the proceedings. In case of the contrary, the court may consider that the plaintiff has changed his mind and withdrawn his claim or that the defendant agrees with the claim. The Act also introduced the possibility of service of process by an agency, on the basis of a special permit<sup>1</sup>. This should prevent the unnecessary delaying of the proceedings through a prompter and more successful service.

With regard to alternative methods of dispute solving, new legislation regulating out-of-court settlement of disputes and the transfer of some non-litigious civil cases to notaries is being drafted.

(...)

In the area of criminal law, the Act Amending the Criminal Procedure act aims to speed up criminal proceedings. In the beginning of 2001, the implementation of settlement in the pre-trial police procedure started which should significantly disburden criminal courts. Also, the Rules on the minutes of the trial in criminal proceedings were adopted<sup>2</sup>. Finally, through the institute of deferred criminal prosecution, the prosecutors have disburdened the courts of the load of minor criminal acts<sup>3</sup>.

Pre-trial procedures are reported<sup>4</sup> to be complexed as the role of the police, Public Prosecutor and the Investigating Judge are interwoven to such an extent that there is confusion about the exact role performed by each one of them. Another problem is the fact that the information and data gathered by the police during the investigation is sometimes deprived of any evidential value before the courts, which further reduces the usefulness of police investigations. However, a new reform of the pre-trial procedure which should simplify the procedure and clarify the roles of the Investigating Judge and the Public Prosecutor is under consideration.

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<sup>1</sup> With the aim of a more efficient service of process in civil disputes, the Minister of Justice -on the basis of Civil procedure Act- issued Rules on conditions which have to be fulfilled by persons who perform the service of process, and on the rules of their activity (Uradni list RS, No. 32/2000). By these rules, the institution of authorised providers of service of process is more accurately defined, which will contribute to a faster and more effective service of process especially when clients evade the service of process, performed through the post-service or an officer of the court. In accordance with these regulations, the Minister issued 91 permits of service of process to natural and legal persons.

<sup>2</sup> As these regulate the minimum conditions required for the operation of audio recording etc., the judge will no more be required to take notes and record events in the minutes in detail.

<sup>3</sup> The prosecutor may order the defendant to carry out certain assignments such as to remove and compensate the damage, pay contributions to public institutions or charities, perform community work etc.

<sup>4</sup> GRECO evaluation Team report of 2000

## RESTREINT UE

Regarding execution of judgements, the institution of **independent judicial officers (IO) (...)**, **introduced by the Execution of Judgements in Civil Matters and Insurance of Claims Act in 1998** should contribute to a more efficient execution and shorter execution proceedings. The provisions in force are based on the French model, which means that execution of personal property is done through independent judicial officers, who are private persons authorised through the Ministry of Justice. Apart from one special exam, no special education is foreseen (...). The conditions to be able to apply are the completion of highschool and 2 years of professional experience; the professions which are applicable are not defined.

One main problem is that the workload of **independent officers** differs heavily from one town to another<sup>1</sup>. An appropriate distribution of work based on abstract and transparent principles seems necessary, also since an officers' salary depends on the number of execution cases he gets. Those officers who are not liked by judges might get less cases than those who are more favoured. As a result, the existing regulation provides an unnecessary possibility for corruption. Two other problem areas, mainly responsible for the high number of backlogs, concern the execution-procedure and the fast solving of execution cases. Articles 59 and 60 of the Execution Act provide that the debtor can -during the execution procedure- question the court decision and start the procedure again. These provisions put the creditor in a very bad position and could discourage potential investors. Secondly, the fact that the Execution Court has to deal with every single property execution poses a major problem. In every execution, the courts issue a decision with which the execution is authorised. Later a decision is issued, which names the officer and defines the amount of advance payment.

