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

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

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THE EUROPEAN UNION**

**Brussels, 20 September 1999**

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**REV 1**

**RESTREINT**

**EVAL 41**

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**NOTE**

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from : General Secretariat

to : Collective Evaluation Group

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**Subject: Preliminary draft country report on the Czech Republic**

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Delegations will find attached the preliminary draft country report on the Czech Republic.

The previous document (9765/99 EVAL 41 ELARG 82) has been amended on a number of points, notably the following:

- Point 5: a chapter on Justice has been added
- Comments from two Member States and the Commission have been inserted.

To facilitate the reading, the amendments have been drafted in **bold**.

## Preliminary draft country report on the Czech Republic

### A. Introductory remarks:

In its surveys and assessments the Working Party has dealt with the progress made by each acceding country and also examined shortcomings which still have to be eliminated in order to link up with the EU acquis in the Justice and Home Affairs sphere.

On the basis of the information available it is not yet possible to make a definitive judgement, which means that only provisional and, to some extent, non-exhaustive findings can be established at present.

The data collated by the Collective Evaluation Working Party are being constantly added to and updated, mainly through the information network set up at the foreign representations using the structured checklist adopted under the German Presidency, so that a sort of "evaluation library" is gradually being built up. However, it will not be altogether possible to avoid a situation where the amount of information produced on individual subject areas varies. Certain imbalances cannot therefore be completely ruled out.

The main aim of the report is to make clear where measures are still needed before the EU standard can be achieved in the applicant States. The list of improvements required cannot however be considered exhaustive at present.

### B. Alignment with the acquis in certain areas

The Czech Republic made efforts to align itself to the EU Acquis in individual areas. It has prepared a raft of new legislation covering a law on Foreigners **and** asylum. **Regarding the police a legislative intention has been elaborated. The draft law is envisaged to be submitted to the Government in September, with entry into force planned for January 2001.** If the current "log jam" of legislation in Parliament can be overcome, legislative activity can be expected to proceed more rapidly.

The central criminal intelligence units were re-organised in the spring of 1995, thus **ensuring** greater continuity in police work, especially in the higher echelons. This went hand in hand with a gradual improvement in technical training and equipment. However, the process is by no means complete. The Czech Republic will still need to make considerable efforts if it is to come up to EU standards in the medium term.

(...)

The Czech Republic is well aware of the problem of corruption and measures to combat it have been stepped up accordingly. **The results of these measures remain to be seen.**

**Numerous legislative measures have been taken in the field of justice. The Constitution, which came into force on 01-01-93, lays down the principle of the rule of law and autonomy of the judiciary and creates the main formal guaranties for independence of judges. Acts of 1991 have regulated the administration of courts and judges. The re-incorporation of military tribunals into the unitary judicial system has now been carried out. Act No. 152/1995 has amended the Criminal Code in order to combat organised crime. Act No. 61/1996 against Legalisation of Proceeds of Criminal Activity (“money laundering act”) is wide-ranging. There has been a strengthening of sanctions provided for in cases of race-related crimes (These sanctions are seldom used in practice, but particular attention in this field is drawn to the role of local public prosecutors). After long debates, criminalisation of mere possession of drugs was decided on and entered into force on 1 January 1999.**

The European Union and its Member States are supporting the Czech Republic in its progress towards attaining EU standards with numerous aid projects.

## C. Shortcomings

### I. Securing external borders

#### Tasks and organisation

The Czech Border Guard is not an independent organisation, but part of the "Foreigners Police and Border Guard Department" located at Czech police headquarters. The police headquarters are themselves subordinate to the Ministry of the Interior. **(According to one delegation, a new legal instrument was to enter into force in summer 1999, which made the border guard an independent body.)**

Border controls are carried out by the Foreigners Police, which is responsible for a total of 122 international border crossings, including 86 road crossings, 25 rail crossings, one river crossing and 10 airports. In addition there are officially 37 border crossing points for minor border traffic and 65 crossing points on footpaths and lakes.

Surveillance of the "green" border is the responsibility of the Border Guard, which has 154 Border Guard units for the purpose. 47 are located on the Polish border, 59 on the German border, 30 on the Austrian border and 18 on the border with Slovakia.

A total of 6 334 people are currently employed in the Foreigners Police and Border Guard, 2 640 of whom are on duty at border guard units. 2 748 Foreigners Police staff work at border crossing points, 454 in the 76 Foreigners Police district divisions and 492 in the eight regional divisions of the Border Guard and Foreigners Police.

