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THE EUROPEAN UNION**

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REPORT

From : the General Secretariat
To : the Collective Evaluation Working Party
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Subject : Draft revised country report on Lithuania

I. INTRODUCTION

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

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

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The point of departure for the present second series of country reports, whose structure has been refined, is to identify exactly where in the process of alignment the candidate country finds itself and what remains to be done, 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.

As the process of alignment and the collection of relevant data are 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

The border situation in Lithuania is relatively stable in terms of illegal immigration. Lithuania is not so far a target country for illegal immigrants but there are some signs that Lithuania is still used as a transit country by illegal immigrants coming from Belarus and trying to travel via Lithuania to Poland and again from Poland to Germany. Smuggling of goods (alcohol) across the Lithuanian borders is growing and it may become even more lucrative in the future due to the growing difference of prices. At the Lithuanian-Belarus border, local people do not fully respect the border regime and border incidents are quite common. Lithuania's geographical position as a neighbour of Russian enclave Kaliningrad and a main transit route between Kaliningrad and other parts of Russia has several important factors related directly to border security. Today, checking of transit trains, border checking procedures at the Kaliningrad border, accepted travel documents for Kaliningradians and visa policy are not yet aligned with EU requirements, although Lithuania has undertaken to align these issues before accession.

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1. *Formal acquis*

The Law on the State Border and the Law on the State Border Guards Service and related legal acts give the border guard officers sufficient powers for effective border control. The State border zone is only 5 km. wide, but the State Border Guard has under existing legislation the right to conduct operations and intelligence activities in the whole of the country. Core tasks of the Border Guard Service have been consolidated clearly in the law and it is responsible for border management of all Lithuanian borders.

Carriers are liable in respect of foreigners who arrive illegally in the country. Carriers must return to their cost such foreigners but there are no other sanctions against carriers in the sense of the EU regulations.

Border agreement with Russia has not yet been ratified by the Russian Duma and therefore the final demarcation is also still lacking. There are no official agreements on border delegate system with Russia and Belarus. The one with Russia has been drafted but not yet signed. The sea border agreement between Lithuania and Latvia is signed but not yet ratified by the Latvians due to some disputes related to e.g. fishing.

Co-operation with Latvia deserves a special attention since these two countries have agreed to carry out border checks on behalf of each other. In practice this means that Lithuanian border guards do not check exiting passengers and vice versa. When Latvian border guards carry out entry check they also at the same time carry out exit control on behalf of Lithuanians. This is a procedure that is probably acceptable if these two countries join the EU at the same time but it is not possible at the external EU (Schengen) border.

Legal bases for inter-agency co-operation of law enforcement authorities are not crystal clear and not confirmed in a one single act or a decree. Division of tasks is relatively clear in legislation but in some cases, like migration control, there is no nomination in any law of the leading national authority having the main responsibility of this task. Efforts are being made to improve inter-agency co-operation.

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2. *Administrative capacity*

The current organisation structure of the Border Guard is in principle functional and suitable for the effective implementation of the national border security. It is also broadly compatible with the EU's border security system and follows the guiding principles of the Tampere EU Council since the Border Guard is a specially trained law enforcement authority under the Ministry of Interior. The unified and solid organisation responsible for all types of borders (land, sea) and crossing points, functional commanding structure and clear territorial responsibilities provide good basis for an efficient border security system even in special situations.

The Lithuanian border security system includes many elements of the Schengen 4-tier border security model but they are in fragmented form. Firstly, the system abroad is not yet fully in place since the visa system is not yet fully harmonised and consular staff is not trained and equipped to carry out document examinations. Training of carrier's staff is also quite modest. The Lithuanian Border Guard does not have any liaison officers abroad. Secondly, international co-operation, seems to be quite functional with Latvia and Poland and operates in practice also with Russia and Belarus. Trilateral border guard co-operation between Lithuania, Latvia and Estonia is very close and intensive at all levels. Thirdly, actual border management (checks and surveillance), has not yet reached EU-standards in terms of checking procedures, sea surveillance capacity, professionalism and infrastructure. Fourthly, national co-operation and inland actions are not yet effective enough. Border management is in principle based on intelligence and law enforcement authorities are familiar with risk assessment methods. However, there is no real and comprehensive national risk assessment system in place.

Despite some improvements and encouraging signs, there are still co-operation problems between customs and border guard, mainly due to a lack of information-sharing between the these institutions (e.g. lack of central computerised network). It seems also that co-operation is difficult due to complex and non-co-operative attitudes of some high-ranking officials. Regarding co-operation between the Border Guard and the police, there are no problems and co-operation seems to run quite smoothly, with a good exchange of information. The police computer system has recently been improved, as a number of police stations have been given access to the border police's database on people entering and leaving Lithuania.

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Field level co-operation between police, border guard and customs is hampered in the technical sense by the fact that all three have different radio equipment (different frequencies in use). One good step towards better co-operation is a joint examination teams (police and border guard) used in border related investigations. Joint activities in the field of crime prevention are still in very early stages or in some places totally missing (airport).

The Border Guard has an almost 100 % on-line connection in the whole of Lithuania. The only exceptions are smaller units, who use radio connections, and actions on trains in which case officers use laptops updated just before entering the train for inspection.

In 2000-2001, the new computer-based State Border Guard Service Information System (SBGSIS) was installed with a network covering the central administration, border police districts, stations and checkpoints. Efforts have been made in order to ensure proper border control and unimpeded movement of legitimate flows across borders by increasing technical capacities and installation of the on-line computerised border information system which will serve as part of the future Schengen Information System.

Preparations for the National Schengen Information System are ongoing. The national Register of Wanted Persons is in place (Phare assistance LI 9908.01).

Some crossing points are very old-fashioned in terms of structures and general arrangements and they do not meet the current needs. Long queues at some crossing points are partially explained due to old facilities but also due to old-fashioned arrangements, attitudes and procedures.

Despite the new training system there are still many officers having received only a very short basic training. Professional skills to examine travel documents, speak foreign languages (English) and carry out investigations have improved but not yet enough. Border guards are not really able to interview passengers in English and border guards ability to participate international co-operation and joint international operations is due to language barrier very limited. Even though it is not a current problem it is also in the long run necessary to take care that there are also enough Russian speaking officers. Training of border guards is also suffering from very poor training facilities located in beautiful but very remote area. Decision to remove the school is made but unfortunately not yet implemented.

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3. *Implementing performance*

Border checks are not yet carried out according to Schengen principles since checking the amount of money as well as purpose of travel is not a standard procedure and is therefore not followed at the border crossing points. The basic border check does not always include a proper check of luggage and vehicle. Border guards' attitude towards passengers is not always customer oriented. Checking of passengers of transit trains does not comply with the Schengen acquis. Some groups of passengers are not checked at all (soldiers) and the area between the border and the checking point (railway station) is in some cases not properly guarded.

Basic border surveillance along the borders is based on risk assessment which is a reasonable combination of technical surveillance and mobile patrols. It is however also very static and strongly concentrated at the borderline; patrolling inland is not very common. A wider approach to surveillance and intelligence based operations against smugglers is quite rare.

Infrastructure has improved but there are still some serious shortages in terms of structures and working conditions related to crossing points and border guard stations. There are not enough technical surveillance systems for green and blue border surveillance. Some state-of-the-art devices have been purchased but due to high usage costs they are not used enough. The frequency of mobile patrols (land and sea) is far too low due to fuel restrictions. Airborne surveillance capacity is very limited. Usage of small number of dogs is professional but very often limited compared to actual needs. The effectiveness of the relatively extensive data network is not yet really used in its full scale due to lack of training.

The sea border surveillance system consists of border guard stations, mobile patrols and technical surveillance. The main radar-system is maintained and operated by the navy. Radar coverage is not sufficient and there are aerial gaps and technical limitations to detect small targets. The radar system is only partially integrated and there is no comprehensive real time maritime picture available. The maritime situation picture, created by the navy, is not available at the Border Guard operational centre where all sea border operations are conducted. Information from the navy system to the border guard is transmitted by phone (fax) by border guards working in the Navy centre. Data flow management is far from perfect and border authorities' situational awareness is limited. The maritime situation picture and radar surveillance system are for military purposes and border

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authorities do not have possibilities to mark their own special targets. Some parts of the system are even unprofessional since the maritime picture is partially created by military conscripts. Reaction and identification capacity at the sea area suffers from a very low level of offshore patrolling. Patrolling is limited due to fuel restrictions.

Practical co-operation with border guards, customs and other authorities responsible for maritime tasks and harbours is not very visible in terms of joint actions and joint risk assessment. Co-operation between border guard and police in the field of crime prevention was poor up to date although a new service for criminal investigation was established within the Customs department on 1/1/02 which appears promising. It is also a bit amazing that there are no detected illegal immigrants (or very few) or successful drug seizures at Lithuanian harbours.

Many good plans exist and many important development projects have been started. One of these is a document examination centre. Unfortunately it seems that implementation of these plans and projects are not, after some promising first steps, very quick and efficient.

4. *Summary*

With regard to formal acquis, the new legislation, which is functional and coherent, provides border authorities with the legal basis to carry out their tasks according to Schengen principles. Yet, legal texts are not yet fully supported by internal regulations and there are no sanctions yet against carriers who transport aliens without the necessary travel documents. Border agreements with neighbouring countries either do not exist yet, are in the drafting process or have not yet been ratified. The co-operation with Latvia on carrying out border checks has created a special situation which could be acceptable - but only if the two countries would join the EU at the same time. The legal bases for inter-agency co-operation are not yet totally clear, but efforts are being made to improve this.