The number of pending cases **relating to enforcement** amounted to 146.024 in June 2001. As the high number of backlogs proves, execution of cases within a reasonable time is a great problem. (...) Also, given the above numbers, the current numbers of officers (50) seems very low. A discussion on changing this “doubled” procedure has started, **and amendments to the Execution Act are in preparation. The Act is expected to be adopted by June 2002.**

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<sup>1</sup> Whereas in Ljubljana in the year 2000 one of the IO had to deal with 250 cases, an IO in Nova Gorica (Southeast Slovenia) dealt with 1,200 cases

# RESTREINT UE

The Human Rights Ombudsman (since 1994) publishes yearly reports assessing the country's respect of legal security. He has the authority to monitor the work of judges and courts only in cases of improper delay of procedures or clear abuse of power. The largest number of complaints he receives relate to the area of Court Procedures, mostly on lengthy proceedings. The Ombudsman is concerned about the inefficiency among parts of the judiciary and believes that 'irresponsible behaviour by holders of authority' and the 'slowness and negligence in their work...reduces confidence in the State.' In particular, the Ombudsman regards the resolution of court cases as being too slow. **His 2000 report states that the large number of pending cases (533,225 at the end of 2000<sup>1</sup>) is due to the fact that courts remain understaffed and individual judges do not work in a timely and professional manner. Examples quoted in the report include cases that are only brought to a first hearing 6 years after they have been filed and court rulings even regarding execution proceedings for debt enforcement are received more than 7 years after the order had been lodged. In individual cases the admissible time for criminal proceedings even expired before the judgement was written. Although these examples are excessive, they indicate why it remains necessary to a) speed up judicial proceedings -including in criminal cases-, b) ensure better supervision when a party feels that the court is taking an unjustifiably long time to settle a case and c) guarantee the right to a trial without undue delay<sup>2</sup>.**

**Regarding the length of proceedings in criminal cases, this is -for many reasons- on average 4 to 5 years. The main reason seems to be the unavailability of competent judges. To tackle this problem, the Hercules programme has been set up.**

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<sup>1</sup> The data on unsolved (or pending) cases at the Slovene Courts are the following:

-164.949 pending cases of major importance; -146.024 pending cases relating to enforcement; -187.594 pending cases relating to land registry and 12.847 'other cases'. The total number of pending cases is 511.414.

Cases of major importance include those in which the courts decide on merits of the cases: criminal, civil and civil economic matters, bankruptcies, legacies and important non-civil matters, work disputes and administrative disputes. Statistics show that since 1999, the number of pending cases of major importance, enforcement and other cases are decreasing. On 1 January 2001 a new rule entered into force which defines the notion of judicial backlog: a case is defined as backlog if it is not solved after a specific deadline. **With this new definition, the situation of judicial backlogs on 31 December 2000 is as following:**

**-District Courts: 65.341; -Regional Courts: 23.237 and -high courts: 5.139. The number of judicial backlogs related to land register cases (District Courts) is 146.407.**

<sup>2</sup> Art 23 of the Constitution: everyone has the right to have any decision regarding his rights, duties and any charges brought against him made without undue delay.

# RESTREINT UE

Pre-trial detention is limited to 48 hours<sup>1</sup>, which may be prolonged by decision of an examining magistrate. However, a person may be released after 6 hours if the police fail to inform him in writing of the reasons of detention. After the charge has been filed, custody may last 2 years at most. If a sentence is not passed on the accused within this period, he/she shall be released<sup>2</sup>. The average length of pre-trial detention is 1 year.

(..)Independence of the judiciary has been legislated on all levels of constitutional and statutory law as well as in the detailed organisational court rules. It also continues to be guaranteed in practice.

The Transparency International (TI) report 2001 on the assessment of the anti-corruption measures in Slovenia mentions, without giving any further specifications<sup>3</sup>, that the separation of powers with regard to the Judiciary does not work properly de facto. It states that as a result, judges are under strong governmental influence. With regard to a judges' career, which is determined by the Judicial Council and based on provisions determined by the Law on Judicial Service, Law on Courts and the Constitution, TI reports that the regulations allow for strong governmental and political influence on the appointment of the heads of courts, the heads of the office of the state prosecutor and the heads of some special services within the judicial system.

Despite allegations received by the Ombudsman on unfair procedures and incorrect and unjust court decisions, there are no concrete cases or numbers on corruption or undue influence among the judiciary. **The only case reported is one** of corruption of a state prosecutor, **which** is currently pending, and is related to international organised crime.