The borders of the Czech Republic measure some **2 290 km**. The borders with EU Member States account for 1 277 km long (the German border is 811 km long, the Austrian 466 km) while the borders with the candidate countries Poland (**762 km**) and the Slovak Republic (**252 km**) total some **1014 km**.

1. Need for administrative reorganisation of border security

Czech border security is in (...) need of reform. Border protection duties are divided between two separate authorities, resulting in dysfunction and reducing the effectiveness of border security. Although the Czech Republic is aware of the problem, it has so far been unable to work out a solution, probably because there are differences within the Ministry of the Interior itself on how to approach the restructuring. **The group will have to look at the effect of the new legal instrument on the organisation of the police, which according to one delegation was to enter into force in summer 1999.**

2. Shortages of staff and funding

With borders of well over 2 000 km to patrol, **the Czech border guard allegedly is understaffed.** One of the main reasons for this is the failure to set the right budget policy priorities. The budget estimates for border security staffing **seem inadequate.**

(...) Officers earn on average around 16 500 koruna (approx. EUR 470) per month **(slightly lower than the average monthly wage in the Czech Republic, around EUR 500).**

In an effort to combat the steady rise in illegal migration, the Czech Republic has again assigned troops to border duties, although a government decision ending military border surveillance was issued as recently as January 1999. An evaluation of the potential usefulness of the army's recent border "manoeuvres", in which soldiers had no executive powers and were merely allowed to report illegal immigrants to the border protection authorities, is to be completed by mid 1999. A decision will then be taken on continued use of the military.

### 3. Inadequate equipment

The technical standard of the equipment used by the Foreigners Police and Border Guard **seems insufficient**. Internal communications structures especially still fall quite **short of** EU standards, particularly as regards electronic data transfer. For example, the only on-line link is between the headquarters of the Foreigners Police and Border Guard and Prague's Ruzyne airport. Investigative checks at border-crossing points are based on data, which have to be updated at regular intervals.

There are only telephone links to the border crossing-points on the Slovak border. According to the Czechs themselves, thermo/infrared cameras are virtually non-existent, or obsolete. At the moment there is only one CO-2 device available for operations, and only one police helicopter with thermo-camera equipment for all the police services put together.

### 4. Worrying increase in illegal immigration

While the number of people entering the Czech Republic has gone down from slightly over 70 million in 1996 to 55 million in 1998, the number of illegal migrants has more than doubled since 1995, reaching nearly 45 000 in 1998. The Czech Republic **has become** the major transit country for illegal migration and for smuggling people into the European Union via the Balkan route or the Eastern route. At the same time, it is itself becoming an ever more popular destination for illegal immigrants.

5. Inadequate security on the Slovak border

According to current information, until such time as Slovakia joins the EU, the Czech Republic **is so far** unwilling to treat its border with Slovakia as an external one. (...). Controls are confined almost entirely to official border crossings, although there are still nearly 100 tracks leading across the border (some of which are accessible to traffic). The border between the two countries, regarded chiefly as a political dividing line, runs through wooded territory which is difficult to keep under surveillance; patrols tend to be the exception. As a result of the historical development of the two States, the local population still maintains close personal and commercial ties and would have little understanding of tighter border surveillance. Following the change of government in Bratislava, the Czech Republic has opened negotiations with Slovakia on improving border security (...). **Resolution 54/99 of 20 January 1999 envisages a new concept of border control, which contains provisions for the Slovak border. It will be necessary to monitor the results of this resolution.**

6. Backlog of building work at Prague's Ruzyně airport

Prague's Ruzyně airport does not meet the strict standards of the EU acquis. A strict physical separation is required between travellers travelling within the Community and those travelling to and from third countries. However, passengers are channelled to a central passport control upon arrival, so the two groups are mixed up. The Czech Republic has now recognised that there is a problem and is working on ways of solving it. It was against this background that **an inter-ministerial group was created at the end of the year 1998, and that,** at the Czech Republic's request, an exchange of information was held at Prague airport on 29 April 1999; a representative of the German Presidency of Schengen was also present.



