



Council of the
European Union

025388/EU XXVI. GP
Eingelangt am 08/06/18

Brussels, 8 June 2018
(OR. en)

11976/3/02
REV 3 EXT 1 DCL 1

EVAL 35
ELARG 264

DECLASSIFICATION

of document: ST 11976/3/02 REV 3 EXT 1 RESTREINT UE
dated: 13 December 2002
new status: Public
Subject: Revised country report on Latvia

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

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

RESTREINT UE



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 December 2002

11976/3/02

REV 3

EXT 1

RESTREINT UE

EVAL 35

ELARG 264

EXTRACT FROM REPORT

From : the Collective Evaluation Working Party
To : Coreper/Council
No. prev. doc. : 11976/2/02 EVAL 35 ELARG 264 REV 2 RESTREINT
Subject : Revised country report on Latvia

III. CONCLUSIONS

A. Border security

The most important institutions / authorities responsible for border security are the State Border Guard, State Police, Security Police, Customs, Sanitary Border Inspection, Office of Citizenship and Migration Affairs and Consular Department of the Ministry of Foreign Affairs. The role of the National Armed Forces in border security is connected with the support for the State Border Guard in the territorial waters and support of border security in emergency situations. These authorities will form a border security network.

RESTREINT UE

The legal basis in the field of border security has improved. Some core laws came into force in the beginning of 2002; the Latvian State Border Guard nowadays has full powers also for blue border surveillance, i.e. one and the same authority is responsible for guarding all borders, rationalising the use of resources and providing better awareness of the border situation.

The Integrated Border Strategy defines the role of each authority in the field of JHA. Although the strategy is ready, the Cabinet of Ministers has not adopted it. The main emphasis in this field has been put on the implementation of the State Border Guard Development Concept 2001-2005, which is the basis for modernisation and strengthening of border controls.

Border checks seem to be carried out mainly according to Schengen principles. The level of border surveillance and checks at the future external borders should discourage use of the territory of Latvia as a transit route for illegal entry into the territory of the EU. Even though the level of green border surveillance is sufficient, Latvia should continue to develop co-operation with other authorities in the guarding of blue borders. The use of technical surveillance systems and air patrols at both land and sea borders is insufficient at present, but this is being addressed.

The organisation of the State Border Guard and the guarding system of all borders is in line with Schengen principles. In the beginning of 2002, the Border Guard became responsible for alien control inside the country after the Immigration Police merged with the Border Guard. This has improved the control of aliens because information from the border is now also available to officials working inland. At the same time the State Border Guard received the power to work all over the country; powers are not limited to a narrow border area or ports and airports. This is useful among other things in common operations with the State Police and the Customs.

The administrative capacity of the Latvian State Border Guard is adequate with the exception of professional maritime personnel. The State Border Guard should pay attention to training of maritime personnel to live up to the requirements of modern maritime border surveillance.

RESTREINT UE

The capacity to make risk assessments has improved during the last few years but closer co-operation with the State Police and the Customs in this field is needed. Also the flow of information between the State Border Guard, the State Police, Security Police and the Customs needs to improve.

B. Migration

In the field of migration, Latvia has made significant progress in aligning visa legislation and practice to the *acquis*. The necessary provisions should be adopted and the necessary structures be put in place in advance of accession in order to ensure effective implementation upon accession of the new visa *acquis*.

In the migration field Latvia needs to adopt and implement the Administrative Violations Code. The adoption of the new Law on Immigration seems to address most of the remaining shortcomings. Efforts should however be made to adopt adequate provisions to combat illegal employment, to address the issue of unaccompanied minors and to ensure the rights of long-term residents.

C. Asylum

In the field of asylum, in general, Latvia has made significant progress in its efforts to align to the *acquis*. Formally, the third-country notion and deadlines for appeal in the accelerated procedure must still be aligned. There is still room for some improvement, especially in the field of co-operation between the relevant authorities and in the area of training of all personnel dealing with asylum cases.

Latvia should prepare for ratification of the Dublin Convention including provisions on databases, fingerprinting and data protection and the establishment of the EURODAC Regulation.

