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## **First Evaluation Round**

### **Evaluation Report on Slovenia**

adopted by the GRECO  
at its 4<sup>th</sup> Plenary Meeting  
(12-15 December 2000)

## I. INTRODUCTION

1. Slovenia was the first GRECO member to be examined in the first Evaluation round. The GRECO evaluation team (hereafter referred to as the "GET") was composed of Captain Peter GARAJ, Senior Specialised Officer, Office of organised crime, Department of fight against corruption (Slovakia, police expert), Mr. Antonio VERCHER NOGUERA, Public Prosecutor in the Supreme Court (Spain, prosecution expert) and Mr. Jacek GARSTKA, Judge, Department of International Co-operation and European Law, Ministry of Justice (Poland, policy expert). This GET, accompanied by Mr. Manuel LEZERTUA, Executive Secretary of GRECO, visited Ljubljana from 12 to 15 September 2000. Prior to the visit the GET experts were provided with a very comprehensive reply to the Evaluation questionnaire (document GRECO Eval I (2000) 12) as well as with copies of the relevant legislation.
2. The GET met with officials from the following Slovenian Governmental organisations: Office for European Affairs and International Co-operation, Criminal Police Directorate, Bureau for the Organisation and Development of Administration, Bureau for the Direction and Supervision of the Police and Bureau of Complaints and Internal Protection, all of them in the Ministry of the Interior, Supreme Court of Slovenia, Ministry of Foreign Affairs, Parliamentary Commission under the Act on the incompatibility of holding public office with profit-making activities and Parliamentary Commission for Mandates and Immunities, in the Parliament of the Republic of Slovenia, the Public Prosecutor's Office, the Court of Audit, the Commission for revisions under the law of Public Tenders, Office for Money Laundering Prevention, Ministry of Finance, Ministry of Justice.

Moreover, the GET met with members of the following non-governmental institutions: Slovenian Chamber of Commerce, Representatives of the University of Ljubljana, Association of accountants, financiers and revisers of Slovenia, Slovenian Chapter of Transparency International (in foundation), Journalist Association of Slovenia.

The list of persons met by GET appears at Appendix I.

3. It is recalled that GRECO agreed, at its 2<sup>nd</sup> Plenary meeting (December 1999) that the 1<sup>st</sup> Evaluation round would run from 1 January 2000 to 31 December 2001, and that, in accordance with Article 10.3 of its Statute, the evaluation procedure would be based on the following provisions:
  - Guiding Principle 3 (hereafter "GPC 3": authorities in charge of preventing, investigating, prosecuting and adjudicating corruption offences: legal status, powers, means for gathering evidence, independence and autonomy);
  - Guiding Principle 7 (hereafter "GPC 7": specialised persons or bodies dealing with corruption, means at their disposal);
  - Guiding Principle 6 (hereafter, "GPC 6": immunities from investigation, prosecution or adjudication of corruption).
4. Following the meetings indicated in paragraph 2 above, the GET experts submitted to the Secretariat their individual observations concerning each sector concerned and proposals for recommendations. The Secretariat prepared a draft report, reflecting the views of the GET, and transmitted it to the Slovenian authorities on 29 November 2000. The Head of the Slovenian Delegation to GRECO transmitted the comments of his authorities on 4 December 2000. Having examined them, the GET experts agreed to their inclusion in the draft report.

5. The GRECO examined the draft evaluation report at its 4<sup>th</sup> plenary meeting held in Strasbourg on 12-15 December 2000. The first reading took place on 13 December 2000. The report was finally adopted following a second reading on 15 December 2000, as it is reproduced hereafter.

The principal objective of this report is to evaluate the measures adopted by the Slovenian authorities, and wherever possible their effectiveness, in order to comply with the requirements deriving from GPCs 3, 6 and 7. The report will first describe the situation of corruption in Slovenia, the general anti-corruption policy, the institutions and authorities in charge of combating it -their functioning, structures, powers, expertise, means and specialisation- and the system of immunities preventing the prosecution of certain persons for acts of corruption. The second part contains a critical analysis of the situation described previously, assessing, in particular, whether the system in place in Slovenia is fully compatible with the undertakings resulting from GPCs 3, 6 and 7. Finally, the report includes a list of recommendations made by GRECO to Slovenia in order for this country to improve its level of compliance with the GPCs under consideration.

## **II. GENERAL DESCRIPTION OF THE SITUATION**

### **a. The phenomenon of corruption and its perception in Slovenia**

6. The Republic of Slovenia, which became independent in 1991, is a relatively small State (20 000 Km<sup>2</sup>), neighbouring Croatia, Italy, Hungary and Austria, with a total population estimated at 2, 000, 000 inhabitants. Slovenia has a GDP per capita of 9 760 \$, which in 2000 represented 70 % of the European average.
7. The Slovenian legal system does not define the term "corruption". However, the criminal legislation of this country provides for seven criminal offences which would be corruption offences within the meaning of Council of Europe instruments, in particular the Criminal Law Convention on corruption (ETS n° 173). Thus, it comprises giving and accepting bribes to and by public officials, national, foreign and international, including holders of judicial office, private to private bribery and trading in influence. Slovenia recently adapted the law on criminal responsibility of legal persons, which is applicable to corruption offences and to money laundering. Moreover, Slovenia follows the "all offences" approach in its anti-money laundering legislation and corruption offences are, consequently, predicate offences for the purpose of the money-laundering offence. Slovenia is bound by a large number of different bilateral agreements and conventions on international judicial and police co-operation and could provide mutual legal assistance in corruption cases on the basis of those treaties as well as on the basis of the reciprocity rule. It should be stressed that Slovenia has already ratified the Criminal Law Convention on corruption of the Council of Europe.

Slovenia is envisaging the possibility of acceding to the OECD Convention on bribery of foreign public officials in international business transactions and becoming a member of the OECD's Working Group on bribery in international business transactions.

8. Crime rates are below the average European standards. According to the statistics provided to the GET in 1997, 37 173 criminal offences were detected, 19 of them being corruption offences. In the same year 9 558 persons were indicted and 4 975 convicted, 13 of which for corruption offences. In 1998, 55 473, criminal offences were detected, 33 of which being corruption offences. There were 12 200 indictments and 5 729 convictions, 16 of which for corruption offences. In 1999, detection of criminal offences rose to 62 836, 56 of which being corruption offences. No statistics on prosecutions or convictions were provided for 1999.