## II. Migration (visas, deportation/expulsion)

### 1. Adjustments to visa policy required

The Czech Republic is increasingly becoming both a target and a transit country for legal and illegal immigration. By the end of 1998 there were approx. 220 000 Foreigners legally resident in the country. (...) **Flows of illegal immigrants were estimated at 45000 per year, most of whom trying to move on to Western Europe.** The Czech Republic attracts immigrants, **for instance Romanian nationals entering Austria via the Czech Republic**, because nationals of various high-risk countries in Eastern and South-eastern Europe (Kazakhstan, Kyrgyzstan, FYROM, Moldova, Turkmenistan, Ukraine, Belarus, Bulgaria, and Romania) do not need visas. **Ukrainian nationals will be required a visa from 30-09-99 onwards. Nevertheless the newly introduced visa regime is not fully in line with the EU requirements.** The Czech Republic is ready to take over the acquis in this respect; however, owing to its particular traditional ties and economic links with the successor states to the former Soviet Union and other former socialist countries it will proceed only gradually with regard to these countries, until such time as it joins the EU.

There are no rules on airport transit visas at present. **The planned new legislation on foreigners includes such rules.**

The slow pace at which compulsory visa requirements are being introduced demonstrates the lack of cooperation between the Foreign, Interior and Labour and Social Affairs Ministries. (...)

## 2. Shortcomings in visa-issuing procedure

The Czech Government has launched a project to modernise the visa-issuing procedure. The aim is to introduce a visa sticker along Schengen lines. Data transfer is to be improved. Depending on the financial resources available, foreign representations should have on-line access to central databases by the year 2002. To date border guard units do not have on-line access for issuing and checking visas either.

Current visas **including** visas "on humanitarian grounds" can be issued at the border at four crossing points (...). However, nationals of certain high-risk countries are not covered by these arrangements. Only when a new law enters into force in the year 2000 are visas at the border to be confined to special cases.

## 3. Weaknesses in document security

Czech passports are prone to forgery in that the photos can be replaced without too much technical difficulty. **The easily forged Czech passports are well-known by more than one Member State.** The introduction of new machine-readable passports is not planned until 2001.

The visas issued are not equipped with kinegrams. Only about 60 to 80 cases of visa forgery are discovered each year, which is due to the lack of technical equipment for detecting forgeries. A project for the introduction of machine-readable visas is still under scrutiny. However, the issuance of such visas is due to start 1 January 2000.

#### 4. Deficient Foreigners law

The Czech Foreigners law generally needs to be brought into line with EU practice. **A new Foreigner Law was adopted by the government on 28 April 1999 and has been submitted to parliament,** but there is no definite date for entry into force.

**Rules on ending the residence of Foreigners will form part of the new law.** It is planned to extend the length of time an alien can be kept in detention pending removal from 30 to 180 days, to impose fines on carriers which bring inadequately documented persons into the country and to oblige them to transport the persons concerned out of the country again.

What administrative measures exist to prevent illegal residence, such as expulsion, entry and residence bans and fines are not applied in a consistent fashion, owing to political reasons (bilateral relations with neighbouring countries, especially Bulgaria and Romania), (...)to technical and financial problems (lack of detention centres for deportees, equipment for fingerprinting, **adequate data collection, electronic data exchange,** etc.) and to lack of cooperation with foreign representations of the countries of origin) **In addition** administrative structures are inadequate and there is a lack of communication between the authorities responsible.

It is also quite easy for people who have entered the country illegally to obtain legal residence status by founding a commercial enterprise or investing a small amount of capital.

5. Shortcomings in readmission (...)

Although the Czech Republic has concluded readmission agreements with some states, persons transferred from Schengen States to the Czech Republic are not removed from the country "under supervision" but set free after a short period and simply asked to leave the country (most people make a renewed attempt at illegal entry into a Western European State).

6. Differences from EU Resolutions on immigration (admission)

**At the moment** Czech practice differs from EU Resolutions on immigration (admission) in the following respects:

- Slovak nationals do not need a work permit; they are simply registered. In 1998 there were some 60 000 Slovaks employed in the Czech Republic.
- Under family reunification rules, parents, grandparents and grandchildren are entitled to join their relatives in the Czech Republic, in addition to spouses and children. Moreover, in individual cases, other family members may be included on humanitarian grounds. Under the new legislation under preparation, only spouses, under-age children and elderly persons (grandparents) will be allowed in. (...).
- Under Czech law, students are entitled to remain in the Czech Republic on completion of their studies and to take up employment, although, under the relevant Resolution, they are required to return to their home country when they have finished their studies.