As to administrative capacity, the organisational structure of the Border Guard is in principle functional and suitable for effective implementation of national border security. Yet, the system of border security still needs to be improved on a number of points, e.g. the system abroad is not yet fully in place (need for full harmonisation of the visa system, more training and equipment of the consular staff, more training of carrier's staff, placing of liaison officers), actual border management has not yet reached EU standards (in terms of checking procedures, sea surveillance capacity,

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professionalism and infrastructure) and national co-operation and inland actions lack effectiveness (no real and comprehensive national risk assessment system is currently in place). Further, problems occur regarding co-operation between customs and border guards, mainly due to a lack of information sharing between them. Co-operation between the border guard and police however poses no problems. Field level co-operation between border guard, police and customs is hampered technically (different radio frequencies in use). Joint activities in the area of crime prevention are either in the early stage or even totally missing (airport). However a new service for criminal investigation was established within the Customs department in the beginning of this year which appears promising. The border guard's on line connection is almost 100%. The new computer-based State Border Guard Service Information System -which will serve as part of the future Schengen Information System- has contributed to improved border control and unimpeded movement of legitimate flows across borders. Some crossing points remain old-fashioned which, together with old-fashioned arrangements, attitudes and procedures cause long queues. Training needs to be intensified: inter alia in examination of travel documents, foreign languages and the carrying out of investigations. The training facilities are presently still poor and too remote, but this should change soon.

With regard to the implementing performance, border checks are not yet carried out according to the Schengen principles, nor does checking passengers of transit comply to the Schengen acquis. Basic border surveillance along the borders, although based on risk assessment which is a reasonable combination of technical surveillance and mobile patrols, is very static and strongly concentrated on the borderline. Despite an improvement of infrastructure, shortages still exist in terms of structures and working conditions related to crossing points and border guard stations (e.g. lack of technical surveillance systems for green and blue borders, infrequent mobile controls due to fuel restrictions). Further, the border guard does not have a real time maritime situation picture at its disposal and data flow management is insufficient and cumbersome.

Despite many good plans and the start of several important development projects, implementation remains slow and inefficient.

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B. Migration

1. *Formal acquis*

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

The government plans to abolish these visa regime privileges and introduce transit visas for lorry drivers and citizens of Kaliningrad as of July 2003.

In addition, some countries³ are still visa required for entering Lithuania while this is not the case for the EU (visa lifting is ongoing). Finally, despite the fact that there is no binding EU acquis thereon, it is worth noting that Lithuania, contrary to all Schengen States, does not require visas from holders of diplomatic and service passports of China.

As to admissions rules, there is still a need to state clearly that workers will not be admitted unless they receive prior authorisation, abroad, to take up employment.⁴ In addition, workers cannot enter with their family, and the waiting period for obtaining the right to apply for family unification is too long (five years at least) in comparison to current EU practice.⁵

Finally, despite improvements in 2000, the provisions on detention before expulsion still do not respect human rights.⁶

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

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

³ Argentina, Brazil, Israel, Malaysia, Mexico, Singapore, and Uruguay

⁴ Visas, including employment visas valid for up to two years, are issued not only at consulates abroad but also inside the country in Vilnius, Klaipeda and Kaunas, on a quite regular basis.

⁵ Workers cannot enter with their family. They cannot apply for family reunification before having been granted a permanent residence permit, i.e. only after five years (at least) under the temporary residence regime.

⁶ The court decides whether the foreigner should be kept in detention whilst awaiting deportation. Detention itself is however based on ministerial instructions only, and there is no time limit for this loss of liberty. Justice no longer intervenes after its initial decision. Detention of illegals in some cases lasted up to 1,5 years. It is not even clear whether the principle of a court decision on detention before expulsion applies to all foreigners: the principle of a judicial decision for such a detention was introduced in the Law on Refugees, and applies to asylum seekers only, seemingly: Refugee Law Article 2. "Basic Definitions of this Law 4. Detention of Alien is the restriction of movement of an alien under this Law."

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

2. *Administrative capacity*

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

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

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

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

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

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

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

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

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3. *Implementing performance*

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

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

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

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

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

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

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4. *Summary*

Russians of Kaliningrad, together with other categories, may still enter Lithuania without a visa. Therefore, the visa system is not applied to the most important and recurrent flux of foreigners. Lithuania has announced the introduction of visa requirements for Kaliningrad residents as from 1/7/2003; this will have to be monitored.

Admissions rules require amendments on workers (principle of a prior work authorisation issued abroad) and on family unification. Provisions on detention before expulsion still do not respect human rights.

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

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

C. **Asylum**

1. *Formal acquis*

Since the Amendments of June 2000 and of January 2002 to the Law on Refugees, setting up a proper appeal system, formal provisions on asylum no longer raise concern, with two exceptions.

- The (too expeditious) admissibility procedure at the border, in case of manifestly unfounded applications, cannot be considered as a fair asylum procedure.¹ This is all the more

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

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necessary since applications are mostly made in Lithuania at the border crossing points.

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

Directive 2001/55EC of 20 July 2001 (on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof), will be transposed into national law by adopting the Law on the Amendment of the Law on Foreigner's Legal Status (new edition) which is planned for the IVth quarter of 2002

In January 2002, Lithuania adopted a Resolution on Conditions for Temporary Accommodation of Foreigners in the Registration Centre, providing the basis for the management of the Foreigners' Registration Centre.

2. *Administrative capacity*

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

There is now some experience. Although the lack of qualified, experienced staff no longer needs to be stressed, an information Centre on countries of origin (viz footnote 1) must still be established and training of judges is also still necessary.³

The financial involvement of the authorities on asylum issues is slowly increasing regarding legal assistance (deemed to be of good quality when available; no legal aid is available for persons applying for subsidiary protection). Most funds (i.e. 90% and 100% for the latter) are still granted by UNHCR and the EU, as is the case for interpretation (except for Russian).

Accommodation conditions have improved at the Foreigner Registration Centre (where those

¹ Despite the introduction of said progressive legislative amendments, in practice preliminary detention continues to be of concern: there is no time-limit; there is no mention of any safeguards such as the right to be informed, reasons for detention, the right to challenge the decision to detain and the right of review of the detention order.

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

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

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illegals are temporarily detained who are applying for asylum), and at the Refugee Reception Centre special provisions are implemented for minors and vulnerable individuals. Detention conditions at the border are however still very harsh.

3. *Implementing performance*

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

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

4. *Summary*

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

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

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

² Chechens getting off Moscow-Kaliningrad, Kharkiv-Kaliningrad, and Homel-Kaliningrad transit trains and requesting political asylum, some of them being said, by MPs, to "hold radical, Wahhabite views, and to terrorize the other refugees from Asia and Africa". Severe measures are being taken to prevent disembarkation and registration of Chechen asylum seekers, who are now resorting to illegal land-border crossings.

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

D. Police and customs

a) Police

1. *Formal acquis*

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

2. *Administrative capacity*

Structure and organisation

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

The total number of police officers is approximately 12.200. The proportion of women in the police is now 19%, but 50% in future promotions of officers. The average age of the staff is 30-35 years. The police consider the situation in respect of existing staff to be reasonably stable now, but there are at present often vacancies, mainly in the small posts, as it is considered less attractive to work at

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small places. In general it is not too easy to move among police districts, as there is no internal list of vacancies. Basic grade staff has to attend one-year police training. Candidates' school level, though lower than EU countries standards, increased in the last years. For some years, no case was reported of interventions or nepotism in the recruitment process. The legal status, rights, duties, requirements and ethics of police officers are primarily laid down in the Law on Police Activities of 1 October 2001. Police officers must furthermore observe the Statute of Service of Internal Affairs, including the Code of Honour. The Law on Police Activities provides for a more efficient management of the police organisation under the responsibility of the new Police Department. Structures and procedures have been optimised in order to allocate more resources to the performance of primary police tasks and to allow for more autonomy at regional and local level. The police reform will be continued. The program for police system optimisation is under preparation at the Ministry of Interior. One of the main goals of the program is to set the optimal number of the police officers and optimal management system of the divisions of the territorial police institutions.

Staff, training and equipment

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

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

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adopted on 1 July 2002; it is therefore too early to assess the implementation of the new training model.

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

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

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

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certain forensic examination disciplines. The Institute of Forensic Examinations is administered by the Ministry of Justice. The Institute plays an important role in the development of new methods and employs 143 staff, 100 of whom are forensic experts. The institute has ten specialised departments and carried out examinations in a wide variety of disciplines (handwriting, voice, documents, ballistic, chemical, biological, economic and computer examinations).

3. *Implementing performance*

Strategic plan for police activities for 2002-2004

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

Organised crime

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

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

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

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

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

Trafficking in human beings

Trafficking in human beings has become a considerable problem in recent years. Organised criminal groups are generating important proceeds by transporting women from eastern countries to Western Europe. It is necessary to improve the measures and programmes directed towards preventing women from becoming victims of this type of crime (increasing the information available to risk groups on how to tackle traffickers in human beings, counselling for victims, improving international co-operation). The police and the border police will have to invest in knowledge and methods over the coming years, and try to create adequate networks. On 17/1/02, the Government adopted a programme for the control and prevention of prostitution and trafficking in human beings for 2002-2004. Lithuania started to implement its programme. The results of this programme should be monitored. The Nordic and Baltic States have launched an info- joint campaign with the aim to increase knowledge and awareness among the public about the problems surrounding the issue of trafficking in women. The joint campaign is carried out simultaneously in the eight Nordic and Baltic countries in the year 2002. In addition to several joint activities, each country is organising national campaigns according to their specific conditions and needs.