Also, in order to encourage more efficiency among judges, the amendment to the Judicial Service Act will include a new regulation on disciplinary procedures, increased responsibility of judges and commitment to the ethics of a judge's behaviour and work. The most important proposals are that the promotion of a judge is no longer the consequence of fulfillment of mere formal conditions but rather a favourable evaluation of judicial service which is always made by the Personnel Council of a court of a higher level.

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<sup>1</sup> Article 157 of the Criminal Code of the Republic of Slovenia

<sup>2</sup> Article 207.5 of the Criminal Code of the Republic of Slovenia

<sup>3</sup> No other reports mention or confirm strong governmental influence over the judiciary

## RESTREINT UE

Further, the procedure of evaluation of a judge's work should be undertaken when necessary and not automatically every six years, where, in the beginning, a junior judge would be monitored every year. In the discipline procedure, two new sanctions are foreseen, i.e. a reprimand and the termination of judge's function. At the same time, the discipline procedure is more precisely defined than it was so far.

With regard to *access of citizens to justice*, the Civil Procedure Act regulates qualified representation in proceedings before the district, higher and Supreme Court and obligatory qualified representation in extraordinary appeal proceedings. Also, (...) the Parliament adopted in May 2001 the Free Legal Aid Act which provides for free legal assistance to socially vulnerable people in line with EU practice. (...).

The right to a trial within reasonable time is linked to the problem of the lengthy judicial proceedings and the large number of backlogs. The Act Amending the Courts Act should ensure better supervision when a party feels that the court is taking an unjustifiably long time to settle a case.

In the area of judicial co-operation, no major problems have been identified. The -minor- problems that do occur concern the realisation of provisions of new international agreements. Regarding the practical implementation of Extradition and Mutual Assistance in Criminal Matters, there are sufficient resources and authorities are able and willing to co-operate.

#### 4. *Summary*

Slovenia has largely aligned its legislation to the *acquis* in civil and criminal law matters. A relatively small number of instruments remains to be signed. Judicial co-operation in practice seems to continue to function well. (...). The independent institution responsible for personal data protection has yet to be established.

# RESTREINT UE

Since 1999, a large number of measures have been and are in the process of being taken to improve both the efficiency of the judiciary's administrative capacity and the performance of the judicial system. These include measures to tackle the problem of backlog, to shorten the judicial proceedings, to introduce alternative methods of dispute settling and improve the working conditions as well as the organisation of the judiciary. Despite a slight improvement, the problem of backlog continues, the number of matters still to be executed is high and the number of private enforcement officers low. The current execution procedure hampers efficiency and causes unnecessary delays. Further support is still required in a number of areas, ranging from (specific) training of the judiciary and the need for support staff to reduction of the courts' overload and revision of legal procedures that contribute to such overload. Clarification on the situation regarding access to records of the courts is desirable.

Tangible results of the measures can not be expected overnight. However, in terms of confidence of citizens in justice, problems related to inefficiency among parts of the judiciary and the slow resolution of court cases must be tackled. As to citizens' access to justice, a free legal aid Act has been adopted but the problem of lengthy proceedings still remains. Independence of the judiciary is guaranteed (...). The Office of the Ombudsman for Human Rights functions well.

## **F. Human rights**

### **1. Formal acquis**

Slovenia has ratified the main human rights related Conventions and Protocols. A small number of instruments remains to be ratified (e.g. Protocol 12 to the ECHR, Additional Protocol providing for a system of collective complaints). (...) Slovenia is member of the Council of Europe. (...)

### **2. Administrative capacity**

The Office of the Ombudsman for Human Rights, which functions well, receives many complaints per year; a third of which are related to court and police procedures. Regarding the first, especially the backlogs of unresolved administrative and judicial matters are of concern (viz. Chapter Justice). Regarding the latter, the Law on the Police gives the police relatively wide powers, which have to be balanced by appropriate supervisory mechanisms.

# RESTREINT UE

With regard to trafficking in human beings, the Office for Equal Opportunities is currently developing a Centre to fight prostitution, which will also look into the issues of trafficking with particular attention to the situation of victims.

Overcrowding in prisons and premises used for detention is becoming an increasingly serious problem and has resulted in lack of privacy, and degrading conditions of health, hygiene and treatment. Also, constant and continuous training of police and authorised prison-personnel is recommended by the Ombudsman.