### III. Asylum

#### 1. Shortcomings in asylum law and asylum procedure

The Czech Asylum and Asylum Procedure Law is already broadly in line with the EU acquis, inter alia regarding minimum guarantees in asylum procedures, manifestly unfounded applications for asylum and the concept of a refugee. A new Asylum Law **has been adopted by the Government in March and is now before the Parliament**; it is due to enter into force early next year. According to Czech sources no additional structures will be required for implementation of the legislation. **The group will have to look again at the final Asylum act once it has been adopted and some experience has been gathered on its application. It is to be noted however that the draft law does not foresee the establishment of an independent secondary instance of appeal for rejected applicants (i.e. this is not in line with the acquis). This independent instance is only planned in the context of the planned reform of the judiciary in 2002.**

**According to the Czech asylum law an asylum seeker should apply for refugee status with the Aliens and Border Police when crossing the border and present himself to a reception centre where he should file an application for refugee status within 24 hours of his arrival. It should be clarified what the situation is concerning those asylum seekers who fail to present their case within the time limit.**

The administrative procedure is divided into two levels, a first and a second instance.

At first instance, asylum applications are considered by a department of the Ministry of the Interior.

On 1 April 1999 an "appeals commission" was set up, with representatives of the authorities and non-governmental organisations; this is a further administrative body for hearing appeals. The appeals commission submits the applications to the Minister of the Interior, with recommendations on the action to be taken. However, these recommendations are not binding on the Minister. The Minister's decision is subject to judicial review. The competent administrative court considers only the legal position; it does not inquire into the facts of the case. If further investigation of the facts is required, the case is referred back to the authority, which is then obliged to establish additional facts. **According to the legislation the appeals procedure seems to have no suspensive effect (this is not in line with the acquis).**

As the asylum procedure stands at present, however, there is some doubt as to whether the acquis will actually be implemented, since there does not seem to be any guarantee that the decision on the asylum application will be taken by an independent authority. The political level of the Ministry of the Interior has direct access to the administrative decision, without having considered the case itself.

The principle of a safe third country as a reason for ruling out an asylum application is unknown in Czech law. Every asylum application lodged at the border is therefore considered in substance. Asylum applications from people from safe third countries or countries of origin are rejected as being manifestly unfounded. However, it is still open to the applicant to prove that the state is not safe in his particular case.

## 2. Preparation for accession to the Dublin Convention

The Czech Republic has embarked upon the necessary preparations for application of the Dublin Convention as soon as it accedes to the European Union; as a result, as matters now stand, it may be assumed that joining the Dublin Convention system should not pose any difficulties.

#### IV. Police (including customs)

##### Police

##### 1. Staffing and equipment problems

Police officers' pay is slightly above the national average wage, but still relatively low at around EUR 520 per month. Although some 7 000 people apply to join the police force every year, the low earnings potential makes it difficult to recruit qualified personnel.

While there has been a slight improvement in police working conditions and in the standard of equipment in recent years, chiefly as a result of donated equipment, much remains inadequate. In particular there is not enough modern technical equipment or suitable premises.

##### 2. Bureaucratic obstacles to police duties

With one police officer for every 250 inhabitants, the Czech Republic is relatively well served in terms of staff quantity. However, the large administrative workload is a considerable drain on police resources. Police efficiency is further undermined by the sometimes highly bureaucratic manner in which police investigations are conducted.

This is largely due to the peculiarly Czech institution of the "investigation service", which takes over investigations from the police if there are grounds to suspect that a criminal offence has been committed. The investigations already undertaken by the police are often carried out all over again. **There is a new law under preparation, which aims at making the police more efficient by putting it under a central command.**

### 3. Problems in combating organised crime and corruption

The Czech Republic is experiencing a steady increase in all types of recorded crime. Despite improving the clear-up rate to over 43% in 1998, the Czechs have so far failed to make a real impact, especially on vehicle crime.

#### 3.1 Motor vehicle thefts and trafficking

The number of stolen vehicles has been rising continually over the past five years. The Czech Republic now plays a major role in vehicle smuggling as well, both as a transit and source country, but also as a market.

#### 3.2 Drug –related crime

In terms of narcotics crime, the Czech Republic is chiefly significant as a transit country, but is also increasingly becoming a country of origin of synthetic drugs. Although Czech drugs legislation is now broadly in line with EU standards and anti-drugs policy is now a much more balanced mix of punishment and prevention, the low prices and easy availability of drugs have led to a major increase in the number of Czech drug users and in "drug tourism".