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Money laundering

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

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

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

Drugs

The nature of drug-related crime has changed considerably in recent years. Where it used to be restricted primarily to international smuggling, Lithuania is now being confronted with the production of narcotics, an increase in domestic trafficking, consumption and availability of different varieties (synthetic drugs). Implementation of the National Anti-Drug Plans largely depends on the available funds for financing, so that its implementation and progress are uncertain. In 2001, a budget of €417.000 was allocated for the implementation of the National Drug Control

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and Prevention Programme for 1999-2003. Thus funds were allocated for the purchase of equipment for searching and detecting drugs, the logistic strengthening of the forensic expertise agencies and specialised police units responsible for the fight against drugs, strengthening of the Customs training centre and staff training.

A new Inter-Governmental Drugs Control Commission was established in January 2001 and reorganised in 2002, with the objective of co-ordinating interministerial activities in the field of drug control and prevention. It is a permanent inter-ministerial body, chaired by the Minister of Health, including representatives of 14 ministries, departments and other institutions, e.g. the Parliament, the Special Investigation Service and the Criminal Police Bureau and is responsible for the implementation of a uniform drug policy in Lithuania.

The Drugs Control Office of the Organised Crime Investigation Service of the Lithuanian Criminal Police Bureau, is responsible for co-ordination of the law-enforcement agencies' actions in combating drug trafficking and for the management and co-ordination of the information related to the illegal circulation of narcotic and psychotropic substances and their precursors, as well as for the handling of the data-base and the organisation of international special operations aimed to control illegal circulation of drugs.

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

The National Focal Point for co-operation with the European Monitoring Centre for Drugs and Drug Addition (EMCDDA) was established on 2 April 2002 in the structure of the State Public Health Service. Its staff consists of 5 persons.

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

Lithuania should take further steps to combat drug smuggling and the illicit production of drugs. Interagency co-operation in this field should be improved.

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Terrorism

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

Police co-operation/liaison officers

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

National legislation will be amended to allow the Police Department to directly appoint liaison officers. The amended regulations are to come into force 1/9/02. The Police Department, the Customs Service and the State Border Guard Service should be able to appoint their liaison officers as from January 2003. The budgetary allocations for posting liaison officer in Europol, Poland and Spain are being planned.

In 2001, the issue of representation of common interests of the law enforcement institutions of the Baltic countries in third countries was examined in the framework of Baltic co-operation via the law enforcement attachés. Discussions will continue in order to achieve agreement on this issue, the main obstacle being the lack of funding. Liaison officers from other countries (Germany, Nordic countries, and UK) are seconded to Lithuania to support the international co-operation, especially in the common fight against organised crime.

Europol

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

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Police co-operation agreements

An agreement on co-operation in the fight against organised crime, terrorism and other serious crimes was signed with Germany in February 2001. Lithuania, Latvia, Estonia and Finland signed an agreement on co-operation in operational activities to combat organised crime (exchange of relevant information, appoint contact officers, and organise joint seminars and training, etc in June 2001). New bilateral agreements on police transborder co-operation with Latvia and Poland are under preparation. The National Schengen Action Plan foresees the signing of these agreements by 31 December 2003.

Crime prevention

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

b) Customs

1. Formal acquis

Lithuania continues its preparatory work for participation in the Convention on Mutual Assistance and Co-operation between Customs Administrations of 18 December 1997 (Naples II Convention), and the Convention on the Use of Information Technology for Customs Purposes (CIS Convention). A new Customs Criminal Code entered into force on 1 July 2002. There is draft legislation on the structure and functions of the regional Customs and Customs border posts. In addition, there is a draft law on Customs' operational activities. The new legislation will strengthen the fight against Customs fraud and provide the Customs with full investigative powers regarding violations of Customs legislation.

2. *Administrative capacity*

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

As of 1/1/02 the Fraud Prevention and Investigation Service was reorganised into the Customs Criminal Service which will operate as a separate structural unit of the Lithuanian Customs, with a more effective management of enforcement functions, and creating the pre-conditions for further development and strengthening of the service in terms of financing and human resources. The office will have representatives in the regional cities and a staff total of 75; it is expected to be fully operational once the question of financing is solved. Although this is clearly a positive step. It is still too early to make an assessment of this reorganisation; its effects must be monitored.

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

In 2001 the Customs participated in five joint surveillance operations.

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

3. Implementing performance

The Methodology on Risk Management and profiling was approved on 8 March 2000. According to this procedure, in all customs check points customs inspectors complete an appropriate form on the identified risk factors and send it to the Intelligence and Analysis Division on the Customs Department. This division collects information also from other sources, including foreign customs administrations, other enforcement agencies, national and international databases. All information collected is analysed and on the basis of such analysis the central risk profiles are developed and distributed to all customs offices for their use in carrying out customs control. A central risk profile contains instructions and recommendations on examination methods to be used for relevant types of goods, means of transport, private persons, and economic operations. The computer software of the central risk profile has been implemented in all customs checkpoints. In 2001 the database of the central risk profile started to be developed. Customs are progressively getting familiar with risk-analysis and intelligence-led operations, but need further technical assistance in this area, as their experience is still too limited. Customs need further transfer of know-how in this field and will increase co-operation as well as work closely with all institutions involved in relevant sectors, i.e. the Financial Crime Investigation Service, the Border Guard Service, the State Police, and the State Tax Inspectorate.

Large efforts have been put into developing the infrastructure, especially on the border with Belarus and the Kaliningrad region of the Russian Federation. Lithuania should accelerate the implementation of the IT strategy of the Customs administration in order to introduce advanced control technologies, based on sufficient prevention of law violations, application of risk analysis, use of information and intelligence and modern technical equipment. The Customs service should continue its efforts in order to introduce modern methods for work organisation, planning and resource management.

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On 20 May 2002 a renewed multi-agency agreement was signed (customs, police and border guard). There is a trilateral agreement on mutual assistance and co-operation in customs matters between the three Baltic States. For co-operation with EU countries protocol No. 5 of the agreement between EU and Lithuania is mainly used. There are bilateral agreements on mutual assistance and co-operation in customs matters signed by Lithuania and Ukraine, Finland, Poland, Sweden, Norway, Russian Federation, Uzbekistan, Georgia, Belarus, Czech Republic, Slovenia, Slovakia, Denmark, Kazakhstan, the Netherlands. Besides that there are protocols and memorandums signed for implementation of the agreements.

There is general perception of the existence of internal corruption. Several anti-corruption measures have been taken in the last years: training, rise in salaries, codes of conduct, screening and rotation of staff and other internal control mechanisms and new routines at the border crossing points. The Customs Department had been given its own means of controlling internal corruption through an "Anti-corruption Group", with the main task of carrying out examination of candidates to become customs officials as well as to collect information against customs officers and to introduce investigations. Moreover, the Customs Department had signed memoranda of understanding with privates in order to avoid corruption. Whatever the progress made, there is still room for improvement in particular with regard to prevention of corruption and to develop the customs ethics policy.

4. Summary (Police and Customs)

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

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The new Law of the Police Activities provides for a more efficient management of the police organisation. National legislation will be amended to allow the Police Department to directly appoint liaison officers. Preparations for the signature of a co-operation agreement with Europol should continue. Regarding new models for police training, the Government passed a Resolution in July 2002 for the establishment of the College of the Interior in 2004. A program for the Police System Development 2002-2010 is under preparation. Efforts should continue in order to improve the technical equipment of the Police Service. Inter-agency co-operation in the field of organised crime should be strengthened, and Lithuania should take further steps to combat drugs smuggling and the illicit production of drugs.

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

In the field of money laundering, Lithuania should complete the alignment with the *acquis* and other international standards on the fight against the misuse of the financial system.

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

E. Justice

1. *Formal acquis*

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

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

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

Regarding civil law, Lithuania has not yet signed the 1954 Convention on Civil Procedure, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) nor the Convention on the Civil Aspects of International Child Abduction (1980). The Civil Code entered into force in July 2001. The new Civil Procedure Code, adopted in February 2002, will enter into force on 1 January 2003.

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Lithuania has ratified the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and has signed the Additional Protocol regarding supervisory authorities and transborder data flows. Amendments to the Law on Legal Protection of Personal Data extended the scope of application of the Law in order to meet the requirements of the 1981 Convention and of Europol. Amendments to the Law which should ensure full compliance with the EU legislation - by strengthening the independence of the Inspectorate- have been adopted in June 2002.

2. *Administrative capacity*

Out of a total of 675 positions for judges, 44 are vacant. Most of them concern the district courts (31). The number of prosecutors (893) seems to be sufficient and there are no vacancies¹. The number of lawyers (959) is currently not yet fully adequate. Lithuania deems that the lack of human resources does not constitute an obstacle to the proper functioning of the judicial system and aims to reduce the vacancies in the courts to a minimum. However, another source states that with the increase of workload over the past 10 years, allocations have not increased accordingly: despite the increase of judges, the enormous raise in the number of cases has increased the average workload considerably. The workload varies between different courts but district courts have the heaviest².

Nonetheless, the backlog of cases is continuously decreasing³. The backlog of unsolved criminal cases in first instance courts decreased from 4.856 on 1 January 2001 to 4.158 on 1 January 2002 whereas the backlog of civil cases decreased from 15.670 to 15.037 within the same time period.

¹ According to the General Prosecutor's Office, a cut in the staff of prosecutors is expected when the new Criminal Code and Code of Procedure take effect as these foresee easier procedures.

²from 40.48 cases per month in 1997 to 52.68 per judge in 2000.

³ viz. analysis Justice for tables

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As to a *satisfactory system of training and recruitment for judges, prosecutors, as well as other categories of personnel working within the legal system*, training has become a top priority for the Ministry of Justice. The rapid change in Lithuanian legislation has caused problems in the implementation of laws both by courts and prosecutors. There is insufficient time for preparation and a lack of education (mainly due to a shortage of financial resources). Seminars and training are mainly conducted through external programs or bilateral assistance and training of judges should become structured and systematic (especially since there are still many relatively young and inexperienced judges). The new Law on Courts (in force since May 2002) does foresee compulsory training for judges and a long-term training programme is being prepared.