9. Although these figures point out to an increase since 1997 in both the total number of cases and the number of corruption cases, the trend does not seem very significant, as the 1999 figures are very similar to those of previous years (for instance, 55 corruption cases in 1994, 51 in 1993). More importantly, the statistics show a low number of corruption cases both in absolute terms and in terms of the percentage of the total level of criminality in Slovenia. Moreover, according to the indications given to the GET experts, the majority of cases concern "petty corruption", involving officials of the lower levels and only a few concerned officials of higher level. The Slovenian authorities declared to the GET experts that the areas most exposed to corruption were public procurement and medical care.
10. It is not clear whether the low number of corruption cases detected is due to the fact that Slovenia is a relatively "clean" society, only mildly touched by this type of criminality. The GET experts heard several times the explanation that the small size of Slovenian society was a deterrent for corruption as proceeds would be very difficult to hide. Another explanation could be, however, that large numbers of corruption cases, particularly those involving high State officials, take place without the competent authorities noticing them.
11. According to the world-wide index of corruption prepared by the Economist Intelligence Unit, Slovenia was, in 1999, the least corrupt country in Central and Eastern Europe. In the Transparency International 2000 Corruption Perception Index, Slovenia is ranked 28, (out of 90, score 5.5 out of 10, second best among Central and Eastern European countries). However, it should be said, that the Slovenian position has slightly worsened since 1999 (ranking 25, score 6 out of 10, best in Central and Eastern Europe). This could indicate that the perception of corruption is growing higher, but also that Slovenian society is more aware of corruption phenomena. This tendency can also be observed in the "Awareness of corruption in Slovene Society - Opinion Poll Survey 1990-1999" a research conducted by the Slovenian Institute of Social Sciences (University of Ljubljana). According to it, 38 % of those consulted considered that almost all or the majority of public officials were involved in corruption, and 49 % considered that some public officials were involved in corruption. 60% of those consulted said that there was in recent years an increase in corruption and abuse of public office.
12. The GET experts were struck by the disparity that existed between the low number of offences detected, prosecuted or punished in Slovenia and the general perception of an increasing, quite widespread corruption. A possible explanation for this could be that in some cases corrupt persons are prosecuted and punished for other related offences. The media coverage of some corruption scandals was also tentatively mentioned as a possible explanation for the public perception of widespread corruption. According to some researchers met by the GET, the changes in economic and political systems, the transition to market economies and the relaxation of previously omnipresent controls have facilitated the spread of corruption. Slovenian economy is still largely controlled by the State. GET experts noted that 45% of GDP still comes from the State controlled sector of the economy. It appears that the process of privatisation will be continued, and will cover banks and insurance institutions. According to the national Chapter of TI Slovenia, weak market economy institutions, poor corporate governance, insufficient protection of small shareholders, lack of law enforcement and supervision on public procurement and award of State subsidies, were the main factors accounting for corruption in Slovenia. The Slovenian authorities admitted that the low level of detection of corruption was a matter for concern, taking into account the large number of irregularities detected in the privatisation process.
13. In spite of the above, corruption is not, in general, perceived as being a major threat to society. This was underlined during the country visit not only by officials of different State agencies, but also by the Slovenian Chamber of Commerce and Industry, which appeared more concerned

about the slowness of public administration than about corruption among public officials. The above mentioned poll survey showed also that Slovenian society was more tolerant to small ("street") corruption than to the major cases.

## **b. Bodies and institutions in charge of the fight against corruption**

14. No specialised bodies have been set up in Slovenia to deal specifically with corruption or to co-ordinate anti-corruption efforts conducted by different institutions. According to the authorities, there would be no need for such a body in view of the low number of corruption cases, the relatively simple organisation of public administration, the small number of staff involved and the need to bring together experts from different ministries when dealing with important cases. Therefore, it is for ordinary State institutions to deal with corruption.

### **b1. The Police**

15. In Slovenia there is one single authority, with police powers, in charge of detecting and preventing corruption offences: the Police, which, according to the Police Act, is responsible for *"the prevention, disclosure and investigation of criminal offences and misdemeanours, the disclosure and arrest of perpetrators, the implementation of searches for wanted persons and their hand-over to the competent authorities."*
16. The Police Department is organised as a separate structure within the framework of the Ministry of the Interior. The latter has many responsibilities in relation to the police, such as, *inter alia*, setting guidelines, preparing its budget and supervising its execution, programming the investments, co-ordinating and planning of police force information and telecommunication systems, supervising and co-ordinating the execution of police duties, etc. The Police force is run by the Director General of the Police, appointed and dismissed by the Government upon a proposal from the Minister of the Interior. The Police is organised on a State, regional and local level. The total police force of Slovenia counts approximately 6,500 police officers.

On behalf of the Minister, the Bureau for the Direction and Supervision of the Police directs and controls the work of the Police. This Bureau is also responsible for preparing the priorities for the work of the Police.

17. At State level the General Police Directorate is responsible for running, directing and co-ordinating the work of police Directorates. It also ensures the efficient and lawful performance of police tasks and the employment, supervision and training of police officers. Presently, the General Police Directorate is divided into a number of Police Directorates, headed by Directors appointed and dismissed by the Minister of the Interior upon a proposal by the Director General of the Police.
18. One of these Directorates is the Criminal Investigation Police Directorate. It is divided into seven sections, one of which is the Organised crime section. The latter is divided into 5 smaller units, one of which is the Anti-Corruption Division (hereafter "ACD"), which was recently created, on 1 April 2000. The ACD is competent for planning, organising, directing and supervising activities in the following fields: corruption among State authorities and public organisations, corruption related to State contracts, investments, subsidies and concessions, trading in influence and other corruption offences.
19. The basic work of investigation is conducted at regional level, by one of the 11 Regional Police Directorates, headed by a Regional Police Director appointed and dismissed by the Minister upon a proposal of the Director General of the Police. Each Regional Police Directorate includes a

Criminal Police Office, divided into several Groups. One of these Groups is the Organised Crime Group, which directly carries out criminal investigations of corruption offences in the following fields: corruption among State authorities and public organisations, corruption related to State contracts, investments, subsidies and concessions, trading in influence and other corruption offences.

20. At local level, the Police is divided into police stations, generally responsible for prevention, detection, and investigation of simple forms of all criminal offences, including corruption.
21. The Anti-Corruption Division ("ACD") was established in April 2000. It is composed of policemen drafted from different police departments as no new posts were created for this new Division. The GET experts were told that Police officers at ACD were selected among those already serving in other police departments, having at least 5 years of practical experience in criminal investigations, with particular knowledge of special investigative techniques, with a degree in Economy & Business, Law, Police Academy, good knowledge of the legislation pertaining to the economic crime area and a good moral record.
22. At the time of the GET visit to Slovenia, 3 police officers were serving in the ACD. An unspecified number of additional posts were to be created. As the rest of the Organised crime Section, to which it belongs, the ACD made use of proactive investigation techniques to uncover corruption offences. The ACD Police officers met by GET expressed their opinion that this was the only way to unveil corruption offences. In their investigations the Police is entitled to make use of a large variety of powers under the Police Act, including, in addition to ordinary police powers (Article 33 and following), undercover operations and surveillance (Art. 49) with an authorisation of the Director General of the Police. Following the recent amendment of the Code of Criminal Procedure new powers of investigation have been conferred upon the police, which is entitled, under certain conditions and for certain offences, including corruption, to carry out the monitoring of telecommunications and correspondence, bugging, recording of conversations, surveillance, secret search of a domicile and access to computer systems. The use of these powers requires an order delivered by the investigative judge upon a motivated request by the public prosecutor. Moreover, the police can proceed with pseudo-purchases and feigned acceptance or giving of a bribe or gift, with the authorisation of the public prosecutor.
23. Every application for the use of the above-mentioned special investigative techniques must be channelled through the Criminal Police Directorate. Therefore, if the investigation conducted at regional level requires the use of such techniques, the case must be brought to the attention of the Criminal Investigations Police Directorate, which, from that moment onwards, will remain involved in the investigation of the case.
24. Cases of private bribery fall under the competence of the Economic crime Section unless there is a sign of an organised crime element. For complicated, big or sensitive cases special ad hoc teams are set up to conduct the investigation.
25. The GET experts were told that the setting up of the ACD had already resulted in an increase of corruption reports brought to the attention of the Police. Since May 2000 the ACD had been able to conclude successfully investigations into bribery cases connected to illegal immigration, issuing of driving licences and building of motorways.
26. Police officers dealing with corruption are subject to the same rules as any other police officer. They are, in particular, required to fulfil their duties in accordance with the Constitution and the law

and with due respect for human rights and fundamental freedoms. Equally, the rules of hierarchical subordination are fully applicable.