#### 3.3 Corruption

The Czech Republic has recognised that corruption is a real problem. Since 1997 measures to combat it have been stepped up accordingly. **The government adopted a programme for the fight against corruption in February 1999, which focuses on corruption in the public sector and gives concrete instructions to various ministries, with deadlines mostly set for the end of 1999 or 2000. Results are not available yet.**



**The Inter-Ministerial Committee set up in 1998 has a special Analytical Commission, which has examined over 300 cases. 70 complaints have been filed, but no criminal proceedings have been initiated yet. The Committee's activities are hampered by the fact that it has no staff and that implementation of its recommendations depends on the co-operation of other ministries. The division of tasks between the 10 member institutions of the group was still unclear in early 1999.**

**The powers of the police to investigate offences are insufficient.**

**The lack of personnel, equipment and lack of co-ordination between the agencies involved and insufficient legislation hamper government policy.**

**The lack of concrete progress in the reform of the statute of the civil service means that low pay for state employees, insufficient manpower and equipment continue to be serious obstacles to an effective fight against corruption.**

According to information from the Czech Ministry of the Interior, only a few isolated cases of corruption have come to light in police ranks. Nevertheless, corruption does play a role in the traffic police and in administrative areas of police work, for example when issuing permits. This is probably a negative consequence of the relatively poor pay of the police force. Corruption cases, which have become public knowledge, have led to a loss of authority on the part of the law enforcement agencies.

Czech statistics for organised crime show that criminal syndicates have a certain degree of influence on politics, the economy, the media, the judiciary and the police, especially at local level.

Under Czech law, there is as yet no provision for the prosecution of legal persons for crimes of corruption.

4. International cooperation

In the experience **of at least one** Member State, international police cooperation with the law enforcement authorities of the Czech Republic works smoothly, **for instance with the central unit in charge of narcotics**. Even in matters involving lengthy correspondence, inquiries are usually answered promptly and fully. As regards international contacts, however, the various Czech law enforcement agencies sometimes find themselves in competition with one another, as a result of demarcation disputes between the various specialised units.

5. Lack of judicial rules

The Czech Republic (...) has no witness protection programme or rules on turning State evidence. There are no provisions allowing effective confiscation of the proceeds of organised crime or suspect property, likewise no modern data protection law with provisions for an independent supervisory body.

The Czech Money Laundering Law has been in force since 1 July 1996. It is broadly in line with the relevant European Conventions and directives on measures to combat money laundering. **Important gaps remain with the acquis regarding the continued possibility to have anonymous bearers' passbooks and identification of third persons acting on behalf of the client, reporting on unusual transactions below the threshold.** In 1998 1 100 suspect financial transactions were reported to the finance analysis team at the Czech Ministry of Finance. All in all, only 25 cases were pursued. Almost all were tax embezzlement cases.

## Customs

### 1. Organisation and performance

The Czech customs administration is up to standard. In the experience of **at least two** Member States there are no problems either with general legal and administrative assistance, where most requests concern problems of customs valuation, or cooperation in the field of narcotics. Although the Czech customs administration has only limited powers as regards prosecution, it is responsible for coordination in such cases.

### 2. Inability to grant exemption from liability

With controlled consignments, problems are caused by the fact that carriers cannot be granted exemption from charges on highly taxed goods entering in the Czech Republic. This makes it much more difficult to obtain important intelligence on the structures of smuggling networks: observations cannot be carried out, because third parties that are assisting the customs administration cannot be offered protection.

Some Czech customs officers are alleged to have been arrested recently for involvement in alcohol smuggling.

## V. Justice

### 1. Judicial system.

**There are five levels in the judiciary: district courts, courts of appeal, high courts (Olmütz and Prague), the Supreme Court and the Constitutional Court, which may be addressed directly in some cases.**

There is no specialisation within the judicial system, neither in commercial matters nor in administrative ones. Plans for the institution of a separate jurisdiction for administrative cases seem to have been abandoned. However, the establishment of a Supreme Administrative Court is provided for in the Constitution. For the time being, the Constitutional Court is performing the functions of the SAC quite satisfactorily according to the Council of Europe and “has found its rightful place in the system of constitutional checks and balances.”