The Lithuanian Judicial Training Centre provides training (incl. EU Law) of judges, bailiffs and staff of the central institutions involved in judicial matters. The project "Strengthening Capacity of Lithuania's Judiciary" will also provide training (including for personnel of central authorities) on judicial co-operation in criminal and civil matters.

The Prosecutor General's Office (PGO) is responsible for organising public prosecutor's training. Its budget for training is reportedly not sufficient. In 2001, over 30 training programmes were conducted which focused *inter alia* on combating organised crime and corruption; protection of witnesses and victims, crime in international banking and money laundering and investigation of economic crimes. Training on combating juvenile crime and crime against minors was a top priority. The PGO and the Ministry of Justice further plan to organise common studies of the new Criminal Code and Code of Procedure, which indeed is necessary (especially on implementation of the Codes).

The system of recruitment is satisfactory although there is still room for improvement¹.

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

¹ i.e. in that the system of training of judges could be more structured and systematic.

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The reduction of the salaries of judges which took place in 1999 was declared unconstitutional by the Constitutional Court and the level of judges' salaries was restored to previous one. Judges' salaries are the highest among the civil servants and public officials. The new Law on Courts provides for rules concerning pension guarantees for judges. Prosecutors enjoy almost the same level of salaries as judges, while those of private lawyers are quite varied and often higher. The salaries of court employees (secretaries, registrars) are very low, which may cause corruption in the administration of the courts and in the processing of claims and cases.

One report states that the physical infrastructure of courts and the conditions in which judges work are unsatisfactory. Budget allocations for construction have lagged behind the amounts needed. Eventhough some courthouses have been built or renovated, others are reported to be in very poor condition¹. In district courts, about 40% of cases are tried in judge's offices. The efficient functioning of courts is further hampered by the lack of necessary technical equipment, e.g. computers, typewriters. Some district courts even lack basic furniture and writing supplies.

The lack of funds has so far been the main reason of insufficient equipment. However, under the LITEKO programme computerisation of the courts system² will continue and today 85 % of the courts have Internet. Since 2000, all decisions and judgements of regional courts and the Court of Appeal are published on the website of the Ministry of Justice, and decisions of the Supreme Court on its website. Access to court statistics still needs to be improved. The prosecution still has a considerable lack of modern equipment.

3. *Implementing performance*

The rapid change in Lithuanian legislation has caused problems in the implementation of laws both by courts and prosecutors. The administrative structure of the courts, which is hierarchical and very formal, would benefit from reform. In general, the efficiency of the legal system is considered to be at a medium level. There is a need to restructure the organisation of work at the courts and to modernise criminal law (alternatives to prison etc.). Further, it is considered that there is too much formality in the court proceedings³ and the administration of justice in general.

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

² installation of common network/installing PCs

³ in that in general the court proceedings and procedural delays are not yet considered sufficiently effective, especially as regards criminal procedures and detention

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With regard to *guarantees on independence of judges vis-à-vis the executive power*, Lithuania has made substantive progress over the years. Fundamental guarantees of judicial independence and the separation of powers are enshrined in the Constitution and a ruling by the Constitutional Court in 1999 mandated a significant restructuring which -with the entry into force of the new Law on Courts- should put an end to the undue influence of the executive over judges. In 1999, several Members of Parliament requested the Constitutional Court to review the constitutionality of certain articles of the Law on Courts dealing with the Ministry of Justice, arguing that the provisions created direct and indirect opportunities for the Ministry to interfere with courts' activities thereby contradicting the Constitutional principles of separation of powers/judicial independence. The Court's 1999 ruling¹ found 16 provisions of the Law on Courts unconstitutional.

The new Law on Courts, taking the conclusions of the Constitutional Court into account, entered into force on 1 May. Under the new Law, the Minister of Justice does not have any right and competence in the procedure of appointment and dismissal of judges, in their professional carrier nor in the administration of the courts' work. The courts are independent managers of the budgetary allocations. Only court presidents and the Council of Judges have authority in the administration of courts. The Council of Judges remains the main player concerning procedures of selection, appointment and disciplinary measures for judges. Its main functions are to advise the President on the appointment of judges, the establishment and administration of the Court of Honour, the management of the National Court Administration and other functions provided for in the Charter of the Judges. Disciplinary cases against judges are heard by the Court of Honour of Judges. Today, it is still too early to assess any practical results of this new Law.

The "Rules of Ethics of Judges", regulating judges' independence and their judicial and extra-judicial and activities, were approved in 1998. They have no legal force, but may be taken into account in interpreting disciplinary liability under the law. Court presidents, their deputies and division presidents have no right to exert influence upon other judges when the latter administer justice or in any other manner that compromises judicial independence. Instructions that would contradict the order established by law and exert influence on a decision are considered "gross interference in case processing" and subject to disciplinary sanctions. There have been no reports of such interference. The conditions of *(objective) distribution of tasks* are satisfactory: case distribution is done in an objective way. The current Prosecutor's Statute does not contain rules of

¹ of 21 December 1999

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ethics but these might be contained in the new law on prosecution activities and the new Statute which is being prepared. A code of ethics for state officials entered into force on 1 July 2002.

Public confidence in (the trustworthiness of) courts and other legal institutions is low¹. Courts and judges are, on the whole, mistrusted and not fully respected. A clear lack existed (due to the attitude of some politicians) of public respect to support the separate position of the courts/independence of the judiciary. According to several surveys, a high percentage of the population mistrusts the judiciary and believes them to be corrupt. There have been several cases in which judges of the district courts have been sentenced for corruption and reports concerning corruption regarding both judges and prosecutors still appear. Periodically, individual judges are criticised in the media for allegedly unfair, partial, or biased decisions, and for being highly paid. The lack of respect for courts manifested by statements of politicians and journalists was seen as one of the main reasons for the lack of public confidence in the judiciary.

Concerning *effective access for all citizens to justice including the right to defence and the existence of an effective system of legal aid*, the Law on State Guaranteed Legal Aid came into force in January 2001. It aims to ensure state-guaranteed legal aid in civil, administrative and criminal cases, for citizens of Lithuania, as well as foreign nationals and stateless persons residing in Lithuania, who cannot afford legal fees. LTL 5.390.000 was allocated in 2001 to pay the lawyers providing state guaranteed legal aid. However, the number of lawyers should increase further as it is at present still not fully adequate (especially as regards free public aid in criminal cases). Further, from general practice it seems that only basic aid is provided.

The Code of Criminal Procedure provides for the legal basis of rights and obligations of victims to crime. Further, legislation is being drafted² which will provide for granting financial assistance to victims who suffered from serious violent crimes.

¹However, it is believed that this low public perception of the trustworthiness of the legal system does not entirely do the system full justice.

² based on the provisions of the European Convention on the compensation of victims of violent crimes

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

The courts' handling of criminal cases, respect of 'reasonable delays' (ECHR Article 6) for judicial procedures (incl. pre-trial detention, particularly as concerns minors)

In general the court proceedings and procedural delays are not yet considered sufficiently effective, especially as regards criminal procedures and detention. There seem to be relatively long investigation-times in criminal cases involving detained persons and the court often grants long detention periods -sometimes several months before the case is presented again to the judge¹. Procedures in criminal cases are not fast, and almost all paperwork from police and prosecution is done manually².

In general, the principles of the rule of law are respected in judicial proceedings. However, and although improving, there are still deficiencies with regard to the respect to human rights: e.g. there are no compulsory regulations on timing in the dealing with and hearing of criminal cases with detained suspects. Consequently, suspects can be detained for an unacceptably long time before the main hearing. In practice, 'reasonable delays' is still a problem. One reason is the old legislation with very heavy and long procedures. The new Criminal Procedure Code should ease some of these delays. There is a need to reform regulations concerning *minors*, especially detained minors. The police, prosecution and judges have already been trained in dealing with minors, although no special courts are assigned for this purpose. The police have special squads dealing with them.

¹ this problem also applies to minors

²often not even typewriters are used, which obviously creates problems if documents have to be reproduced with copies

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In January 2002, the Government adopted the Programme for Trafficking in Human Beings and Prostitution Control and Prevention for 2002-2004. Information on the implementation of the Joint Action on trafficking in human beings and sexual exploitation of children is desirable. With regard to *witness protection*, the Programme for Witness and Victim Protection from Criminal Influence was adopted in 1994. The Agreement between Lithuania, Estonia and Latvia on Co-operation in Witness and Victim Protection is in force since July 2001. At present, about 40 persons are covered by the program. It seems that sufficient means are allocated in connection with major organised crime cases both before the trial as well as a later change of identity or residence. The program seems to function well and effectively. However, the limited resources may prevent the use of witness protection in all relevant areas (e.g. trade in women).

The practical implementation of the Conventions on Mutual Assistance in Criminal Matters and Extradition work without any major problems. The resources of the Prosecutor General Office are sufficient and special training has been provided. The only issue that could be improved is the (English) language skills.

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

As to *practical, effective enforcement of court decisions, in particular in civil matters*, civil rulings are enforced by court bailiffs. As a rule, judicial decisions are respected by political authorities but civil judgements often go unenforced. The ineffective system of enforcement is one of the main reasons for public mistrust in courts. The problems seem to be caused by the significant increase of the number of cases on the one hand, and the current system of poorly qualified bailiffs with insufficient resources on the other. Both the number of writs of execution and the backlog of judgements not yet executed are increasing¹. However, steps are being taken to improve the system which has been undergoing reform since 1999. In May 2002, the Law on Bailiffs was adopted. Under the Law, a bailiff is not a civil servant but rather a person with rights empowered by the state

¹ 192.818 in 2000, 236.576 in 2001

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with delegated functions to establish factual circumstances, to implement documents concerning court decisions and with the competence to serve documents. The Law on Bailiffs and the secondary legislation necessary to fully implement the reform are expected to enter into force on 1 January 2003. The reform should significantly improve effective enforcement of judgements.