27. No particular protection is afforded to ACD Police officers or, in general, to police officers investigating corruption cases, against undue pressure exercised on them by superiors. A police officer working in a sensitive corruption case - for example involving a political leader - could be moved, replaced or subject to (hidden) retaliatory measures affecting his professional career. Police officers interviewed by the GET admitted that the only remedy available to those refusing to yield to such pressure from their superiors would be to quit the police force.
28. The Complaints and Internal Affairs Division is the Office responsible for processing complaints relating to police procedures. Since 2000, it is also responsible for investigating criminal offences, including corruption, where the suspect is a policeman. It is an organisational unit placed directly under the Director General of the Police, i.e. at the top of the police structure. The division has 11 regional branches. The police officers working for this Division have to fulfil specific entry conditions such as 15 years professional experience, be older than 35 years and be holders of a university degree, (for those working at regional level a college degree is sufficient). It is staffed with 8 police officers at State level (4 in Complaints unit and 4 in the Internal Affairs Unit) and 22 other officers attached to the 11 Regional Police Directorates. The creation of additional posts (10 police officers and 2 Secretaries) has been approved but these posts were not filled at the time of the visit.
29. Members of this Division are allowed to check all records and files. If the procedure reveals enough evidence of procedural irregularities, mishandling of cases or improper conduct the case will be put before a Complaints Senate, composed of a Director of the District police, the direct superior of the policeman suspected and a representative of the public, which takes a decision.

In 1999 the Division received a total of 1 843 complaints. It instructed 1 604, out of which 13% were declared founded. When comparing the total number of policemen - 6 500, the number of complaints seems quite high, but it confirms transparent relations between the police and the public. The complaints are also received from the Ombudsman's office.

30. As indicated above, the Division is also in charge of the investigation of certain offences committed by the police. There were, in 1999, 160 such criminal offences, out of which one third were described as general offences and two thirds as abuse of citizen's rights and liberties/ misuse of public office/ breach of police duties and powers. There were 72 indictments of police officers, 3 for bribery and 30 for corruption related offences (abuse of official data, abuse of powers and rights). 10 policemen were expelled from the police or were forced to leave it and 27 others were suspended from their functions for a period of time.

## **b2. Public Prosecution Service**

31. In Slovenia the authority in charge of conducting prosecutions in criminal cases is the Office of the Public Prosecutor. According to the Act on criminal procedure (Article 45), the public prosecutor (hereafter "PP") is competent to detect criminal offences, trace perpetrators and direct preliminary criminal proceedings, request the investigative judge to formally initiate an investigation, press charges against the suspect and appeal against non-final judgements.
32. There are 146 PP for the whole of Slovenia. Prosecution services are organised in 3 levels: 11 District Prosecution Offices, which correspond to the 11 District courts of first instance jurisdiction over criminal cases. These are the basic prosecution authorities dealing with all crimes. There are

4 High Public Prosecution offices, which correspond to the 4 Higher courts, of appellate jurisdiction. Finally, at State level, the Public Prosecutor's Office of the Republic of Slovenia, headed by the General Public Prosecutor.

33. A 1999 amendment to the Act on the State Prosecutor provided a sounder legal basis for the establishment of the Group of Public Prosecutors for Special Tasks (hereafter, "the GPPST"), which had started its work in 1995. This Group is in charge of prosecuting perpetrators of criminal offences related to organised crime, including corruption, an offence which is expressly mentioned as falling under its jurisdiction. The GPPST operates throughout the Slovenian territory. District prosecutors are under the duty to inform GPPST on cases falling within the latter's jurisdiction as soon as they find out about them.

The GPPST operates as part of the Public Prosecutor's Office. The General Prosecutor assigns individual cases to it. At the time of the GET visit, the GPPST was staffed with six PPs appointed for a period of six years. The prosecutors serving in GPPST are well experienced and recognised.

34. According to the Act on the State Prosecutor, Prosecutors in Slovenia are independent. Neither the Parliament nor the Government or individual Ministers are allowed to give instructions or even indications on the handling of individual cases. The General Prosecutor is elected for 6 years by Parliament, upon a proposal by the Government. PPs are appointed by the Government, upon a proposal made by the Ministry of Justice after having obtained an opinion from the Personnel Commission of the Public Prosecution office. The Personnel Commission of the PP Office is competent to decide on salary increases within the scales applicable to the post. The Government decides on PP's career promotions.
35. The Ministry of Justice exercises some limited power of control over the performance of duties by individual prosecutors, for instance as regards delays in the execution of their duties. PPs do not enjoy any form of immunity but the views expressed by a PP in the exercise of his functions are not subject to disciplinary measures. In addition, the Office of the State Prosecutor has established a Revision Group, which is in charge of periodically reviewing public prosecutors' performance in a certain problem area or reviewing individual cases following a complaint or to organise general revisions of all the cases handled by a given prosecutor. These review procedures cannot lead to sanctions but their results could influence the marking of individual prosecutors. Review procedures are only conducted once cases are finished.

### **b3. The Courts**

36. Corruption cases are adjudicated by the courts, which are competent, according to the Slovenian Constitution, to decide upon every person's rights and obligations. The Constitution, the Law on Courts and the Law on the Judicial Service govern the organisation of the judicial system. The Judicial system is organised in four levels of courts: 44 county courts, first instance jurisdiction dealing, in the criminal law field, with cases of a maximum penalty of 3 years imprisonment; 11 district courts, first instance jurisdiction dealing with criminal cases with penalties higher than 3 years imprisonment, which includes passive bribery; 4 Higher Courts, appellate jurisdiction dealing with appeals against judgements and decisions delivered by county and district courts and the Supreme Court of Slovenia, last instance court dealing with extraordinary legal remedies against Higher court's decisions on grounds of breach of substantive law and severe breaches of procedural law. No leave to appeal is needed to introduce a remedy before the Supreme Court. 714 judges serve these Courts.



37. In addition, Slovenia has instituted a Constitutional Court, which is competent to examine the compatibility of legislation with the Constitution and with International Law and complaints on alleged breaches of fundamental rights and freedoms.
38. In Slovenia there is a uniform judicial system, including courts of general –civil, criminal- and specialised –social, labour and administrative- jurisdiction. There is no special jurisdiction dealing with corruption cases. The establishment of extraordinary courts is, in any case, constitutionally forbidden.
39. Slovenia has the institute of the Investigating Judge (hereafter “IJ”), responsible for the investigation of cases where suspicions are reasonably directed to a possible perpetrator. The IJ is also competent for authorising the use of investigative measures, which could affect the exercise of fundamental rights and freedoms of the suspect.
40. Judges are elected by Parliament upon a proposal by the Judicial Council. Once elected, judges cannot be removed from office except as a result of a criminal or a disciplinary sanction. The Judicial Council decides on career promotions within each specific category. However, a new election by Parliament will be necessary in order to move from one category to a higher one (from district judge to appeal judge, for instance). In the performance of their duties, judges are bound only by the Constitution and the Law. They may not receive any order or instruction and enjoy immunity for acts performed in the exercise of their duties. They may be removed from office by Parliament only in case of breach of the Constitution or the law and in case of committing a criminal offence in the performance of their functions. The Law on Judicial Service governs disciplinary procedures in cases of alleged irregularities or breach of duties by Judges. Disciplinary proceedings are an internal matter for the judiciary.