RESTREINT UE

D. Police and customs

a) Police

In the field of data protection, some gaps remain relating to access to and security of personal data especially with a view to conclude a co-operation agreement with Europol. Amendments will have to be made to the Law on Personal Data Protection in order to extend its application to the police sector, and the capacity and independence of the State Data Inspectorate must be developed.

The police is isolated from the rest of society and continues to have recruitment problems; the public has only limited confidence in the police and there is general mistrust. Police officers are underpaid, thus producing situations that can put police officers in a difficult position ethically. All of this seriously hampers recruitment of qualified staff. The relationship between police and public and the integrity of police personnel should be increased and additional funding is necessary to increase police salaries.

The training programme system is dispersed. As training is too general and too theoretical there is a need for more practical training and for further education in police ethics. There is a shortage of hardware, software, databases and technical personnel particularly at the operational level. Often only outdated equipment, or none at all, is available for the police's daily work. The technical methods used by the police are also outdated. Further investment will have to be made in equipment and laboratories, and staff-expertise must increase.

There is a gap between ratification of international legal instruments and the actual, effective fight against organised crime. The approach to organised crime focuses primarily on tackling concrete cases. The capability to perform criminal intelligence analyses is close to nil. There is no standardisation of data collection. Police structures need to be streamlined and rendered more effective to combat crime. The effectiveness of the Criminal Police needs to be increased. Investigative capacity is in need of expansion. Investments will have to be made in the development of staff skills and knowledge.

Legal procedures are time-consuming, not only for the police, but also for the Public Prosecution and the judiciary. Legal procedures should be accelerated and involvement of the public prosecutor should be increased.

RESTREINT UE

Although progress has been made in restructuring and strengthening of the police, more capacities need to be developed to combat specific forms of organised crime such as trafficking in human beings, drug trafficking, financial crime, money laundering and high-tech crime. Latvian authorities do not seem to have sufficient insight into the problem of trafficking in human beings. Latvia will have to extend international co-operation and extra investments will have to be made in the field of prevention and information campaigns. More attention must be paid to providing help and guidance for the victims of trafficking in human beings. Drug related crime also remains a problem in Latvia. The number of drug users has increased consistently over the last years. Latvia should continue to implement its drug control and drug prevention strategy covering both demand and supply reduction. The control and repression of economic crimes still appears to be largely ineffective. The fight against financial crime is still developing. As most forms of financial crime emerged only recently, experience and knowledge thereof is in many cases still incomplete. Legislation is too lenient for financial criminals. There are also (too) many different institutions involved and insufficient co-ordination between them. The fight against financial crime must be stepped up, procedures accelerated, training enhanced and co-ordination strengthened.

b) Customs

In the field of customs, the capacity for medium- and long-term analysis as well as for strategic analysis should be increased. Customs intelligence capacity is under-developed. Eastern land border facilities need to be properly equipped. Co-operation between customs and police continues to be poor. Continued efforts are necessary to improve border management, combat irregularities and corruption, improve the capacity for risk assessment, intelligence and investigation and improve computerisation in the customs areas. Further efforts are needed to combat fraud, economic crime and drug trafficking and to improve co-operation with other enforcement bodies.

RESTREINT UE

E. Justice

Latvia has ratified most of the JHA acquis and amendments to the Code of Criminal Procedure entered into force on 1 November 2002. Further alignment of legislation in the field of Data Protection is also underway. Latvia's rate of ratification of the international JHA instruments is satisfying. The Ministry of Justice -which is underfunded- is understaffed and the judges need more support staff. The backlog of pending and criminal cases is considerable (although receding), training (including on the constantly training Criminal Law and Procedures) has so far been insufficient for both the judiciary and court personnel and independence of the judiciary is insufficiently guaranteed. The new Law on Judicial Power, which should improve the situation regarding independence, training and efficiency of the judiciary, has not yet been submitted. Insufficient material resources (premises, technological facilities) hamper the efficiency of the judicial system. Regarding implementing performance, the main shortcomings are the poor enforcement of court decisions in civil matters, the backlog of court cases, the lengthy criminal trials and too long periods of pre-trial detention. Confidence of the public in justice is generally low. Implementation of laws in criminal procedures is not always uniform. The present Code of Criminal Procedure is unreadable and severely hampers the operation of the criminal police. A large number of criminal cases are not pursued. Access to justice is hindered by excessive lawyers' fees. Privacy and data protection are not enforced at the level of European standards. Finally, although judicial co-operation in criminal matters is generally good, several difficulties exist regarding enforcement and implementation of judicial co-operation in relation to crime and money laundering.