Alternative methods of dispute solving exist for both civil and criminal cases.

4. Summary

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

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

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As to *implementing performance*, the new Law on Courts should further and fully guarantee independence of judges vis-à-vis the executive. As there are problems in the implementation of laws both by courts and prosecutors, training has been stepped up and should become systematic. In general, the efficiency of the legal system is considered to be at a medium level. There is a need to restructure the organisation of work at the courts and to modernise criminal law (alternatives to prison etc.). The distribution of tasks is objective, but the confidence of the public in the judiciary and system still needs to be improved. Basic legal aid is provided but the number of lawyers needs to be increased.. The currently ineffective enforcement of court decisions should improve with the new Law on Bailiffs.

F. Human rights

1. Formal *acquis*

Lithuania has ratified the ECHR and its protocols 1-8 and 11 as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its two Additional Protocols. It has also ratified the Framework Convention for the Protection of National Minorities. Lithuania has not yet signed Protocol N° 12 to the European Convention on Human Rights.

Provisions on detention before expulsion do not respect some principles of human rights. The courts decide whether the foreigner should be kept in detention while awaiting deportation. Detention itself is, however, based on ministerial instructions only, and there is no time limit for this loss of liberty. Detention of illegal immigrants has in some cases lasted up to 1.5 years. Gaps remain in the Refugee Law and the Law on Legal Status of Foreigners is being amended in new legislation. Lithuania is making efforts to align its asylum law to the *acquis*.

The new Criminal Code will come into force on 1 January 2003. It should be monitored that the amendments to the Criminal Code and Code of Procedure remedy the remaining shortcomings (e.g. the need to prove one's innocence in certain cases, the severity of minimum sentences, the outmoded system of enforcement of sentences and the violation of basic rights). A new draft Code of Execution of Punishments should have been completed in the first half of 2002¹.

¹ So far, it was impossible to find information on the state of play of the draft Code.

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In April 2002, Lithuania signed the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crime (ratified in March 2002).

As regards *minors*, the establishment of a Juvenile/Family Court is not being considered, due to economic reasons. Two main basic issues -which are crucial for the establishment of a well functioning policy for minors- have not been considered yet: the prevention and protection of child victims/witnesses.

The Constitution provides for equality before the law and prohibits unequal treatment on the basis of language and ethnic origin. A ban on discrimination on the basis of race, ethnicity or language was also included in the 1989 Law on Ethnic Minorities and in legislation related to employment and education. Still, there is no comprehensive anti-discrimination legislation as required by the EU Race Equality Directive. In addition, the existing legislation was not effectively enforced.

2. *Administrative capacity*

As to *training of police and the judiciary on human rights*, this is provided to police both by the Vilnius University of Law and through a wide range of (foreign) training projects and programmes. Training of judges on human rights in the field of detention will start this autumn.

As regards *proper conditions of detention in prisons/pre-trial detention facilities*, Lithuanian prisons are old, in need of modernisation, are seriously overcrowded and both the conditions and the rights of prisoners should be improved. Several reports state that conditions in pre-trial detention facilities did not meet international standards. A significant number of prisoners lives in fear of physical violence. In 2001, the transfer of inmates who needed medical care outside the prison was not organised in a satisfactory way, and due to the lack of funds virtually no training or instruction took place in the prisons, including in juvenile penitentiaries.

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However, as a result of financial assistance from and co-operation with international organisations, the situation improved in some prisons. Further, a reform of the penitentiary system is underway. Progress has been made in improving the physical conditions in the penitentiary system as well as in setting up rehabilitation and educational schemes. Reconstruction of prisons and construction of new ones is going on. The staff selection and training system was reformed in 2000. The problem is that despite both the plans and the high number of sentenced persons, state funding is being reduced.

3. *Implementing performance*

With regard to *pre-trial detention and the right to a fair trial*, one report¹ states that suspects were often held for years in pre-trial detention, and sometimes the prosecutors initiated legal actions against suspects without having any concrete evidence. In many cases, the prosecutors publicly labelled the defendants as perpetrators, thereby violating their right to be considered innocent before proven guilty and causing irreparable damage to their reputations.

During trials, basic procedural rights were not always respected. Although court hearings were officially public, the judges often exhorted those who showed up in the courtroom to leave, allegedly because their presence had a negative impact on the proceedings. By law the State was obliged to provide legal counsels to defendants, but since there were not enough public lawyers, private lawyers were required to provide counsel services.

The courts also tended to hand out harsh sentences. According to one organisation, the average prison term was four and a half years. Alternative forms of punishment were rarely imposed. Decisions in criminal cases normally were however implemented effectively.

¹ describing the situation in 2001

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Although the police have a good record regarding minorities, its image continues to be hampered by the existence of corruption. The press regularly reports of excessive police actions and the Torture Prevention Committee reported a number of cases of ill-treatment/torture, abuse and violence against people in police detention/during arrest. The Ministry of Interior was originally reluctant to admit any wrongdoings but has for a few years been trying to improve the situation. In cases of *police abuse* there is an internal disciplinary system of the police and citizens can go to court or to the Human rights control Unit of the Parliament. Although surveys have been made, statistics are not available. However, between January 2000 and July 2001, no policeman was condemned for excessive actions.

Incidents have been reported since July 2001 in which *asylum-seekers* on the transit trains running from the mainland of the Russian Federation and Kaliningrad have been refused permission to disembark and prevented from applying for asylum at some border guard stations by Lithuanian border guards. Also, some families have been separated. There have further been problems with the treatment of Chechen asylum seekers. The new Refugee Law, which regulates detention of asylum seekers, suffers from shortcomings and the matter remains in fact poorly regulated, particularly concerning general detention of aliens before expulsion. The practice is to detain asylum seekers at the Foreigners' Registration Centre. As a rule, there are long delays in transfer of asylum seekers to appropriate accommodation and prolonged detention of minors. There is also lack of access to health care and social security system for persons with subsidiary protection status.

Trafficking in human beings has become an increasing problem: about 400 registered persons a year, most of whom are young women and underage. Organised criminal groups are involved in transporting women from Eastern countries (Ukraine, Russia, etc.) to Western Europe. Some key reasons are the high unemployment rate and the poor economic situation. Of all victims of human smuggling registered in Germany in 2000, 14% were Lithuanian citizens. In 1999, the Lithuanian police registered 3 crimes of trafficking in human beings. Investigation in (only) 1 case was completed. Lithuanian authorities have failed to effectively investigate missing persons cases and international agreements with other countries concerning the search for missing people abroad did not function properly. However, from 1999, Lithuania reportedly has been making efforts to improve this situation¹.

¹ It is reported that figures in 2001 were better, but detailed information on them is still missing and would be desirable.

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According to a 2001 report, there were no social and legal protection schemes or appropriate assistance available for victims of crime, nor were there any national programmes for rehabilitation and reintegration of victims of forced prostitution and human trafficking or proper long-term prevention programmes for youths. However, an information campaign in the Baltic States aimed to raise awareness and prevent trade in women has been launched.

The situation of the *Roma minority*¹ remained difficult in 2001. The Government expressed renewed commitment to improve the conditions of the minority, and started implementing a new Roma Integration Programme, scheduled to run until 2004. Although the programme is a positive initiative, it reportedly suffers from two major drawbacks. Firstly, as the programme was elaborated without due consultation with Roma, it does not adequately encompass their priorities. Secondly, the programme fails to pay proper attention to the problem of Roma discrimination, which (Roma) representatives consider a crucial factor in the exclusion of Roma from employment, housing, education and health care. Some representatives believe that the programme rather will help foster than combat negative stereotypes against Roma.

4. *Summary*

Lithuania has ratified practically all human rights *acquis*. However, some asylum provisions do not respect human right principles and further alignment with the asylum *acquis* is necessary. It should be monitored that the entry into force of the new Criminal Code and Code of Procedure in 2003 will remedy several currently remaining shortcomings. A new draft Code of Execution of Punishments should have been completed by now². The policy with regard to minors is not yet fully satisfactory and comprehensive anti-discrimination legislation is still lacking. In addition, the existing legislation was not effectively enforced.

¹+ 3.000

² Though no updated information on this was available in October 2002

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Despite some progress, pre-trial detention and prison conditions remain poor. Problems such as overcrowdedness, poor hygiene and medical treatment and prisoners' constant fear of physical violence make the situation worse. The main problem is the lack of (national state) funding. Despite the provision of training on human rights to all ranks of police, reports on excessive actions and ill-treatment continue to appear. The police' image is further hampered by the existence of corruption. Action (undertaken) against police abuse is not yet fully effective.

Pre-trial detention can be very long and sometimes prosecutors initiated legal actions against suspects without having any concrete evidence. The prosecutors often publicly labelled the defendants as perpetrators, thereby violating their right to be considered innocent before proven guilty and causing irreparable damage to their reputations. Also, basic procedural rights were not always respected during trials and there is a lack of sufficient public lawyers to provide free legal counsel. Sentences tended to be harsh: the average prison term being 4 1/2 years and alternative forms of punishment being rarely imposed.

Apart from incidents with asylum seekers, the new Refugee Law, which regulates their detention, suffers from shortcomings. Detention -in particular general detention of aliens before expulsion- remains poorly regulated. As a rule, there are long delays in transfer of asylum seekers to appropriate accommodation and prolonged detention of minors. There is also lack of access to health care and social security for persons with subsidiary protection status. Trafficking in human beings has become an increasing problem. Investigation of missing persons has been ineffective. Social and legal protection schemes, appropriate assistance for victims, national programmes for their rehabilitation and reintegration or proper long-term prevention programmes for youth were lacking. The situation of the Roma minority remained difficult. Despite the Government's renewed commitment to improve their conditions and the implementation of a new Roma Integration Programme, problems remain as the latter may not adequately encompass the minority's or pay enough attention to the problem of discrimination (employment, housing, education and health care).