For instance, the Court has quashed several local government orders imposing restrictions on freedom of assembly, association, expression, or on the use of foreign languages. It remains to be seen to what extent ordinary courts deal properly with administrative cases.

For several reasons, the Citizenship Act of 1992 created stateless persons and misunderstandings among certain former “Czechoslovakians” living in the present Czech Republic. Amendments of 1996, and their day-to-day implementation, have only partially solved these complex problems.

Basic codes are deemed to be a heterogeneous blend of pre-war, communist and modern elements (about 6000 new laws and regulations since 1989) without any common philosophy. Re-codification of civil and criminal codes (and procedure codes) has been in preparation since 1993 and is supposed to enter into force at the beginning of 2002. Considering the speed of this process, this deadline seems very ambitious. In fact, the latest documents no longer include any reference to the above-mentioned date.

## **2. Resources and training.**

Judges are appointed by the president of the Republic, prosecutors by the Minister of Justice, and “investigators” by the Minister of the Interior.

The institution of an independent disciplinary board composed exclusively of judges has been announced. The effects of the "lustration" law, (on grounds of which 50% of judges and prosecutors had to resign between 1989 and 1996) were supposed to have been achieved in 1996; it has been extended to 2001. Lack of rules on the civil service is said to be the main reason for this extension. Theoretically this reduces the independence of judges. Nevertheless this law is not used very much any more.

Despite the relevant constitutional principles and the provisions of the Court and Judges Act of 1991, the Government and the Minister of Justice can still direct the management of the courts e.g. via appointment/removal of the presidents of the courts (who distribute work among judges), appointment/removal of the prosecutors and of the Chiefs of the Prosecutor's offices, full power of the judges' career etc... Specific attempts of interference with the judiciary however were not pointed out.

Investigators complete the operational work of the police and then present the information to the judiciary. They are subordinate to the Ministry of the Interior. Their important and specified role in preliminary criminal proceedings is still a weakness as far as implementation of the principle of judicial autonomy is concerned. The suppression of investigators has been announced as part of the whole judicial reform.

Though the average wage is relatively high (about 1.350 EUR per month), it seems difficult to fill the numerous vacancies (396, i.e. 15 per cent of posts) with qualified applicants, who are attracted by high free market wages for qualified jurists. Trainees often resign just after special training.

**The Institute for Further Training of Judges (and prosecutors) has not been reformed after 1989. However, it has focused its activities on issues of human rights and democracy. Training in International or Community Law is provided for exclusively by bilateral or multilateral projects, namely with the "Ecole Nationale de la Magistrature". A new institution is in preparation, which will pay special attention to international and EU law. The first Phare project on training of judges suffered long delays before being adopted.**

Lack of modern equipment, precarious premises, and lack of PC's and of access to on-line legal databases are manifest. Administrative overload e.g. of petty cases (for instance on car accidents where the "constat amiable" doesn't exist), poor quality of procedural rules (e.g. lack of urgency measures, or right for the parties to present new evidence in the appeal procedure), low level of competence and insufficient specialisation of mostly young judges, lead to extremely slow judicial procedures, to unpredictable and divergent decisions, and to low confidence in the judiciary among Czech nationals and

**It must be added however that things improve in the courts of second and third instance. Moreover this situation is recognised by the Ministry of Justice itself, and by the Czech Government which has discussed a first reform document in April 1999. The main aims are to take into account all EU legislation, training of judges in Community law, creation of administrative and commercial courts, less administrative work by introducing "greffiers" or "Rechtspfleger", and by setting up a computer network between the courts. These are projects, which should be monitored, in the next months.**

**The Mirov prison - a castle having been used for that purpose for 600 years- is poorly equipped according to the Council of Europe's visit report.**

**The business registration system has a bad reputation among Czech and foreign entrepreneurs, due to its slowness.**

3. **Criminal law and the code of criminal procedure.**

Even if Czech legislation on organised crime is broadly in line with European standards, amendments to the penal code will be necessary in order to modify a number of legal definitions, e.g. participation in a criminal organisation, bribery, trafficking human beings, criminal liability of legal persons. Extradition of nationals will be a difficult point. The protection of witnesses is not yet fully organised, and more or less left up to courts and law enforcement bodies. For instance, there is no provision for the period after the Court has ruled. The new draft law on criminal law will deal with this issue.