**b4. The special relationship between the Police, the Public Prosecution and the Investigative Judge in pre-trial proceedings**

41. The police are competent for the detection and investigation of criminal offences and the arrest of perpetrators. However, according to the Code of Criminal procedure, the statements made by the suspect and certain other categories of persons (privileged witnesses, for instance) to the police during the investigation of a case cannot be used as evidence during the trial (see Article 83 of the Code of Criminal Procedure). Even the statements made by the suspect to the police, in presence of his/her lawyer and after having been warned of his/her right to remain silent, cannot be admitted as evidence and will not even appear in the records.

Therefore, the police will investigate a case on its own until such a time when it considers that there are sufficient elements to seize the competent PP. The PP is legally competent to direct the pre-trial procedure but has no operative powers. He may only act by asking the police and/or the IJ to perform certain acts. On the other hand only information and data obtained through the intervention of the IJ can be used as evidence before a court of law. However, in order to perform the acts necessary to gather the evidence the IJ will require the support of the police.

**b5. Other bodies and institutions**

42. Besides the police, the prosecutors and the judiciary, there are other State authorities in Slovenia, which, although competent in areas different than criminal law, have still an important role to play in the prevention and disclosure of corruption. Similar institutions exist, obviously, in every state but the role they play in the combat against corruption differs from one country to another. In Slovenia the following bodies and institutions should be mentioned: the Court of Audit, the

Parliamentary Commission under the Act on the incompatibility of holding public office with profit-making activities, the Commission for Revisions under the Law on Public Tenders, The Inland Revenue Service and the Office for money laundering prevention.

43. In order to better understand the powers and duties of the above-mentioned institutions and bodies, it should be reminded that, in accordance with Articles 285(1) and 286(2) of the Slovenian Criminal Code, "failure to inform authorities of preparations for crime" and "failure to provide information of a crime or perpetrator" are criminal offences. The former creates an obligation for every citizen to inform about the preparation of an offence for which imprisonment of more than 3 years could be imposed. The latter imposes upon officials the duty to inform the competent authorities about offences, for which imprisonment of more than 3 years could be imposed, which came to the official's knowledge in the performance of his/her duties.

i) *Parliamentary Commission under the Act on the incompatibility of holding public office with profit-making activities*

44. The Commission is composed of 7 members, appointed by both Chambers of the Parliament from different political parties. The Commission is responsible for supervising the implementation of the Act on the Incompatibility of Holding Public Office with Profit-Making Activities. The Act applies to Members and Secretary of the National Council, President of the Republic of Slovenia, Prime Minister, Ministers and State Secretaries, Heads and Deputy Heads of Government services and independent bodies within the ministries, Human Rights Ombudsman and his/her Deputies, Members of the Court of Audit, Solicitor of the State and his/her Deputies, Director General and Deputy Director General of the Agency for the Auditing of Ownership Transformation of companies. The persons covered by the Act are under the obligation to report to the Commission their assets and financial interests, including the financial situation of their close relatives (spouses, children, parents) at the beginning of their terms of office, every following two years, at the end of the term of office and, upon request by the Commission, also one year after the termination of that office. The Act prohibits the receipt of an advantage incompatible with the performance of official functions. If the Commission finds that the official acquired gifts or benefits capable of influencing the proper performance of his/her functions, or that has increased his wealth exceptionally, it will report to the authority or institution where the person in question exercises his/her functions or which is competent for the appointment of that person. The decision of whether or not further action should be taken against the person in question lies with the authority or institution where he/she exercises his/her functions or having appointed him/her.

ii) *Commission for Revisions under the Law on Public Tenders*

45. This Commission is located within the structure of the Ministry of Finance and has the responsibility to consider and decide on complaints lodged by competitors in respect to a public procurement procedure. It is commonly acknowledged that the right to complaint enjoyed by competitors in procurement procedures is an important element of control of the activities of the administration. Yearly, this Commission receives about 400 complaints, 50% of which are accepted. Despite that fact, none of these files are reported to the police or to the PP. Until now, there have been no complaints about corruption.

iii) *Office for money laundering prevention*

46. The Office is the Financial Intelligence Unit of Slovenia. It is located within the Ministry of Finance, and is responsible for gathering and processing reports on suspicious transactions emanating from financial and non-financial institutions, which could be indicative of money laundering of proceeds

of crime, including proceeds of corruption. However, the Office is not empowered to transmit to the competent law-enforcement authorities the information received concerning corruption obtained within the framework of its activities. A draft law changing this situation has been submitted to Parliament.

*iv) Court of Audit*

47. The Court of Audit of the Republic of Slovenia is composed of 9 members elected by Parliament for a term of 9 years, with the possibility of re-election. Its competence is to control regularity, purpose and effectiveness in the use of public funds, to control regularity of activities of persons responsible for the execution of the budget, to audit financial statements of authorities managing public funds. It has a staff of 83, 50 of which are university graduates. It operates according to functional principles, which means that the eight individual sectors exercise control over a particular area of public expenditure. The Court of Audit has two instances. The first instance is a three-member panel which decides whether the opinion given in the preliminary report, after comments of the audited entity, is appropriate or not. The second instance, a panel of 5 members, decides on opinions given in the final report if the audited entity has submitted objections to the first instance report.
48. The Court of Audit's field of activity and authority provide a good opportunity for disclosing cases of corruption. In the case of suspicion, that criminal offence or misdemeanour has been committed, auditors have to notify the Minister of Interior and the superior of the suspected person. The Court is regularly controlling public procurement as well as execution of granted orders.

*v) The Inland Revenue Services*

49. The IRS is an independent institution within the Ministry of Finance, in charge of collecting taxes. Insofar as the IRS and, more particularly, the Tax inspectorate have access to information on the income, assets and deductible expenses of taxpayers, its activities could be instrumental for the detection of possible cases of corruption. According to the information gathered during the visit, tax officials are highly exposed to bribery in Slovenia but there are no particular means in place to prevent or detect acts of corruption in the tax administration. Moreover, no guidelines, education or training are provided to tax officials or inspectors in order to increase their awareness about corruption, to check suspicious deductible expenses and report to the police or the PP irregularities, which could be related to illicit payments or bribes.

**c. Immunities from investigation, prosecution and adjudication for corruption offences**

50. The following categories of persons benefit, in the Slovenian legal system, from immunities in criminal proceedings:
- Deputies of the National Assembly;
  - Members of the National Council (Second Chamber of the parliament);
  - Judges of the Constitutional Court;
  - Judges of the courts of law;
  - Judges of the Court of Audit.
51. There are two types of immunity attributed to these categories of persons:
- professional immunity, which is of a substantial (material) character and provides, that its beneficiaries cannot be held criminally liable for any opinion expressed or a vote cast at the sitting

of the National Assembly or its working bodies – in the case of parliamentarians, or that they cannot be criminally liable for any opinion expressed in the court in the course of proceeding – in the case of judges. This immunity cannot be lifted and its purpose is to ensure the proper performance of the particular function of its beneficiary. This type of immunity is not relevant for the evaluation, because it could not cover any of the corruption offences, or corruption-related offences.