G. Corruption

1. Legislation and relevant international instruments

Lithuania has ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime as well as the Criminal Law Convention on Corruption. The Civil Law Convention on Corruption has been signed but not yet ratified.

The current Criminal Code is to a large extent consistent with the *acquis* in the area of fight against fraud, organised crime and corruption. Full alignment with the Convention on the Protection of the European Communities' Financial Interests should be achieved with the new Code on Criminal Procedure and through further alignment of the (new) Criminal Code -both will enter into force on 1 January 2003. Corruption in the public and private sector will be covered by the new Criminal Code. Lithuania is willing to accede as soon as possible to the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions provided it will become a full member of the OECD Working Group on Bribery. As regards co-operation with OLAF, two institutions are under consideration for nomination as contact point, i.e. the Prosecutor's Office and the Financial Investigations Service. The appointment of a single contact institution is foreseen after the consultations with OLAF. The Law on Corruption Prevention was adopted in May 2002.

The Division of Prevention of Money Laundering (Financial Intelligence Unit) is established within the Taxation Police Department. It collects and registers information on money operations, conducts investigation in money laundering cases, co-operates with international organisations on preventive measures against money laundering and provides recommendations to *inter alia* financial institutions and notaries. Information to the Division is provided by credit and finance institutions, notaries and customs and processed in a data bank. It has also access to a number of public registers. Draft amendments to the Law on Prevention of Money Laundering foresee the extension of the list of credit institutions which are required to provide the Taxation Police with information set forth in the law. In order to improve the efficiency of the services dealing with taxation and financial crimes the Government approved a new Law on the Financial Crime Investigation Service which was expected to be adopted by the Parliament in the first half of 2002. Once this Law is adopted, the Tax Police Department will be reorganised into the Financial Crime Investigation

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Service under the Ministry of the Interior, with the aim to detect and investigate financial crimes and related crimes.

In May 2001, the Law amending the Law on Prevention of Money Laundering together with the Law on Gambling Games was adopted. According to the Law on Prevention of Money Laundering, entities organising gambling games are regarded as financial institutions. Therefore, the supervision of the entities organising gambling games became stricter, and the implementation of preventive measures against money laundering was ensured. Entities organising gambling games, likewise other financial institutions, are obliged to inform the Taxation Police about suspicious money operations, as well as about the operations involving sums exceeding LTL 50 000¹.

Further, the new Directive 2001/97/EC amending Council Directive 91/308/EC on prevention of the use of the financial system for the purpose of money laundering is being examined in order to transpose the new provisions into Lithuania's legislation.

2. *National programmes and strategies*

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

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

¹ EUR 13.900

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On 15 January 1999¹, the Government of the Republic of Lithuania approved the National Program for the Prevention of Organised Crime and Corruption. The Program set forth strategic and tactical objectives and was to be implemented in three stages, the first one lasting from 1999 to 2001.

During this stage, the state of organised crime and corruption was to be evaluated and the necessary measures to strengthen their control and prevention as well as to ensure implementation of the enacted legislation were to be identified.

During the present second stage (2002 - 2004), the main elements for the prevention and control of organised crime and corruption must be formed, i.e. the improved legal basis, the system of subjects of control and prevention and the system of legal, social, economic, financial, organisational, informational-analytical measures. The third stage, for the year 2005, provides for the identification of new directions for the prevention and control of organised crime and corruption as well as for the evaluation and determining of the measures that are already under implementation, taking into account the new conditions and prospects for the future. The authors of the program have realised that improvements of laws and the system of their implementation should not be limited to criminal legislation, but rather that priority should be given to the eradication of reasons and preconditions for the existence of corruption, i.e. on the legal regulation of economic, commercial, financial, administrative and other social activities and aspects of life. At the institutional level, the authors emphasised the need to create a balanced system of subjects and their functions, to strengthen not only law enforcement institutions, but, first of all, prevention agencies (for review, expert analysis, audit, control, and so on), and to effectively ensure co-ordination of activities at national, local and institutional level. The Program is thus geared not only towards law enforcement institutions, but also towards social prevention measures and towards development of civil society. The Program did not avoid shortcomings. It focuses on the problem of organised crime while corruption is perceived as a derivative phenomenon or as a phenomenon related to organised crime. The draft of the program was analysed by the experts of American Bar Association Central and East European Law Initiative (CEELI)², which stated, *i.a.*, that the tasks and goals of the program were too broad and too abstract, while the time-table for its implementation was overly extended in time, therefore, specific actions might prove to be inadequate when faced with reality and specific demands.

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

² Analysis of the Long-term Comprehensive Program for the Prevention of Organised Crime and Corruption in Lithuania. -1998

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Although the authors of the program did take into account some of the observations of the American lawyers and some other commentators, they failed to create a uniform, consistent and effective control mechanism for the implementation of the program.

On 2 March 1999, the Government set up a multi-institutional working group for the fight against corruption to co-ordinate the preparation of the National Anticorruption Strategy.

This working group was led by the Government Chancellor and consisted of the heads of the principal institutions of the country, representatives of NGO's and scientists. Due to the frequent changes of the Governments in 1999-2000, however, its preparation took longer than originally planned. The Strategy was elaborated by a commission lead by experts of the Special Investigations Service (SIS) in co-operation with specialists from abroad.

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

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

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

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

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

The SIS will continue to be the main body for co-ordinating anti-corruption activities and promoting an integrated approach to combating this phenomenon.

3. *Current trends*

a) Border management

It is said that corruption is not a very big problem within the Border Guard. As salaries are quite low, corruption in the form of bribes appears to occur in the State Border Guard, but the problem may be marginal and might not really affect the level of security. Low salaries present a problem in that they may influence higher turnover of personnel in remote border areas or induce Border Guards to take bribes. In the perception of the Lithuanian people the State Border Guard is one of the least corrupt organisations (after the Lithuanian Fire Department). In addition to measures under the Lithuanian Anti-Corruption Strategy, the State Border Guard also uses its own intelligence unit to weed out corrupt practices and practitioners.

b) Migration

c) Police and customs

Corruption cases are normally submitted to and investigated by the SIS or the organised crime and corruption investigation department of the Prosecutor General's office. In 2000, 405 disciplinary cases were brought against police officers. In the same year, 20 police officers were convicted by courts, 58 police officers released from service and 104 received an administrative sanction.

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

The customs are however generally believed to be very corrupt, and human right groups blame them for neglecting the fight against trafficking in human beings.

Whatever the progress made, there is still room for improvement, in particular with regard to prevention of corruption and overall co-ordination. It would be useful to devote more attention to the preventive side in the broad sense, strengthening anti-corruption prevention measures in order to strike a good balance between preventive and repressive measures.

d) Justice

Corruption appears to be a problem. Although some believe the members of the judiciary to be generally honest, according to several surveys a high percentage of the population mistrusts the judiciary and believes them to be corrupt. The fact that bribes to judges often made up a considerable part of the legal costs discouraged ordinary citizens from bringing legal action. There have been several cases in which judges of the district courts have been sentenced for corruption and reports concerning corruption regarding both judges and prosecutors still appear. According to a 2001 Study (Anticorruption in Transition), corruption within the judiciary *inter alia* exists in the form of 'state capture' (possibility to buy for instance legislation and court decisions) but the scale of this phenomenon is unclear.

The "Rules of Ethics of Judges", regulating judges' independence and their (extra-) judicial and activities, were approved in 1998. They have no legal force, but may be taken into account in interpreting disciplinary liability under the law. Disciplinary cases against judges are heard by the Court of Honour of Judges, which was established in May 2002 together with the Judicial Ethics and Discipline Commission. Judges and their family members must make an annual declaration of their income and property. A code of ethics for state officials entered into force on 1 July 2002, showing the Governments' willingness to tackle the phenomenon of corruption. A similar code for Judges is underway. The current Prosecutor's Statute does not contain rules of ethics but these

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might be contained in the new law on prosecution activities and the new Statute which is being prepared.

4. *International organisations*

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

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

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

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

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

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

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

Corruption and bribery are still widespread in many areas. The customs department and the police force are well-known centre for corruption (lower the costs of customs duties) as are tax inspections and hospitals. Businesses often have recourse to bribery while obtaining registrations and licenses. Links between politicians and businesses are the subject of frequent press reports. In general, businesses have a greater influence on policy-makers than policy-makers have on business and some cases demonstrate that corruption has reached the top levels of government.

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

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

The mechanism for the collection and analysis of data should be further developed so as to provide a picture of corruption and organised crime, and of the offenders. Information should be readily accessible for national investigations and prosecutions and be effectively exchangeable at international level.

Increased transparency in the bidding procedure for public contracts would be welcome. Specific attention should be paid to the illicit origin of funds as a possible reason for exclusion from tendering procedures.

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

Lithuania has during the last years taken extensive action against corruption. Although there are some indications and estimations on the size of the problem, there is a general lack of research, including data and official statistics as a solid fundament for measures to be deployed in the future. Moreover, in-depth assessments with regard to certain institutions where there are particular problems of corruption would be of great value. Therefore, the Greco Evaluation Team (GET) recommended Lithuania to -inter alia¹- promote research on corruption with a view to developing a precise picture of the corruption situation in the country and in particular institutions affected and to develop the collection of data and statistics on corruption. These measures will assist in a proper evaluation of the responses to corruption in national strategies and in certain institutions.