### 3. *Implementing performance*

Systematic violations of human rights on the part of state bodies do not occur in Slovenia. However, there are reports of individual violations. These relate mainly to the slow adoption and enforcement of legal acts in the fields of human rights protection, prosecution of offenders and recompensations of victims of violations, to insufficient knowledge on the level of local authorities about the legal situation, and result from the slow realization of administrative reforms in Slovenian society.

The number of reports complaining about ill-treatment<sup>1</sup> and the use of coercive measures by police officers has increased over the last two years. Other complaints concern the police powers and the mishandling of complaint procedures by the police, and slowness and unco-operative behaviour among the police and other state bodies. In April 2000, a procedure concerning individual complaints on possible police abuses was introduced. The new Ombudsman intends to make human rights education among the police a priority.

The situation of the Roma is on the whole satisfactory, though there reportedly is a need for policies promoting Roma socio-economic integration, especially in the areas of employment, health and education.

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<sup>1</sup> (including children, young people and Roma)

## 4. *Summary*

Slovenia has ratified almost the entire human rights related *acquis*. The institution of the Ombudsman seems to function well and seems to be well known and used by the public. It drafts recommendations on improving the judiciary and the judicial system (the backlog in judicial matters) as well as the police (need for continuous training), the situation in prisons (i.e. overcrowdedness and hygiene) and human rights, on a yearly bases.

Violations of human rights are mostly individual cases and relate to the slow adoption and enforcement of legal acts, prosecution of offenders, compensation of victims and insufficient legal knowledge by local authorities. Also, there are complaints about the police, and the number of complaints on ill-treatment and the use of coercive measures by police has increased. Since 2000 a procedure concerning individual complaints on police abuse exists and the new Ombudsman intends to make human rights education to the police a priority. As regards Roma, their situation is on the whole satisfactory but policies promoting their socio-economic integration are necessary.

## G. Corruption

### 1. Legislation and relevant international instruments

Slovenia (...) signed the Civil Law Convention on Corruption (**November 2001**), ratified the Criminal Law Convention on Corruption and adopted the Public Officials' Code of Ethics in January 2001. Slovenia has, since June 2001, been included in the OECD Working Group on Bribery in International Business Transactions **and** ratified the 1997 OECD Convention on Combating Bribery of Public Officials in International Business Transactions (**January 2001**). A number of issues related to the protection of the EC's financial interests and Slovenia's co-operation with OLAF still need to be clarified<sup>1</sup>.

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<sup>1</sup> Slovenia should make explicit in its legislation that the existing relevant provisions of the Criminal Code can be interpreted as also protecting the financial interests of the EC. Slovenia should further clarify its position concerning the alignment of its legislation with Article 1 of the Convention on the Protection of the European Communities' Financial Interests as well as on the alignment of the Criminal Code to include the non-disclosure of information as well as the misappropriation of legally obtained revenue, the preparation of false documents and the liability of heads of business.

# RESTREINT UE

Legislation does not provide a uniform definition of corruption; the Criminal Code of 1995 defines seven criminal offences, covering bribery, exertion of influence and obstruction of voting rights. The changes and amendments to the Criminal Procedure Act adopted in January 1999 and to the Criminal Code adopted in April 1999 have improved investigative measures. It is now possible to identify all forms of active and passive corruption of national and foreign officials in the public and private sector.

Other outstanding issues include: necessary amendments to the legislation on the financing of political parties to ensure greater transparency, and the extension of the notion of public office holders to private persons representing a company (when providing a service ordered by a public authority). According to the OECD Commission, there are also some deficiencies in Slovene legislation regarding corruption incriminations and appointments of foreign officials. Shortcomings were also defined by GRECO (March 2000).

Although Slovenian Legislation provides for limitations of conflict of interests for various professions, there are many cases of conflict of interests of public officials, especially in the supervisory boards of privatised companies, banks and insurance companies in the privatisation process. This is equally so concerning parliamentarians in relation to the private sector and public institutions. The current mechanism for sanctioning is not effective. The decision of whether or not further action is taken against the public official in question is made by the authority or institution where he/she exercises his/her functions, or that have appointed him/her.