Although a higher share of the state budget was expected, the budget of the Ministry of Justice did not increase to sufficiently meet its needs. The high turnover of personnel in the Ministry and the fact that the vast majority are law students who prefer a job in the private sector after graduation worsens the situation. The backlog of cases is due to the lack of sufficient administrative support staff of judges (i.e. deputy judges, court clerks), the (currently) too low wages and difficulty to find qualified personnel. Training provided to court personnel has been insufficient so far. The insufficiently guaranteed independence of the judiciary is caused by the current wages and lack of

RESTREINT UE

social guarantees. The lack of sufficient premises and modernised equipment has hampered efficient functioning of the judiciary so far. The poor enforcement of court decisions in civil matters is caused by the fact that at present the bailiffs are not adequately trained and that the Law on Sworn Court Bailiffs has been pending for several years until it was adopted recently in October 2002. Confidence of the public in justice is low due to reports in media on corruption and abuse of influence within the judiciary. Also, access to justice is hindered by the excessive lawyers fees, which can be explained by the current lack of any regulation on such fees. Regarding the non-uniform implementation of law in criminal procedures, the backlog of court cases, the lengthy criminal trials and too long periods of pre-trial detention without judicial control (especially regarding minors), the main emergency seems to be the need to reform the Code of Criminal Procedure. Although reform started already in 1994, today there is still no viable text in view and the present Code is still based on the former Soviet Code and currently contains more amendments and patches than original items and is said to be unreadable, even for judges. The Code enforces principles that severely hamper the operation of the criminal police, a practical example of which is the conflicting situation of separation between the investigating, arresting and interviewing services. There is unclarity about the judicial relationship between the prosecutor's office and the police, and its co-ordination with the courts is insufficient. A large number of the criminal cases which reach the Prosecutor General's Office are not pursued for non-judicial reasons or on the grounds of lack of evidence and the gap between police and actual court sentences is considerable. The new Law on Criminal Procedures is now expected to be submitted in early 2003. The situation regarding privacy and data protection stems from the lack of control over data base operations, of the capability to perform criminal intelligence analyses, of trained personnel, specific software and computers. Also, there is a lack of will to communicate operational information nor are there any standardisations of data collection or specific circuits of data communication. The difficulties regarding enforcement and implementation of judicial co-operation in relation to crime and money laundering stem *inter alia* from the lack of specialised enforcement personnel, inter-departmental competition and a lack of co-operation between sections.

RESTREINT UE

Latvia should continue its pace with regard to the ratification of JHA instruments and it should be closely monitored that the necessary reform of the Code and training to the judiciary on its uniform implementation are carried out, and that both the new Law on Criminal Procedure and on Judicial Power are submitted without further delay. The budget for the Ministry of Justice should increase so that its current situation of understaffing and underfunding improves and stabilises. The increase should also enable the employment of further administrative support staff for judges and the efficient continuation of the Judicial System Development Programme, which aims to improve the judiciary's independence and the efficiency and trustworthiness of the judicial system. A number of legislative amendments (e.g. the recently adopted Law on Sworn Bailiffs, the draft amendments to the Criminal Law) should improve the implementing performance with regard to enforcement of judgements, pre-trial detention and criminal proceedings. Access to justice may improve through a regulation on lawyers' fees. It should be very closely monitored that enforcement of privacy and data protection and of legal co-operation in criminal matters when it concerns money laundering and crime improves to the level of European standards.