¹ Ten recommendations were made, two of which are mentioned here.

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

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

III. CONCLUSIONS

A. Border security

The legal basis for effective border management is in relatively good order. The new legislation is functional and coherent and gives border authorities the legal basis to carry out their tasks according to Schengen principles. Legal texts are not yet fully supported by internal regulations. There are no sanctions against carriers who transport aliens without necessary travel documents. Inter-agency co-operation is not based on legislation and co-operation in practice is, due to technical and psychological reasons, sometimes inefficient. Administrative capacity to create an integrated national border security strategy needs closer co-operation between different law enforcement authorities and inter-ministerial monitoring. Training facilities are poor and border guards' language skills need to be enhanced. Border checks are not fully implemented according to Schengen principles. Sea border surveillance is insufficient in terms of technical surveillance, identification capacity and situational awareness. The border guard does not have a real time maritime situation picture at its disposal and data flow management is insufficient and cumbersome.

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It is fair enough to mention that most of these problems are well known by the Lithuanians. There are good intentions and also plans to improve the situation. The distance between plans and real life implementation seems to be sometimes very long. Budgetary shortages mean far too often less patrolling and slow implementation of development plans. Lack of a tradition-of co-operation and a lack of genuine willingness for a multi-agency approach have an impact on the current situation. The "knowledge is power" - attitude is still very strong. Habits from the past are also still inside the system. Many of the remaining practical problems are related to the Kaliningrad-issue. As long as transit passengers are allowed to travel without real checks and Kaliningradians can travel without proper travel documents to Lithuania, it is very difficult for border guards to fulfil they tasks according to Schengen principles.

Missing legal acts like carriers' responsibility should be put in place and implemented. One authority should have the national responsibility of migration control stipulated in law. It is also necessary to guarantee sufficient budgetary resources for the Border Guard to maintain its well improved daily operative efficiency and –even more important– to continue to develop its still partially limited capacity to implement Schengen requirements. It is also necessary to clarify co-operation and co-ordination of responsibilities between the different bodies involved in border security. It is recommended to regulate this co-operation by an Act, covering the whole spectrum of cross-border co-operation, i.e. joint risk analysis, exchange of experience, co-operation on training, co-operation on investigation etc. A practical multi-agency approach is necessary and therefore co-operation between all law enforcement authorities involved in border security should be improved and remaining obstacles removed. Especially co-operation between police, customs and border guard is of utmost importance. There must be a clear leading authority for combating illegal immigration in order to be able to effectively co-operate with the EU and combat illegal immigration. Strategic plans of all law enforcement authorities should be made in a co-ordinated way (ministerial level co-ordination). The sea border surveillance system must be improved in terms of detection, identification and reaction capacity. Border guards, the main body responsible for sea border surveillance, need to have a real time maritime picture at their disposal in order to be able to carry out their task stipulated in law. Border crossing procedures and practical border checks shall be harmonised according to Schengen provisions.

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B. Migration

With regard to the formal acquis, Lithuania has to ensure full implementation of its visa policy and practices with those of the EU. Russians of Kaliningrad, together with other categories, may still enter Lithuania without a visa. Therefore, the visa system is not applied to the most important and recurrent flux of foreigners although Lithuania has undertaken to align to EU and Schengen requirements in this respect before accession. Provisions on detention before expulsion still do not respect human rights. Administrative capacity is improving and but there are still some serious shortages since there are no on-line connections available for consulates.

Lithuanian consulates are experienced in issuing visas, but the issuing-conditions are far from the Schengen ones concerning the proof of accommodation/resources and the on-line connection to national databases. Above all, the consular (and border) system for coping with the introduction of visas to Russians of Kaliningrad and other passenger categories, is not yet in place. Lithuanian new passports meet EU-requirements but it takes several years before old and easily forged passports are out of circulation. A modern information system, integrated and shared, is still lacking.

With regard to implementation of the fight against illegal immigration (and bearing in mind that the main issue (circulation to and from Kaliningrad) is not yet coped with), it is possible to say that Lithuania acts and obtains results. The question of re-admission agreements with Russia and Belarus needs EU support. Efforts are still needed in the fields of forced expulsion of non-Russian illegals, and of trafficking in women. Admissions rules need amendments on workers and on family unification. The whole matter of admission is hampered in practice by the lack of co-ordination between the Migration Department on the one hand, the police and border guards on the other hand. There is a need for a computerised link between the different bodies involved. A central register of foreigners and a central visa database should be established according to plans.

C. Asylum

With regard to the formal *acquis*, the current Lithuanian legislation complies apart from the admissibility procedure and the regulations on detention of asylum seekers. The administrative capacity has improved. Yet, the financial involvement of authorities in asylum related issues is still weak and detention conditions at the borders are harsh. The recognition rate tends towards zero and the notions 'safe third country' and 'safe country of origin' are not properly implemented'.

Although clear progress on the alignment of legislation to the asylum *acquis* has been made, the admissibility procedure at the border in case of manifestly unfounded applications is too expeditious; the time span of 48 hours is too short and the appeal against the decision has no suspensive effect. The regulation on the detention of asylum seekers does not respect all human right principles; the lack of a time limit, of safeguards such as the right to be informed, the reasons for detention etc.¹. Despite an improved administrative capacity, there is a lack of a shared information system, of information on countries of origin, of training of judges, legal assistance and interpretation. Accommodation conditions have been improved at the Foreigner Registration Centre and the Refugee Reception Centre have been improved, including special provision being implemented for minors and vulnerable persons.

Alignment to the asylum *acquis* must continue. The procedure on admissibility should be adapted in the sense that it includes issues such as time limit and the necessary safeguards². The regulations on the detention of asylum seeker need to be modified so that all human right principles are respected³. Lithuania should further continue to improve the administrative capacity, by establishing a central register for foreigners and a shared information system on asylum seekers (a project which will be decided upon in 2002). Further, there is a need to establish an information Centre on countries of origin, to provide training to judges as well as a need for more financial resources to provide legal assistance and interpretation. The detention conditions at the border need to be improved. Implementation of the legislation should be continuously be monitored, especially as regards the rates of recognition and the underlying causes. Monitoring the proper implementation of the notions 'safe third country' and 'safe country of origin' is also necessary.

¹ viz. Chapter and conclusions Human Rights

² right to be informed, reasons for detention, right to challenge the decision to detain and the right to review the detention order

³ viz. Chapter and conclusions Human Rights

D. Police and customs

The measures that have been taken with a view to restructure the police service constitutes a good progress, but need to be further developed in order to complete the implementation of the Law on Police Activities.

Modern technical equipment and forensic technology is not yet sufficient despite significant recent efforts. Improvement is necessary in order to develop the capacity of the police in this field.

In general, the State budget covers staff and training at a lower level. Extra investment should be made in equipment, infrastructure and the development of new methods in the coming years. The present system cannot ensure implementation of the police-training programme in a flexible way. Police training has gone through many changes and adaptations over recent years. However, a complete and coherent professional training strategy for the police must be developed in the near future in order to ensure that police officers obtain specialised training. Measures should be taken in order to implement the new model for training.

The people's trust in the police is still quite low. It is necessary to improve the relationship with the public in the coming years and any mistrust that exists must be eradicated.

There is full awareness of the high level of corruption within the police force in general and the traffic police in particular. The salaries of police personnel are low. Many police officers are forced to take a second job or to move into another sector

Organised crime has increased progressively each year. Training of specialist staff responsible for combating organised crime should be stepped up. Expertise is also needed in other new types of crime (financial crime, money laundering, high-tech crime). The investigative process is mainly ad hoc at present. It is necessary to develop a strategy for criminal investigations. With a strategy, separate investigations can be put into a broader context and cases can be linked. Broadening the approach to organised crime requires more intensive co-operation between the different sections of the Police and between the police and other law enforcement agencies.

Trafficking in women continues to be a problem and stronger efforts to combat it should be made. It is necessary to improve the measures and programmes directed towards preventing women from becoming victims of this type of crime

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Concerning money laundering legal alignment reached a good level, but there is still a long way to go in terms of improvement. There is a lack of knowledge and experience. Lithuania should comply as soon as possible with the *acquis* and other international standards on the fight against the misuse of the financial system, in particular money laundering, including directive 2001/97 EC amending Directive 91/308/EEC. Lithuania must align its legislation to the Convention on Protection of the Communities' Financial Interests and its Protocols.

In the field of drug is necessary to develop the implementation of the National Drug Control and Prevention Programme

There is no overall national program for crime prevention. There are, however, strategies in different areas. These specific strategies are quite detailed but often lack the necessary resources. The police should make a more active contribution towards crime prevention. Attention for prevention is still too limited and seems to be restricted to a relatively small group of officers.

Preparations for full participation in the work of Europol should continue, so that a co-operation agreement can be signed as soon as possible. In addition, a network of police liaison officers needs to be established. Lithuania should continue its efforts to reinforce bilateral co-operation with other EU countries.

Concerning the administrative capacity of the Customs Service, in spite of efforts a number of measures still remain to be adopted, e.g. a long term strategy for training. Substantial training will be needed to improve the intelligence capacity of the Customs service.

Lithuania should complete the process of alignment with the customs related *acquis*, accelerate implementation of its IT strategy and implement the customs ethics policy.

E. Justice

As to formal *acquis*, Lithuania has made considerable progress with its adoption. A number of issues still need to remain tackled; the entry into force of the new Criminal Code and Code of Procedure -foreseen for 1 January 2003- should bring Lithuanian legislation largely in line with the current *acquis*. A number of instruments both in the area of criminal law (drugs and terrorism) and civil law remain to be signed/ratified. With regard to the administrative capacity, there are some vacancies of judges' posts but overall, the numbers of judges, prosecutors and other personnel, apart from the number of lawyers, seem to be sufficient. Training of judges, prosecutors and other

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personnel has become top priority and modernisation of the courts is underway. The courts infrastructure still leaves to be desired. With regard to implementing performance, the new Law on Courts, which entered into force on 1 May 2002, should effectively guarantee the independence of the judiciary vis-à-vis the executive. The efficiency of the legal system is considered to be at a medium level. Confidence of the public in the judiciary is low. Enforcement of judgements is still problematic. The new Criminal Code and Code of Procedure should shorten the currently long criminal procedures and detention times.