## 2. National anti-corruption programmes and strategies

Up to date, the Slovenian government has not adopted a national programme for the fight against corruption. However, in April 2001, *specialised police units for combating corruption* were set up and on 5 July 2001, the Government established the *Office for the Prevention of Corruption* within the Prime Minister's Office, charged with the task of developing an anti-corruption strategy. Its priorities include the co-ordination of the drafting of anti-corruption legislation and the control of the anti-corruption strategy implementation. The Office is expected to prepare proposals and suggest methods for the fulfilment of recommendations made by international organisations in the field of corruption prevention. The Head of the Office was to be appointed by Government mid 2001.

# RESTREINT UE

This appointment has encountered some difficulties, as the Police is strongly opposed to the Office, considering it to be an unnecessary, parallel anti-corruption office. There are also problems of financing. The Office and the beginning of the development of a global anti-corruption strategy are the result of recent international pressure (Council of Europe - GRECO<sup>1</sup>) rather than the government's own initiative.

Also required are institutional co-ordination mechanisms in order to ensure systematic collection, analysis and exchanges of information, and a better co-ordination between law enforcement bodies. At present there seems to be more reliance on personal relationships among state officials than on a sound constitutional approach of "checks and balances" among state institutions.

Slovenian authorities admit that the low level of detection of corruption is a matter of concern, taking into account the large number of irregularities detected notably in the privatisation process.

## 3. Current trends

### *a. Border Management*

no information available

### *b. Migration, Visa and Asylum*

The Ombudsman believes that corruption exists in migration and visa matters, but doesn't support this assessment by any example. Reports don't stress on this issue in Slovenia.

### *c. Police*

According to available statistics and reports, problems of corruption are still relatively limited and the Slovenian authorities consider that corruption in the Slovenian police does not represent a serious problem. An Anti-Corruption Division within the Police was created on 1 April 2000. Its competencies include planning, organising, directing and supervising activities in the fields of corruption among state authorities and public organisations. Corruption against the police is handled by a special investigating unit within the Ministry of the Interior, the Bureau for Complaints and Internal Control, (in which civil society plays no role). No police officers have been prosecuted, seriously disciplined or dismissed in the past 5 years, and according to **2000** statistics, out of a total of **67.617** criminal offences only **43** cases were corruption-related.<sup>2</sup>

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<sup>1</sup> Evaluation Report on Slovenia adopted by GRECO on 12/12/2000 (Greco Eval I Rep (2000) 3E final)

<sup>2</sup> **Despite the fact that according to Slovene authorities, "the greatest portion (of corruption-related cases) belongs to the so called road corruption – bribing of state officials on the lowest levels (traffic and border police officers, customs officers) (...)"**

# RESTREINT UE

No safeguards are in place to prevent political interference in police investigations and investigations on high-level cases are known to have been hampered, delayed or brought to an end through pressure on the police officer in charge of the investigation.

Only recently has the inability to come to grips with the case of a Slovene journalist who was severely beaten up beginning of 2001 after having published several articles on corruption, shed light on the inadequacy of investigating methods by the responsible police forces.

## *d. Judiciary*

According to the Administrative Procedure Act, the courts have the power to review all administrative decisions made by local and central government. Judges and investigative magistrates are independent from the executive and legislative powers. They are nominated by the National Assembly on the proposal of the Judicial Council, have a permanent mandate and may be only removed from office by Parliament in the case of a breach of the Constitution or the law and where a criminal offence has been committed while carrying out their official duties. According to an assessment of the Anti-Corruption Measures in Slovenia by Transparency International in July 2001, the division of powers in Slovenia does not work properly de facto. As a result, judges are under a strong governmental influence, which is exacerbated by the limitation of financial resources. A judges' career is determined by the Judicial Council and is based on provisions determined by the Law on Judicial Service, Law on Courts and on the Constitution. According to TI, the regulations allow for strong governmental and political influence over the appointing of heads of courts, heads of office of the state prosecutor and heads of some special services within the judiciary. Last year the state prosecutors successfully started 3 prosecutions of corrupt senior officials. Some of these cases are linked to international criminal investigations and are not a result of a local initiative.