F. Human rights

Though Latvian legislation is generally in line with international human rights standards, both the administrative capacity and implementing performance are weak. The court system is too weak to enforce decisions, judges are overloaded and insufficient, the number of lawyers is insufficient and so is training of the judiciary in general. Especially knowledge of human rights principles, and efficient implementation of relevant legislation leaves to be desired. Prison conditions are poor, pre-trial periods (without judicial control) are too long -including for minors- and complaints on abuse by police are rising. Conditions of police detention remain a cause for concern.

Training in general, and especially on principles of human rights, has been insufficient so far, both for the police and the judiciary. Legal implementation has gained importance since 2001, which is relatively late, through the dealing with complaints by the Court of Human Rights and the Constitutional Court. The visit of the CTP, the work of the UN Committee combined with

RESTREINT UE

increasing international attention to the human rights situation in Latvia, all have contributed clearly to more awareness and openness (e.g. prisons, police admitting cases), but improvement at all levels remains necessary. Regarding the too long periods of pre-trial detention without judicial control, the main emergency seems to be the need to reform the Code of Criminal Procedure. This need was widely recognised and has led to a draft new Criminal Procedure Law which is at present expected to be submitted to the Government in early 2003. In the meantime, several amendments to the Code to compensate for the pending Criminal Procedure Law and to address the issue of pre-trial detention amongst others were adopted.

Training on human rights issues must continue for the judiciary and be stepped up for the law enforcement entities. However, clearly more budgetary, material and administrative resources are necessary where it concerns the prison situation, access to legal and social assistance, medical care, rehabilitation and reintegration of victims of abuse (including children and women). The amendments to the Criminal Law should improve the situation regarding pre-trial detention and legislation concerning minors should be adopted soon. The Law is still foreseen to enter into force on 1 January 2004. Further, the establishment of an Ombudsman to assist the monitoring of respecting human rights and informing the public about its rights could be of significant help too.

G. Corruption

The 1999 Council of Europe Civil Law Corruption Convention has not been signed yet, but this is foreseen end 2002. Latvia is preparing the necessary amendments to its legislation in order to ensure full alignment with international conventions especially with the PIF Convention and its Protocols.

The perceived level of corruption appears high; e.g. Latvia ranks 52 out of 102 surveyed, with a score of 3.7 on a scale of 10 on Transparency International's Corruption Perception Index 2002. Corruption is exacerbated by low salaries in the public sector and extensive use of bureaucratic controls in the economy, which is highly concentrated, and to which political parties are closely linked (major parties get most of their revenues from donations by big businesses) . The country's

RESTREINT UE

geographical position on east-west trade and energy transit routes exposes it to strong corruption pressures. "State capture", whereby companies and individuals make illegal payments in order to get around laws and government decrees, is also a serious problem. Finally, enterprises name "discretion in interpretation of complex laws" as the most important cause of corruption.

The government has acknowledged several flaws in the anti corruption law and its enforcement mechanisms. Incidents of corruption range from small bribes in return for services, notably by customs, prosecutors, highway police and courts, to the wrongful awarding of government contracts by high-level officials. The widespread corruption risks hampering Latvia's ability to carry out the necessary deeper reforms. Despite various initiatives, no leading government official has been prosecuted in recent years.

Measures have to be taken to increase public awareness of the dangers of corruption. The administrative capacity to effectively fight high-level corruption however remains poor. The competencies of the many existing anti-corruption institutions overlap and co-operation is poor; their efforts are segmented and disjointed and there is an obvious lack of direction and co-ordination; these bodies are failing to produce the results expected by society. There is a need to make clear who is doing what. To this end, one single Anti-Corruption Bureau was established by law which became operational October 2002. A budget has been attributed for this year.

Furthermore, there seems to be insufficient intelligence gathering activity in the area of corruption as to date there is no evidence of any successful corruption investigations originating from police intelligence. Efforts should be made to develop a mechanism for closer co-operation among administrative authorities, police and prosecutors. It is necessary to make more effective use of the existing legislative tools provided to investigate and combat corruption and in particular those concerning the use of special investigative technical means in the detection of corrupt behaviour. There is a lack of modern facilities and appropriate technologies in the daily work of the law enforcement bodies. Finally, the resources for the fight against corruption must be increased¹.

¹ Phare is supporting this process.