Lithuania is not only making considerable progress with the adoption of the *acquis*, it is also closely following and adapting to the new developments. Lithuania is aware of the fact that vacancies in the judiciary have to be filled, and has agreed that (long-term) training of the judiciary, on EU Law but also on its new Codes, is crucial. It has also undertaken to modernise all courts and provide them with the necessary access to case law. However, the budget allocations with regard to court infrastructure and equipment seems to have lagged behind. This goes especially for the prosecution, in terms of equipment and training. The decisions of the Constitutional Court in 1999 have been taken into account in the new Law on Courts. Thus, it is clear that despite the lack of public respect for the judiciary and of political support for the principle of clear separation of powers, Lithuania has understood that these principles must be respected in order to be able to accede. Lithuania is further making efforts to improve the system of Court bailiffs/enforcement of judgements, in order to tackle the current problems of non-enforcement.

Lithuania should continue its current pace and efforts to align its legislation to the entire (including the new) *acquis*. It should be monitored that the Criminal Code and Code of Procedure enter into force at the time currently foreseen, and that their provisions are effectively implemented. In that respect, the training of the judiciary on the new Codes which is in the planning should indeed be carried out. Lithuania should continue its improvement of the judiciary's administrative capacity, by filling the current vacancies, set forth the modernisation of courts as well as the training efforts. It should be monitored that the Law on Courts is effectively implemented in practice, and that enforcement of judgements is improved within due time. These two efforts combined would most probably contribute to higher confidence in the judiciary and the judicial system.

F. Human rights

Almost the entire formal *acquis* has been ratified. Gaps remain in the Refugee Law and the Law on Legal Status of Foreigners. The policy towards minors is currently not yet satisfactory. There is (yet) no comprehensive EU anti-discrimination legislation¹ and existing legislation was not effectively enforced. Despite some progress, pre-trial detention and prison conditions remain poor. Problems as overcrowdedness, poor hygiene and medical treatment and physical violence worsen the situation. Despite human rights training to police, reports on excessive actions, ill-treatment and existence of corruption continue to appear. Action (undertaken) against police abuse is not yet fully effective. Pre-trial detention can be very long and sometimes legal actions were initiated against suspects without having any concrete evidence. Prosecutors often publicly labelled the defendants as perpetrators, thereby violating their right to be considered innocent before proven guilty. Also, basic procedural rights were not always respected during trials and there is a lack of sufficient public lawyers to provide free legal counsel. Sentences tended to be harsh: the average prison term being 4 1/2 years and alternative forms of punishment being rarely imposed. Apart from incidents with asylum seekers, the new Refugee Law (regulating their detention) suffers from shortcomings. In particular general detention of aliens before expulsion remains poorly regulated. As a rule, there are long delays in transfer of asylum seekers to appropriate accommodation and prolonged detention of minors. There is also lack of access to health care and social security for persons with subsidiary protection status.

Trafficking in human beings has become an increasing problem, but only very few crimes were registered and only one investigation was completed. Investigation of missing persons has been ineffective. Social and legal protection schemes, appropriate assistance for victims, national programmes for their rehabilitation and reintegration or proper long-term prevention programmes for youth were lacking. The situation of Roma remained difficult.

¹ as required by the EU Race Equality Directive

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As to legislation on asylum, Lithuania is in the process of aligning its legislation to the *acquis* and the Law on Legal Status of Foreigners is being amended. The policy dealing with minors does not yet include the prevention and protection of child victims/witnesses. The main reason for the poor prison situation and lack of training has been the lack of (national state) funding. However, with financial assistance from and co-operation with international organisations, the situation is improving in some prisons and a reform of the penitentiary system is underway (e.g. improving the physical conditions, setting up rehabilitation and educational schemes, reconstruction of prisons and construction of new ones). Despite the fact that training on human rights for police is given, and that it will start for judges, it seems that the action that can be undertaken against police abuse has not yet been very effective and that the recommendations of the Committee on the Prevention of Torture have not yet all been taken on board. The problems related to the long pre-trial detention, the conduct of the prosecutors (in respect of the need to prove one's innocence) and non-respect of some basic procedural rights may change with the entry into force of the new Criminal Code and Code of Procedure. A new draft Code of Execution of Punishments was foreseen to be completed in the first half of 2002. The fight against trafficking in human beings has been very ineffective, as has the investigation of missing persons. Lithuanian authorities did not have a computerised system for searching for missing persons, and the police had no specialised unit dealing specifically with trafficking or missing persons. As a result, information on missing persons did not reach all police stations and border police posts, thus hampering efficient investigations. Furthermore, international agreements with other countries concerning the search for missing people abroad did not function properly. With regard to the situation of Roma, despite the Government's renewed commitment to improve their conditions and the implementation of a new Roma Integration Programme, problems remain as the latter may not adequately encompass the minority's priorities or pay enough attention to the problem of discrimination (employment, housing, education and health care).

Lithuania must continue to completely align its legislation to the *acquis* in the field of asylum and discrimination. It should be monitored that with the entry into force on 1 January 2003 of the new Criminal Code and Code of Procedure, the remaining shortcomings such as the need to prove one's innocence in certain cases, the severity of minimum sentences and the violation of basic (procedural) rights come to an end. The policy as regards minors should include the prevention and protection of child victims/witnesses. The completion, adoption and implementation of the new (currently draft) Code of Execution of Punishments should equally be monitored. The same goes for the situation regarding (too) long pre-trial detentions. The reform of the prison system should

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continue but include the necessary funding. Respect by police of human rights must improve: the recommendations of the CPT should be fully taken on board, and the action undertaken in case of police abuse must become more effective. The fight against corruption and against trafficking in human beings should be stepped up as especially the latter is becoming increasingly serious. However, this too should be accompanied by the necessary financial and material resources as well as by the provision of social and legal protection schemes, appropriate assistance for victims of crime, prostitution or trafficking, a national programme for their rehabilitation and reintegration and proper long-term prevention programmes for youth. With regard to the situation of Roma, it should be monitored that the Integration Programme effectively includes the community's priorities and that sufficient attention is paid to the current problem of discrimination in several sectors.

G. Corruption

In the legislative field, the Civil Law Convention on Corruption has been signed but not yet ratified. In January 2002, Parliament adopted the National Anti-Corruption Programme, comprising the National Anti-Corruption Strategy and the Action Plans for the implementation of the Strategy.

Lithuania has during the last years taken extensive action against corruption and a number of inter-institutional anti-corruption co-operation initiatives have been established. The Special Investigation Service (SIS) is the main responsible body in this respect, i.e. for co-ordinating anti-corruption activities and promoting an integrated approach. Although Lithuania seems to be affected by corruption on an important scale, it is among the least affected transitional countries of central and Eastern Europe.

Lithuania ranks 38 on *Transparency International's* (TI) Corruption Perception Index 2001 with a score of 4.8, an improvement compared to previous years. A majority of the general public and entrepreneurs however do, according to TI, consider corruption as a widespread and increasing phenomenon, the institutions perceived as most corrupt being the courts, the government and the Seimas (parliament); the Traffic Police, Border Police, Tax Police, and penitentiary institutions. Both the customs and border guards are believed to be very corrupt, and human right groups blame them for neglecting the fight against trafficking in human beings.

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The bureaucracy of the public bodies in Lithuania is generally slow and bribes are commonly used by the private sector in order to speed up procedures. There still seems to be insufficient public control over government decisions. The laws provide for control, but it is rarely exercised in practice. Furthermore, civil society is weak, and civic groups do not play a sufficiently strong role in the policy-making process. There is a general lack of research, including data and official statistics as a solid fundament for measures to be deployed in the future.

In January 1999, the Government approved the National Program for the Prevention of Organised Crime and Corruption. The tasks and goals of the program however seemed too broad and too abstract, while the time-table for its implementation was overly extended in time, therefore, specific actions might prove to be inadequate when faced with reality and specific demands. Although the authors of the program did take into account some of the criticism, they failed to create a uniform, consistent and effective control mechanism for the implementation of the program. Sectoral anti-corruption strategies should be developed in each of the individual agencies (i.e. Customs, Border Guard), in order to support implementation of the National Anti-Corruption Programme.

In general the main emphasis seems to be on the enforcement of repressive rather than preventive methods.

It would therefor seem useful to devote more attention to the preventive side in the broad sense, strengthening anti-corruption prevention measures in order to strike a good balance between preventive and repressive measures.

A number of legal and organisational measures have been taken. The efforts made over the past years should be sustained and reinforced. Interagency co-ordination should be further strengthened in order to avoid overlap of operations and ensure efficient exchanges of information. Greater involvement of civil society in the fight against corruption should be encouraged. Also, in-depth assessments with regard to certain institutions where there are particular problems of corruption would be of great value.

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The authorities should reconsider the overall responsibility for the co-ordination of anti-corruption policies, with the view to establishing a specific body or, alternatively, to entrust an existing body with this responsibility and to consider the possibilities of strengthening anti-corruption preventive measures, in order to strike a good balance between preventive and repressive measures.

Transparency of public authorities vis-à-vis media and the wider public should be improved, in particular, with regard to access to public documents and information.

Finally the mechanism for the collection and analysis of data should be further developed so as to provide a picture of corruption and organised crime, and of the offenders.

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