State prosecutors are independent from the executive according to the State Prosecutor Act. However, according to TI, the recruitment and promotion of state prosecutors is based upon political pressure. A major judicial case of corruption of a state prosecutor is currently pending and is related to international organised crime. The appointment of the head of the group (of prosecutors fighting organised crime) by the government is not based on merit but upon strong political sympathies.

# RESTREINT UE

## 4. International organisations

Slovenia has become a full member of the OECD working group against corruption in international business transactions.

According to *Transparency International*<sup>1</sup>, although Slovenia ranks among the leading, i.e. best performing group of countries on the TI Index (rank no. 28, score 5.5) together with Estonia and Hungary, political influence on senior public officials is generally speaking quite strong. Despite existing regulations, most of the well-paid public positions are appointed on the basis of political criteria. Cronyism and nepotism are frequent. The most dangerous cases of corruption are not criminal offences or even violations of any legislation. They mostly relate to state subsidies and improper - but legal - influence of government on the business of decisions by the private sector and vice-versa. This is confirmed by the *EU Embassies*, which also refer to public procurement and medical care as being areas most exposed to corruption.

In general, there is doubt, also expressed in the *GRECO Report*, that the scarce number of detected cases could be due to the fact that many cases of corruption take place at a high official level and are therefore more difficult to be noticed.

*TI* reports that "the new government has failed to create an efficient anti-corruption office and is constantly trying to influence the judiciary and the legislative. The constitutional rules on checks and balances among all branches of state power have not been implemented. This has created a small and closely-knit group of public officials who deal with anti-corruption issues without civil society or the private sector. The Government's anti-corruption efforts are mostly the result of their willingness to satisfy the criteria and the conditions posed by international organisations such as the Council of Europe, OECD and EU. There are doubts as to the genuineness of the intentions to develop a comprehensive anti-corruption programme to curb corruption in Slovenia and in relation to its links to Southeast Europe."

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<sup>1</sup> from: "TI-Assessment of the Anti-Corruption Measures in Slovenia", 11.7.2001

# RESTREINT UE

TI therefore makes the following recommendations:

- complete privatisation of banks, insurance companies and other state-owned companies
- complete judicial and public service reform and decrease judicial areas
- seek political consensus for the development of a national anti-corruption programme
- decrease state incentives in the private sector according to EU regulations
- adopt an efficient law on conflict of interests for civil servants with an effective sanctioning system for the offenders
- improve corporate governance with particular attention to hindering state capture of the private sector
- strengthen the market economy institutions
- reform the public procurement system with more stress on the introduction of anti-corruption mechanisms.

## III. CONCLUSIONS

### A. Border security

**The Slovenian border security system has already reached a relatively high level of professionalism but due to the fact that border security infrastructure and system at the Croatian border is relatively new there is still a lot to be done. The creation of an effective and Schengen-based border security system takes time and requires money. This process has not yet been completed. Many things exist on paper but not yet in actual practice. The legal framework is not yet fully aligned with the acquis since some parts of the legislation are not yet in force in Slovenia.**

**Slovenia is heavily affected by illegal immigration because of its geographical location along the so-called Balkan Route. As a result its border security system faces serious challenges. Even though border control has a very high priority, the Slovenian border security system suffers heavily from a lack of specialised professionals, equipment and necessary infrastructure, especially in the Croatian border area. The non-demarcated border with Croatia causes some practical as well as legal problems for proper implementation of the border security system.**

# RESTREINT UE

The huge increase in staff will present challenges in administrative and managerial respect as well as to the commanding system, and there is a need to clarify and specify current organisation structures in order to guarantee effective implementation of border security. Slovenia has introduced a very detailed plan on how to reach the required level of border security. The most important thing is to put this plan into practice. Although the current system has improved since the last report, it is still necessary to improve structures especially when the work force in the field of border security will be growing remarkably. Training of current staff and especially new recruits is one of the top priorities as well as challenges. Training should also cover management training for superiors, who will face a big challenge once their units become much bigger than they are at present. The whole border security system needs to be improved, missing parts should be put in place (cross-border surveillance, liaison officers etc), the rapid completion of a green border surveillance system at the Croatian border being of utmost importance.