- procedural immunity, according to which no criminal investigation and prosecution can be undertaken for certain offences against the above-mentioned categories of persons without prior authorisation by the competent authority. This type of immunity is available for members of Parliament and Judges suspected of corruption offences provided in the Slovenian Penal Code. In the case of parliamentarians (of both chambers) and judges of the Constitutional court, criminal proceeding for offences punished with a maximum penalty of 5 years of imprisonment, can only be instituted and conducted with the prior authorisation of the National Assembly. In the case of the judges of the courts of law, criminal proceeding for any offence connected with the performance of judicial duties, can only be instituted and conducted with the prior authorisation of the National Assembly.
52. The legal grounds for the above-described immunities are contained in Articles 83, 100, 134 and 167 of the Constitution of the Republic of Slovenia. These immunities expire when the terms of office of the persons entitled to them expire. The term of office of members of the National Assembly is 4 years and that of members of the National Council is 5 years (both with possibility of re-election), whereas judges are appointed for life.
53. The only authority entitled to lift the immunity is the National Assembly. Even if a person entitled to immunity does not invoke immunity in the criminal procedure, on the basis of article 136 of the Code of criminal procedure, the prosecutor is obliged to apply to the National Assembly for consent to conduct the investigation. The National Assembly's Commission for Mandate and Immunities considers firstly the request and it then submits the request and its opinion to the plenary of the National Assembly. Each political party represented in Parliament is entitled to participate in the work of the Commission. In its entire existence the Commission has dealt with 13 cases and only in one of them did the final decision of the National Assembly differ from the one taken by the Commissions. There have been, up to now, no requests for the lifting of the immunity in a corruption case. The Chairman of the Commission informed the GET that the general policy is to lift the immunity if the request relates to the so-called "common criminal offences", particularly those committed with violence, and to maintain it in the other cases. Although in the Chairman's opinion, immunity would be lifted in a case of bribery, he confirmed that proceedings of the National Assembly in the immunity matters were not free from political considerations.

### **III. ANALYSIS**

#### **a. A policy for the prevention of corruption**

54. Even if the number of detected cases is comparatively low, Slovenia is still a country affected by corruption and nobody denied this fact during the GET visit. It is also clear that public authorities and civil servants have made important efforts to eliminate corruption at different levels of social and political life in Slovenia. The 2000 Transparency International Corruption Perception Index, the 1999 Sigma Report on Slovenia and the Study "Natural Openness and Good Government",<sup>1</sup>

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<sup>1</sup> Study by Shang-Jin Wei. National Bureau of Economic Research Working Paper. June 2000 ([www.riber.org/papers/w7765](http://www.riber.org/papers/w7765)).

contain interesting indications in this regard. However, as was underlined by many of the persons interviewed, Slovenia is a small country and this can bring with it some degree of permissiveness, tolerance or even a certain endogamy among officials serving in different institutions. The GET observed that there seemed to be more reliance on personal relationships among State officials and feelings of mutual trust and confidence than on a sound constitutional approach of *"checks and balances"*, among different State institutions and which is essential in the fight against a crime like corruption. Montesquieu's theory of *"division of powers"*, does not work as well as it should in Slovenia.

55. The lack of huge political corruption scandals and the perception of corruption as a minor danger could probably explain the absence of an overall strategy of the State to combat and prevent corruption. As pointed out by the SIGMA 1999 assessment of Slovenia, struggling against corruption is not on the political agenda of the Government and there is no on-going programme of Government action against corruption. The GET experts could only confirm the absence of an official, comprehensive anti-corruption policy in Slovenia. Indeed, contrary to other countries in the region, no special anti-corruption legislation or programmes have been adopted in Slovenia, no independent anti-corruption authority has been established, no awareness campaign has been organised among public officials or among professions exposed to the danger of corruption. Even if some actions have been undertaken by different Government departments, which are relevant for preventing and combating corruption, there is no comprehensive document, based on the thorough reflection on the present shape of the phenomenon and reflecting the strategy of the Government to prevent and combat corruption. Such a strategy seems to be necessary in order to ensure co-ordinated action of different authorities and organisations.
56. The Slovenian economy is still largely under State control and the process of privatisation will continue with banks and insurance institutions. Slovenian authorities are aware –due to their previous experience – of the fact that the privatisation process may lead to many irregularities. At least this is the experience of all States in transition. Sometimes such irregularities, irrespective of whether they are a criminal offence, represent the emerging evidence of a hidden pact of corruption. The GET considered that with the perspective of an additional privatisation process in as sensitive branches as banking and insurance, the setting up of a comprehensive prevention strategy was not only advisable, but even indispensable. With this in mind, it expressed the view that the systematic collection and analysis of statistical and other information on corruption, including information on police, prosecution and court cases, was essential in order to understand how this phenomenon is precisely affecting Slovenia -the sectors, ministries and agencies most vulnerable to it, the level of officials involved, the typologies, the handling of cases, the means of detection etc. The GET recommended, therefore, the creation of a special body or mechanism of co-ordination of all Government departments involved, directly or indirectly, in the prevention and detection of corruption, in order to design and implement an overall anti-corruption policy for Slovenia. This body or mechanism should, as a matter of priority, organise the systematic collection and analysis of statistical and other information available in order to understand more precisely how corruption is affecting Slovenia and the manner in which corruption cases are dealt with by the competent authorities.

**b. Institutions, bodies and services dealing with the prevention, investigation, prosecution and adjudication of corruption offences**

**b1. Police, Public Prosecution and Judiciary**

57. The GET noted with satisfaction the setting up a few months ago of a special Anti-corruption Division in the Organised Crime Section of the Police Directorate. This has already led to some

positive results such as the increase of reporting of suspicions of corruption to the Police and the positive conclusion of some important investigations on corruption recently. In the long run this will contribute to the development of the expertise and knowledge necessary to investigate as complex a crime as corruption and to higher police efficiency in the investigation of corruption offences. However, the GET observed that the ACD was very poorly staffed (5 posts, only 3 of them filled) proportionally to the size of the population. Although aware of current budgetary constraints in Slovenia, the GET consequently recommended the authorities of this country to make a particular effort to increase progressively the number of police officers serving in the ACD.