The legislation on money laundering in force since 1 July 1996 is wide ranging. A number of areas, however, leave room for improvement. Legal persons cannot be criminally liable. The Czech Republic still allows for the issuing of bearer (anonymous) pass-books ("livret au porteur"). Chiefly, its implementation seems to be weak. In 1997, 1139 cases of suspicious financial transactions were reported to the Financial Analytical Unit of the Ministry of Finance: further criminal proceedings took place only in two cases. In 1998, 1100 cases were reported but only 25 submitted to the Police. Only several cases were prosecuted.

The Czech republic has ratified the major international instruments and is able to operate as a successful judicial partner with Member States. The Czech Republic has the intention of ratifying the remaining instruments. In addition, it has negotiated a number of bilateral agreements. Requests can be made through the appropriate Ministry, but they can also be made directly between judicial authorities on the basis of specific agreements. The framework is in place allowing for effective judicial co-operation in criminal matters with the Czech Republic.



There is valuable information on the implementation of this co-operation as regards extradition, transfer of proceedings, transfer of enforcement of judgements, judicial assistance. Three Member States, in their periodic relationship with Czech authorities, assess that no particular problems arise with regard to these issues. The central authorities, Ministry of Justice and Attorney-General's office, have always proved co-operative and competent. When the procedure is carried out directly between the courts and the Public Prosecutors office, it works steadily.

#### **Code of civil procedure.**

The same assessment can be made with regard to civil judicial co-operation. The Czech Republic is a contracting state to the relevant Conventions or has initiated the procedures for accession. The Czech republic has been invited to accede to the Lugano Convention and the corresponding inquiries have shown that Czech law and practice meet the requirements of the Convention. These assessments are based on a relatively considerable number of cases (for instance, 350 requests a year sent by a Member State to the Czech Republic, and almost 800 received from the Czech Republic). The co-operation works just as well as with EU Member States.

## VI. Summary conclusions

### 1. Securing external borders

Given its geographical position directly on the migration route to the West, the Czech Republic is highly susceptible to illegal immigration, which places special demands on the Czech border guard.

Border security in the Czech Republic is not up to this challenge; it suffers from major shortcomings.



The resources spent on border security are inadequate and scarcely enough for effective protection. The efficiency of the Czech border security system is further hampered by structural shortcomings. The units dealing with border crossings and those patrolling the "green border" are under separate management; they operate alongside each other but without much communication between them, leaving gaps in the security network, which are quickly identified and exploited by gangs of smugglers. The Czech Republic's attractiveness as a migration hub is further increased by the fact that it has so far been unwilling to subject the Slovak border to a full control regime.

2. Migration

The measures which the Czech Republic has taken to stem the flow of illegal immigration are inadequate and fail to do justice to the scale of the problem. In order to implement the EU acquis in this area, top Czech priorities in the next few years will need to include full alignment of their visa policy, which is currently governed by economic and political considerations, the introduction of rules on termination of residence and readmission and, in particular, better security on the Slovak border.

3. Asylum

The Czech Asylum and Asylum Procedure Law is already broadly in line with the EU acquis, including as regards minimum guarantees in asylum procedures, manifestly unfounded applications for asylum and the concept of a refugee. With the new Asylum Law due to enter into force early next year, the process of legislative alignment in this area will be nearly complete. It remains to be seen whether the way the provisions are implemented in practice is consistent with the principles of the rule of law and human rights.

4. Police (including customs)

In general, there has been a slight improvement in police performance in recent years. However, bureaucratic obstacles and a lack of modern technical equipment are still undermining the efficiency of police services. The Czech Republic will need to dismantle these obstacles and create the required legal framework, but also, above all, **increase police training and pay**. This will make the police less susceptible to corruption in certain areas, counter the real threat of organised crime more effectively and increase public acceptance of and confidence in the police.

5. Justice

**During the "screening" session the Czech authorities themselves gave a very adequate and comprehensive description of the rise and high level of criminal offences in their country. Despite some improvements, the legal measures taken are not sufficient nor efficient. The contrast between smooth judicial co-operation with neighbours in the traditional matters on the one hand, the weak possibility to guarantee the respect of internal regulations (and therefore of EU acquis) on the other, is mainly accorded to the quality of laws and of training of young judges. In these areas there are many "legislative intentions" but few laws issued. The monitoring of implementation of new laws will also be necessary. Justice is one of the fields where progress in the Czech republic has to be closely monitored.**

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