## B. Migration

Slovenia has almost completed the "legalisation" of former Yugoslavs living in its territory in 1991 not yet having become Slovenian citizens. Slovenia has aligned its legal provisions on admission and expulsion, although technical improvements and clarifications are necessary, notably on family unification under the quota system. Visa policy is also almost aligned. Despite these achievements, and despite significant progress in entry refusals, expulsions, readmission and very recently in arrests of traffickers, Slovenia remains a major transit country for illegal immigration into the EU, and crossed without many obstacles. In addition, aliens readmitted from current Member States to Slovenia are often left unattended.

Explanations for this may be found in Border Management (see above) and in the difficulties in managing bogus asylum applicants (see below), but one blatant reason is the insufficient administrative capacity for dealing with illegal aliens in general, be it regarding illegal employment, illegal stay or investigations of traffickers.

# RESTREINT UE

Slovenia should complete the "legalisation" of former Yugoslavs living in its territory in 1991, and adjust its legal provisions on admission. Above all it should increase the number of staff, improve co-ordination between separate services, establish its national information system as planned, build detention premises, step up the search and prosecution of traffickers, and monitor the implementation of its legislation by all the services involved.

## C. Asylum

The Law on Asylum adopted in 1999 is fully compliant with the *acquis*. A burst of asylum cases followed, which in 2000 represented 0,5% of the population, the highest ratio in Europe. Slovenia then focused on the reduction of the huge backlog and has nearly achieved this. But it has taken refusal decisions only, and the recognition ratio is absolutely derisory. This raises all the more concerns since Slovenia is likely to be, as from accession, an important "responsible State" in the meaning of the Dublin Convention, whose task will be not only to refuse, but also to grant, the refugee status on behalf of the other Member States. The asylum centre is still overcrowded, adults, minors, asylum seekers and illegals being mixed. There is a serious need for improvements in infrastructure, be it for accommodation or for technical preparation to the Dublin convention.

The main reason for all this is the insufficient administrative capacity, as well as the misuse or non-use of the legal tools it has established (accelerated procedures, manifestly unfounded applications, safe third countries), and which are meant for rapid screening of applicants. The large share of applicants using the procedure only for easing their travel towards EU, doesn't fully explain the derisory rate of recognition of refugees (0.1%).

Slovenia should increase its means in staff and accommodation (a new asylum home is planned for 2003), properly implement the accelerated procedures in order to deter bogus applicants, recognise those who deserve protection and strive to integrate them, and prepare itself for Eurodac and the Dublin Convention. Finally, as to the 2646 remaining Bosnian refugees, some of whom have been living in Slovenia for already 7 years with i.a. very restricted possibilities for work, Slovenia should organise their integration or complete their assisted repatriation.

## D. Police and customs

The basic legal framework for policing and customs in Slovenia is in place. Problems exist concerning practical implementation and enforcement of much recently adopted legislation in terms of training of staff at all levels and capacity building in the field of combating organised crime.

The increase in economic crime, the upsurge of new types of crime, i.e. computer/IT-crime, and the country's future "open" economy, are likely to pave the way for more economic crime and laundering of proceeds of crime. Moreover, due to well-developed techniques and abuse of procedures by suspects, specific problems exist in the detection of e.g. money-laundering crimes and in the conviction of offenders.

The organisational model of the Police is over-complicated, hampering communication and overall effectiveness.

Administrative capacity generally remains poor due to the fact that police officers lack the experience needed to prevent, investigate and counter new types of (economic) crime. They also lack appropriate equipment in the field of IT, have poor premises, young/inexperienced staff, lack of vehicles, and of an Automated Fingerprint Identification System (AFIS). The general capacity for implementing existing money-laundering legislation remains poor.

Furthermore, co-operation and information-sharing between the law-enforcement and intelligence agencies remains limited although new units have been set up and co-operation agreements are being drafted e.g. between customs and police to remedy this shortcoming.

In order to ensure practical implementation and enforcement of much recently adopted legislation much effort in basic and further training of staff at all levels but in particular with regard to building capacity (i.e. co-ordination and reinforced structures) in the field of combating organised crime, is required.

Efforts should also be intensified to develop a central national analysis department for organised crime-cases and for strategic and operational analysis.