58. The Police Force is a hierarchical organisation, within the Ministry of the Interior. Therefore, police officers conducting investigation on cases of corruption are not immune from undue pressures emanating from superiors and political appointees. The GET noted that no safeguards were in place in Slovenia to prevent political interference in police investigations (reporting pressures to an independent panel, investigate under the prosecutor's only authority, prohibition to remove the police officer in charge of the investigation... ). Furthermore, the GET was informed that investigations on high-level cases had been hampered, delayed or brought to an end through pressure put on police officers in charge of the investigation. The only solution available to such police officers would be, the GET was told, to leave the police force.
59. Moreover, the GET observed the complexity of pre-trial procedures in Slovenia, where the role of the police, the PP and the Investigating Judge are interwoven to such an extent that there is confusion about the exact role performed by each one of them. The fact that the information and data gathered by the police during the investigation is sometimes deprived of any evidential value before the courts further reduces, in the GET's opinion, the usefulness of police investigations.
60. According to Article 45, paragraph 2 of the Code of Criminal Procedure, the PP shall take the necessary steps concerning the detection of criminal offences, tracing of perpetrators and "*directing the preliminary criminal proceedings*". The GET noted that the law provides that the preliminary criminal proceedings are to be "*directed*" by the PP. According to the Code of Criminal Procedure (Articles 145, 146, 148, paras. 6 and 7 and 161) the PP is empowered to demand explanations at any time on any case from the police and to decide on any complaint relating to police work. Moreover, the Police have to report to the PP about any criminal offence coming to its knowledge and inform the PP about its findings on the said offence. However, this does not seem to happen in practice. The GET observed that the PP lacks the means to investigate the case with the means at his disposal. Moreover, the PP is not in a position to order the police the execution of specific acts of investigation. The Police and the PP are completely independent from one another. Their relationships seem to be based rather on good will and common sense co-operation than on clear rules.<sup>2</sup> Investigations can be conducted at length without the PP knowing about them. If the PP is informed about the existence of a case, there is no police subordination to the PP in the pre-trial proceedings or any other alternative, which may secure or facilitate the "*direction*" of such proceedings by the PP. The co-operation between the Police and the PP is said to be exemplary, on a day-to-day basis, "*thanks to good personal contacts between all the competent Police officers and Prosecution*". This assertion, contained in the reply by Slovenia to the questionnaire, was repeated orally several times during the visit to Ljubljana.
61. The problem would appear -as it was admitted during the visit- in the event of lack of communication or of a negative atmosphere between the Police and the PP. Should this happen, it

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<sup>2</sup> Article 8.2 of the Law on the Office of the State Prosecutor provides that "*...a State Prosecutor shall co-operate with and direct the detective bodies, and take the necessary measures connected with the uncovering of criminal offences or their perpetrators...*".

could lead to a complete collapse of criminal investigations, as there seems to be no legal means of avoiding it. Moreover, the independence of the Police from the PP and its dependence on the Ministry of the Interior makes the whole system of pre-trial investigation more vulnerable to undue political pressure preventing certain acts of investigation to take place. Article 20 of the Recommendation R (2000) 19 on the Role of the Public Prosecution in the Criminal Justice System, it is, in general, for the PP to *"monitor the lawfulness of Police investigation with a view to a possible prosecution. PP will control the protection of human rights by the Police"*. Article 22 of the same Recommendation states that *"in countries where the Police is independent of the PP the State should take effective measures to guarantee that there is appropriate and functional co-operation between the PP and the Police"*.

62. Although Slovenia is a small country and there is normally a feeling of reliance and confidence among different institutions, this fact does not provide the necessary safeguards to deal effectively with corruption. The GET was of the opinion, as regards the relationship between the Police and the PP that, *"personal contacts between all the competent Police officers and Prosecution"* is simply not enough. Therefore the GET recommended strengthening the role of the PP in pre-trial proceedings, providing the PP with the means to direct the investigations not only in theory but also in practice. To this end, it further recommended the adoption of clear rules imposing upon the police the obligation to report the case to the PP as soon as there is sufficient indication that a corruption offence could have been committed. From that moment onwards, the Police should pursue the investigation under the sole direction and authority of the PP.
63. The pre-trial procedure could be further streamlined if the respective roles of the IJ and the PP were clarified. Indeed, according to the legislation in force, both the Investigating Judge and the PP seem to be responsible for directing criminal investigations. The GET considered that this situation lacked clarity and could result in a less efficient handling of corruption cases. It observed, however, that a new reform of the pre-trial procedure was under consideration in Slovenia. One option would be to reduce the PP's investigative role and to confer the overall responsibility of the investigation to the Investigating judge. A second, and more likely option would be to limit the role of the Investigating Judge in the pre-trial procedure to that of deciding on measures affecting the fundamental rights of the suspect, i.e. to create the figure of what is known as the judge of liberties. Therefore the GET recommended the Slovenian authorities to pursue their reflection on a simplification of the pre-trial procedure by clarifying the respective roles of the Investigating Judge and the PP.
64. According to the Slovenian legal system, the PP's offices *"shall be independent State bodies"*.<sup>3</sup> It is clear that independence, or otherwise a high level of autonomy, is an essential aspect of the PP professional intervention when preventing or repressing criminality, especially cases of corruption. In that regard, the above-mentioned Recommendation R (2000) 19 provides, the *"PP should, in any case, be in a position to prosecute without obstruction public officials for offences committed by them, particularly corruption, unlawful use of power, serious violations of human rights and other crimes recognised by international law"*. However, members of the PP are appointed by the Government and career prospects of the PP members depend largely on decisions taken by the Ministry of Justice. Therefore, the GET pointed out that the recruitment and promotion of PP should be based on objective criteria and procedures free from political interference to determine the candidates' experience, knowledge and suitability, for instance by organising independent professional panels.

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<sup>3</sup> Article 5.2 of the Law on the Office of the State Prosecutor.

65. Besides, Article 67 of the Law of the Office of the State Prosecutor, as developed by Article 19 of the Law regulating Organisation and Functions of the PP, provides for a system of supervisory inspection of members of the PP on a regular basis. Whilst the opening of a supervisory inspection would appear reasonable in case, for instance, of a complaint directed against a PP, the GET was doubtful of general supervisory inspections made on a regular basis to all members of the PP service.
66. The GET observed that judges in Slovenia are allowed to be members of political parties even though they are not allowed to take any functions within the structure of the party. In the light of the aforesaid, the GET expressed concern about the system of election of all judges by Parliament, which could lead to politically motivated choices, likely to impair the independence required from the judiciary.

## **b2. Sources of information**

67. The GET observed that, in addition to a general obligation to report criminal offences (Article 145 of the Code of Criminal Procedure), it is a criminal offence for officials not to report certain specific offences coming to their knowledge, including passive bribery (see Articles 285 and 286 of the Criminal Code). In this context, the GET expressed the view that it would be preferable if the criminal offence of non-reporting would also cover the failure to report active bribery offences.
68. The GET also noted that Slovenian law allows courts, under certain conditions, to remit the punishment of perpetrators of an active bribery offence who co-operate afterwards with the police. However, such persons will have to appear in trial as a defendant and will not be entitled to testify anonymously.
69. The Slovenian legislation further provides for a series of measures for the protection of persons that can be qualified as vulnerable targets in corruption cases, ranging from the holding of the trial *in camera* and testifying behind a screen or from outside the courtroom via a link or with their face, body or voice dissimulated. Anonymous testimony may also be admitted under certain circumstances. Authorities can provide physical protection to whistleblowers, witnesses and their relatives. Arrangements can also be made for a change in their place of abode, the payment of a salary and, in certain cases, a complete change of identity. Although there is no special witness protection agency, the Slovenian authorities are developing some experience in this field. Persons who intimidate witnesses may be punished under various general criminal law provisions.
70. As regards the use of special investigating means the GET noted with interest that guarantees built into other legal systems through legal precedent, such as the prohibition of the so called "*agent provocateur*" (provoked crime), which is particularly relevant in cases of corruption, are governed in Slovenia by the Code of Criminal Procedure. This is an important advantage since it clarifies the matter even before any judicial interpretation. It is also a very interesting feature of the Slovenian system that legal persons are held responsible for criminal offences or corruption by law.<sup>4</sup> Both measures are likely to facilitate the task of the authorities investigating corruption offences.
71. However, during the visit the GET was made aware of practical difficulties related to the reluctant attitude of judges to authorise the use of special investigative methods, especially wire-tapping, in connection with the investigation of corruption cases. Refusals are justified on account of the