# RESTREINT UE

The Police would benefit from organisational simplification and overall effectiveness would benefit from enhanced communication (notably bottom-up) as well as from financial devolution. One permanent body should be charged with co-ordinating the activities of agencies involved in the fight against organised crime and promoting co-operation and co-ordination between police, social welfare and community authorities (e.g. through increased use of multidisciplinary teams). A legal framework required for international co-operation with Europol, should be established.

## E. Justice

Slovenia has largely aligned its legislation to the *acquis*. However, the independent data protection supervisory authority has not yet been set up. The situation regarding access to courts and free legal aid is satisfactory, except for the lengthy proceedings and backlogs. In practice, judicial co-operation seems to work well.

Slovenia has made numerous efforts to align its legislation over the past years and to improve the administrative capacity of its judiciary as well as its implementing performance. Some positive results can already be noticed, e.g. the small number of instruments that remain to be ratified, the technical improvement of the courts and the increased and regular training, including in EC Law, of the judiciary. A number of Acts aiming to improve the efficiency of the judiciary, the civil and criminal procedures and to tackle the situation regarding backlogs, have recently entered into force or are about to. New legislation regulating alternative methods of dispute solving is being drafted. Positive results emanating from the entry into force of these Acts can not be expected overnight, but the trend is going in the right direction (e.g. the number of backlogs is decreasing).

# RESTREINT UE

With regard to the formal acquis, it should be monitored that the relevant Acts and other instruments are adopted/signed/ratified and implemented as planned and Slovenia should step up the institution of the independent Data Protection Authority. As to the administrative capacity of the judiciary, further support is needed with training and to increase the number of judges, assisting staff and enforcement officers. Support to the creation of alternative methods of dispute solving, the revision of legal procedures and the administration of courts is needed to improve the current situation of backlogs and lengthy proceedings. Furthermore, it should be closely monitored that the various Acts that aim to increase the efficiency of the judiciary, to decrease the backlogs and length of proceedings and to speed up both civil and criminal procedures produce the expected results. Especially execution of judgements, with currently few officers and double procedures which hinder efficient and 'speedy' execution, is an area which needs attention and improvement.

## F. Human rights

Few human rights related instruments remain to be ratified. The administrative capacity of the Office of the Ombudsman seems to be satisfactory, as well as its implementing performance. There are complaints about the police and the situation with regard to prisons (overcrowded, poor hygiene) is becoming increasingly serious. There are individual (not systematic) cases of human rights violations.

Slovenia is a member of the Council of Europe and has ratified almost all relevant instruments. Those violations of human rights that do occur are related to slow adoption and enforcement of legal acts, prosecution of offenders, compensation of victims and insufficient legal knowledge on the part of local authorities. The complaints about the police concern ill-treatment as well as mishandling of the complaint procedure. With regard to Roma, the situation is on the whole satisfactory apart from a need for further socio-economic integration.

# RESTREINT UE

It should be monitored that the situation regarding effective enforcement of legal acts, of prosecution of offenders and of compensation of victims improves. Further, there is a need to increase the legal knowledge of local authorities and train the police in the field of human rights. It should also be monitored that the procedure introduced in 2000 on individual complaints on police abuse is effective and complied with. Further and regular training of prison personnel is recommended, as well as an improvement of the current prison situation. Finally, there is a need for policies to promote the socio-economic integration of Roma.

## G. Corruption

Slovenia considers that its anti-corruption legislation is entirely consistent with the *acquis*. Legislation does not however provide a uniform definition of corruption; it is indirectly dealt with through seven different criminal offences and a number of issues still remain uncovered.

The

current mechanism for sanctioning is not effective.

Although a national programme for the fight against corruption does not yet exist, *specialised police units for combating corruption* were set up recently and on 5 July 2001, the Government established the *Office for the Prevention of Corruption* at the Prime Minister's Office, charged with developing an anti-corruption strategy. The Police is however strongly opposed to the Office, considering it to be an unnecessary, parallel anti-corruption office. There are also problems of financing.

Finally, there are no safeguards to prevent political interference in police investigations and more generally speaking, the division of powers in Slovenia does not work properly de facto. Although Slovenia ranks a good 28 on the TI Index, political influence on senior public officials is strong. Cronyism and nepotism are frequent. The most blatant cases of corruption relate to state subsidies and improper - but legal - influence of government on private sector business and vice-versa and public procurement.