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<sup>4</sup> Liability of Legal Persons for Criminal Offence Act, based on article 33 of the Penal Code.



protection of privacy in corruption cases, whereas authorisations are much more easily granted for other forms of organised crime activities. GET members were informed that no authorisation would be granted in corruption cases unless there is ample evidence of the offence coming from other sources. In the GET's view, such a judicial practice would not take into account either the serious nature of corruption offences or the specific difficulties for detecting, investigating and gathering evidence in corruption cases. The GET recommended therefore to raise awareness among judicial authorities of the seriousness of corruption offences and the specific difficulties for detecting them and gathering evidence in corruption cases.

72. Furthermore, according to Article 152 of the Code of Criminal procedure, the authorisation for using special investigative means needs to be renewed by the judge after one month. A maximum of five requests for renewal is allowed, which means that after six months it is not possible to make any further use of such means in the investigation of corruption. The GET members considered that such a short deadline would not take into account the difficulties of investigating particularly complex cases of corruption and recommended the Slovenian authorities to consider the possibility of extending it.

### **b3. Other institutions involved in the fight against corruption**

73. The establishment of a system permitting to control the income of persons performing public functions in the State is an important tool for the prevention of corruption and could be instrumental in the disclosure of corrupt activities. The Parliamentary Commission under the Act on the incompatibility of holding public office with profit-making activities is empowered to gather information, evaluate it and transfer its conclusions to other bodies but has no power to undertake any action against a person, found in breach of the Law on Incompatibility. The GET understood that it was for other official bodies eventually to impose sanctions but it considered that this system was not working effectively. It also noted that two important categories of persons performing public functions were not obliged to submit statements on income and assets: prosecutors and judges. This is a loophole in the system of reporting, which should and could be avoided.
74. The GET recommended therefore to ensure that the information transmitted by the Commission under the Act on incompatibility of performing public function with business activity to proper authorities, would be followed by effective sanctions against those officials found to be in breach of the law. To this end it also recommended that the said Commission be informed about the outcome of the procedure undertaken against such officials. It also recommended extending to prosecutors and judges the obligation to report, on a regular basis, about their financial situation.
75. The GET observed that the Commission for Revisions under the Law on Public Tenders Evaluators could contribute more intensively in preventing and detecting corruption. The members of this Commission did not seem fully aware that irregularities in tendering procedures could sometimes be the visible part of hidden, underlying corrupt practices. This Commission should therefore be prepared to verify irregularities also from this angle and to report to the police and/or the PP any suspicion of corruption. Therefore the GET recommended that proper training on corruption matters be provided to members of the Commission for Revisions under the Law on Public Tenders in order to ensure that they would be able to assess procedural irregularities in the context of evidencing corruption.
76. The content of paragraph 72 could be applied, *mutatis mutandis*, to the Inland Revenue and the Tax administration. The GET recommended to provide tax officials and inspectors with training and guidelines on their possible contribution to the detection of corruption.

### **c. Immunities**

77. The GET considered that the scope of the procedural immunity afforded to members of parliament and judges was generally acceptable, even if it covered passive bribery offences, both for parliamentarians – Article 267 § 1 of the Criminal Code provides for up to 5 years imprisonment - and judges – as being obviously related to the performance of their functions. It noted, however, that there were no guidelines for the persons deciding on whether or not to lift the immunity. Although binding rules or criteria would not be compatible with the essence of the institution of procedural immunity, guidelines, contained, for example, in the rules of procedure, would be a useful tool to prevent it from being politically abused. Such guidelines should recall that, as a rule, immunity should be an exception and should not be maintained if there is evidence that the suspect used his/her official position to gain an undue advantage, or to commit passive bribery.
78. Besides, the GET felt some concern about the possibility that decisions taken by the National Assembly on the immunities of judges who belong to a political party, could be politically motivated. GET considered that the status of judges is of a different nature to that of parliamentarians and that the possibility of political considerations in the field of immunities should be proscribed in their case. This could be achieved in different ways, one of which would be to involve the National Council of Judiciary or the Supreme Court in the procedure of immunity lifting. However it would be for the Slovenian authorities to select the most suitable model to achieve this objective.
79. Accordingly, the GET recommended to establish guidelines for the Deputies of the National Assembly, especially its Commission for Mandates and Immunities, containing criteria to be applied when deciding on requests for the lifting of immunities. Moreover, to ensure, that in the case of judges, decisions concerning immunity are free from political consideration, and are based on the merits of the request submitted by the PP.

## **IV. CONCLUSIONS**

80. Slovenia is one of the Central and Eastern European countries that seems less affected by corruption. There is no perception of corruption as a danger for society, even if an important percentage of the population thinks that the real level of corruption is much higher than the one shown by official statistics of detected cases. The Slovenian authorities have made an impressive effort to follow international standards in the anti-corruption field and to implement them in their domestic legal order. Recent reforms of the Criminal Code, the Code of Criminal procedure and other important pieces of legislation have improved the capacity of the Slovenian legal system to react firmly and efficiently against corruption phenomena. However, the process of legal and institutional reform is not completed yet nor is the transition to a market economy. Slovenia has not elaborated an official comprehensive anti-corruption strategy. It has not set up either an authority or mechanism to define or to implement such a policy and co-ordinate the efforts conducted at different levels. This tends to indicate that the fight against corruption is a low priority for the Slovenian Government and results in insufficient awareness among officials and institutions about the need to be vigilant on corrupt practices and inform the competent authorities about suspicions of corruption. The Police and the Public Prosecutors office have established some specialised units to investigate, gather evidence and prosecute corruption but, as far as the Police are concerned, they are in the initial stages of their work and still lack the resources to perform their tasks appropriately. In spite of recent reforms, the pre-trial procedure remains quite complex and lacks a clear definition of responsibilities among the police, the prosecutor and the investigative judge, in particular as regards the power to direct the investigations.

81. In view of the above, the GRECO addresses the following recommendations to Slovenia:

- i. the creation of a special body or mechanism of co-ordination of all Government departments involved, directly or indirectly, in the prevention and detection of corruption, in order to design and implement an overall anti-corruption policy for Slovenia. As a matter of priority, this body or mechanism should organise the systematic collection and analysis of statistical and other information available in order to understand more precisely how corruption is affecting Slovenia and the manner in which corruption cases are dealt with by the competent authorities;
- ii. that, despite budgetary constraints, a particular effort be made to progressively increase the number of police officers serving in the Anti-corruption Division of the Organised Crime Section of the Police Directorate;
- iii. strengthening the role of the Public Prosecutor in pre-trial proceedings, providing the Public Prosecutor with the means to direct the investigations not only in theory but also in practice. To this end, it further recommended imposing upon the police the obligation to report the case to the Public Prosecutor as soon as there is sufficient indication that a corruption offence could have been committed. From that moment onwards, the Police should pursue the investigation under the sole direction and authority of the Public Prosecutor;
- iv. that the reflection on a simplification of the pre-trial procedure, by clarifying the respective roles of the Investigating Judge and the Public Prosecutor, be pursued;
- v. organising the recruitment and promotion of Public Prosecutors on the basis of objective criteria and procedures free from political interference to determine the candidates' experience, knowledge and suitability;
- vi. that efforts be made to raise awareness within the judicial authorities of the seriousness of corruption offences and the specific difficulties related to their detection and the gathering of evidence;
- vii. that the Slovenian authorities consider the possibility of extending the deadline foreseen in Article 152 of the Code of Criminal Procedure, whereby the authorisation for using special investigative means needs to be renewed by the judge after one month. At present a maximum of five requests for renewal is allowed. It is, therefore, not possible to make any further use of such means after six months;
- viii. to ensure that information transmitted by the Parliamentary Commission under the Act on incompatibility of performing public function with business activity to the proper authorities, be followed by effective sanctions against those officials found to be in breach of the law. To this end, it also recommends that the said Commission be informed about the outcome of the procedure undertaken against such officials;
- ix. that the obligation to report, on a regular basis, on their financial situation be extended to prosecutors and judges;
- x. that proper training on corruption matters be provided to members of the Commission for Revisions under the Law on Public Tenders in order to ensure that they would be able to assess procedural irregularities in the context of evidencing corruption;

- x. that tax officials and inspectors be provided with training and guidelines on their possible contribution to the detection of corruption;
  - xii. that guidelines be established for the Deputies of the National Assembly, especially its Commission for Mandates and Immunities, containing criteria to be applied when deciding on requests for the lifting of immunities, ensuring, moreover, that in the case of judges, decisions concerning immunity are free from political consideration and are based on the merits of the request submitted by the Public Prosecutor.
82. Moreover, the GRECO invites the authorities of Slovenia to take due account of the observations made by the experts in the analytical part of this report.
83. Finally, in conformity with article 30.2 of the Rules of Procedure, GRECO invites the authorities of Slovenia to present a report on the implementation of the above-mentioned recommendations before 31 December 2001.

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**APPENDIX I**  
**List of Persons met by the GRECO Evaluation Team (GET)**

**Ministry of the Interior, Office for European Integration and International Relations**

Vinko GORENAK, State Secretary  
Andrej FERLINC, State Prosecutor  
Primož TREBEŽNIK, Superior State Prosecutor  
Jože OBERSTAR, Ministry of the Interior  
Drago KOS, Ministry of the Interior

**Ministry of the Interior, Criminal Police Directorate**

Marko POGOREVC, Director General of the Police  
Ljubo JOVANOVIĆ, Head of the Organised Crime Division  
Gregor DEŠMAN, Head of the Economic Crime Division  
Iztok SUHADOLNIK, former Deputy Head of the Anti-Corruption Department  
Roman PRAH, member of the Anti-Corruption Department  
Andrej FERLINC, Primož TREBEŽNIK, Jože OBERSTAR, Drago KOS

**Chamber of Commerce**

Samo Hribar MILIĆ, Vice-President of the Chamber of Commerce  
Marta KOS, Vice-President of the Chamber of Commerce  
Stane VALIĆ, lawyer of the Chamber of Commerce

**University**

Dr. Dana MESNER ANDOLŠEK, University of Ljubljana, Faculty of social sciences  
Dr. Anton BEBLER, University of Ljubljana, Faculty of social sciences  
Dr. Mitja TAVCAR, University of Maribor

**Supreme Court of Slovenia**

Marko ŠORLI, Vice-President of the Supreme Court  
Jankp MARINKO, Secretary General of the Supreme Court  
Nataša SMREKAR, judge

**Ministry of the Interior, Criminal investigation directorate**

JOVANOVIĆ, PRAH, SUHADOLNIK, DEŠMAN – see above

**Ministry of the Interior – Complaints and Internal Affairs Bureau; Bureau for Management and Supervision of the Police; Bureau for the Organisation and Development of Public Administration**

Andrej BERGINC, Head of the Department for Complaints and Internal Affairs Bureau  
Bojan VOGRINEC, Head of the Internal Affairs Unit in the Department for Complaints and Internal Affairs Bureau

Marjan STARC, State Under-Secretary, Bureau for the Organisation and Development of Public Administration

Miroslav ŽABERL, State Under-Secretary, Bureau for the Management and Supervision of the Police

### **Association of Accountants, Treasurers and Auditors of Slovenia**

Dr. Franc KOLETNIK, President

Dr. Stane KOŽELJ, Vice-President

Marjan ODAR, Director General of the Slovenian Institute of Auditors

### **Ministry for Foreign Affairs**

Aleksander CICEROV, State Under-Secretary

Robert BASEJ, Councillor to the Government

Mihael ZUPANCIC, Higher Councillor

### **Parliament of the Republic of Slovenia – Mandate and Immunity Commission, Commission under the Act on Incompatibility of holding a public office with a profit-making activity**

Ivan GERENCER, Vice-President of the Parliament

Ciril PUCKO, President of the Mandate and Immunity Commission

Rafael KUŽNIK, President of the Commission under the Act on Incompatibility of holding a public office with a profit-making activity

Zoran LEŠNIK, member of the Mandate and Immunity Commission

Ivan ŠIFRER, member of the Commission under the Act on the Incompatibility of holding a public office with a profit-making activity

Valentina MAROLT, Secretary of both Commissions

### **State Prosecution's Office of the Republic of Slovenia**

Zdenka CERAR, State Prosecutor General

Mirko VERTACNIK, Supreme State Prosecutor

Andrej FERLINC, Head of the Higher State Prosecutor's Office in Maribor

Primož FRANKO, District State Prosecutor in Ljubljana

Joža BOLJTE BRUS, Head of the Groups of State Prosecutors for Special Tasks

### **Court of Auditors**

Dr. Janez GABRIJELCIC, member of the Court of Auditors

Branko HABJAN, Superior Auditor

### **Journalists' Association of Slovenia**

Branko MAKSIMOVIC, President of the Journalists' Association of Slovenia

Rajko GERIC, journalist (national television), representative of the Slovenian Journalists' Union

### **Ministry of Finance**

Blanka PRIMEC, State Under-Secretary, Public Procurement Unit

Irena ERJAVEC, Councillor to the Government, Head of the Companies' Taxation Department

Štefanija LUKIC ZLOBEC, Councillor to the Ministry, Budget Inspection-Audit Office

Igor ŠOLTES, member of the National Revision Commission for reviewing public procurement procedures

### **Money Laundering Prevention Office**

Klaudijo STROLIGO, Director

Vida ŠEME HOCEVAR, Councillor to the Government, Head of the Prevention Department

Emilija RAKIB, Councillor to the Director, Head of the International Co-operation Unit

### **Ministry of Justice**

Barbara BREZIGAR, Minister

Nives MARINŠEK, State Secretary

Mag. Marko STARMAN, State Secretary

Andreja LANG, State Under-Secretary

Ana BUCAR, Councillor I

### **Transparency International of Slovenia**

Bošjan HORVAT, representative of Transparency International of Slovenia