

REPORT
on the Free Movement of Workers
in Slovenia in 2006

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GENERAL REMARKS

1. The period covered by this report is characterized by the ongoing process of the harmonisation of the Slovenian legal system with the EC law and by the decision of the Government in May 2006 to abolish the reciprocity and to introduce the free movement of all workers, citizens of the EU and EEA. On 20 December 2006 the Government decided not to introduce the transitional period in relation to free movement of workers who nationals of Bulgaria and Romania.

2. The number of EU citizens working in Slovenia remains to be relatively small. This might be one of the reasons why there are no disputes and it is not possible to report on the respective case-law in Slovenia.

3. It is appropriate to draw the attention to the fact that the procedure to amend the Employment and Work of Aliens Act has been initiated at the end of 2006 and/or at the beginning of 2007. The draft Act has not been yet adopted by the Government and sent to the Parliament but it is already known that a new chapter on Free access to labour market for the EU, EEA Swiss Confederation citizens and on provision of services by the posted workers shall be included into the amended Act.

CHAPTER I. ENTRY, RESIDENCE, DEPARTURE**A. Entry***Text in force*

In October 2005 the officially consolidated text of the Aliens Act has been published (Act on Amendments to Aliens Act, Ur.l. RS, No.93/2005). The Act has been once again revised in July 2006 (Ur.l. RS, No. 79/2006) In the framework of amendments a new chapter under the title »Entry and residence of the citizens of the EU Member States, their family members and the family members of the citizens of the Republic of Slovenia« has been included into the Act. The purpose of the amendments was to transpose Directives 2001/40/EC, 2001/51/EC, 2002/90/EC, 2003/86/EC, 2003/109/EC, 2003/110/EC, 2004/38/EC, 2004/81/EC, 2004/114/EC, 2005/71/EC the Council Decision 94/795/PNZ and the Regulation 2004/2252/EC into the legal order of the Republic of Slovenia (RS).

According to the amended Aliens Act (Ur.l. RS, No. 61/1999, 87/2002, 96/2002, 93/2005, 112/2005-officially consolidated text, 107/2006 – officially consolidated text) *citizens of the EU* may enter RS if they are in possession of a valid identity card or valid passport.

Entry may only be refused to an EU citizen:

- if he/she does not have a valid identity card or a valid passport,
- if his/her staying in the RS poses a threat to public order,¹ security or international relations of RS or if it is suspected that his/her staying in the country will be linked to the execution of terrorist or other violent activities, illegal intelligence activities, drug trafficking or the performance of other criminal activity,
- if he/she is coming from the territory with infectious or epidemic diseases and is without a proof of being vaccinated. (Article 93.b (3))

The decision to refuse entry shall be taken by the border control authority in accordance with an instruction issued by the minister responsible for internal affairs. EU citizen may appeal against the decision to refuse entry. The competent authority to decide on appeal is the Ministry of Internal Affairs. The appeal against the decision shall not withhold the execution of the decision (Article 93.b (4) and (5)). General Administrative Procedure Act provides for the appeal against the decision of the administrative body before the Administrative Court.

B. Residence*Text in force*

New provisions have been laid down by the Amended Aliens Act in this regard. EU citizen who has entered RS with a valid identity card or valid passport and wishes to reside on the territory of RS for a period longer than three months has to register his residence by the competent authority. According to Article 93.c (3) is he/she issued a *registration certification* for one of the following reasons:

1. the employment or work,
2. self-employment,
3. performance of services,
4. studies or other forms of schooling,
5. other reasons.

¹ Due to the lack of the case-law in this regard, it is not possible either to confirm or to deny that term "public order", used in this Act, is interpreted in strict sense.

Conditions, under which one of the above mentioned registration certificates are issued, are laid down by the Act. (Articles 93.c – 93.g) E.g., a registration certificate is issued to a EU citizen, who wishes to be employed or work or to be self-employed, if he/she obtains a valid identity card or passport, a confirmation of engagement from the employer or a certificate of employment and a valid work permit, if such is required by the Employment and Work of Aliens Act, or the proof that he/she is a self-employed person. Registration certification for the reason of studies or other forms of schooling is issued if the EU national who wants to study in Slovenia obtains a valid identity card or passport, an evidence that she/he has been admitted to studies, if she/he declares that she/he has sufficient financial sources (at the level of a minimal wage in Slovenia) and if she/he has a health insurance.

Permanent residence permit may be issued to the EU national after 5 consecutive years of her/his staying in Slovenia and under the condition that there is no founded suspicion that her/his staying in the country would pose a threat to public order, security or international relations of RS and would not be linked to the execution of terrorist or other violent activities, illegal intelligence activities, drug trafficking or the performance of other criminal activity. (Article 93.j)

The registration for e.g. employment or work *shall not expire*:

1. if the EU citizen's employment has terminated due to temporary incapacity to work because of his/her illness or accident,
2. if after the period of one year of employment he/she became unemployed,
3. if he/she was included into the professional training. (Article 93.d)

Registration of the residence may be *refused* to the EU citizen on the following grounds:

1. he/she is not in possession of the documents that are required to obtain one of the above mentioned registration certificates,
2. his/her staying in RS represents a threat to public order, security or international relations of RS or there is suspicion that his/her residence in the country is linked to the execution of terrorist or other violent activities, illegal intelligence activities, drug trafficking or the performance of other criminal activity,
3. he/she is coming from the territory with infectious and/or epidemic diseases and is without a proof of being vaccinated,
4. the period of time for which he/she is prohibited to entry into country has not expired yet,
5. it is found out that he/she performs work in RS in a way which is not in accordance with the labour law or regulations on employment or is in contradiction with the regulations preventing the clandestine work . (Article 93.h (1))

C. Departure

Text in force

The new chapter on entry and residence of the EU citizens and their family member of the amended Aliens Act does not include explicit provisions on their departure from the country. It may be presumed that those who have a valid identity card or passport shall be free to leave the country.

Aliens Act lays down conditions under which: 1. registration certification of the EU national ceases to be valid; 2. permanent residence permit issued to EU national or a family member ceases to be valid; 3. the residence of the EU national or family member is denounced; 4. EU national or family member is deported.

Literature

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Željka Cilenšek Bončina, Pravica do vstopa, izstopa in prebivanja po direktivi 2004/38/ES,
Pravna praksa, št. 28/2006.

CHAPTER II. ACCESS TO EMPLOYMENT

Texts in force

1. Equal treatment in access to employment

As regards discrimination in employment the following has to be pointed out:

The Constitution of the RS (Ur.l. RS/I, 33/1991, 47/1997, 66/2000, 24/2003, 69/2004) guarantees to each individual equal human rights and fundamental freedoms “irrespective of national origin,...or any other personal circumstance” (Article 14). General prohibition of discrimination in employment also derives from the constitutional provision on the freedom of work (Article 49), which provides that “there shall be no unjust discrimination in work opportunities available to each person”.

According to the Employment and Unemployment Insurance Act (Ur.l.RS, 5/1991, 12/1993, 71/1994, 38/1994, 69/1998, 67/2002, 79/2006, 107/2006 – officially consolidated text) citizens of the EU Member States are equal to the Slovenian citizens as regards rights and duties, laid down by the Act. (Article 4.c) That means that a job-seeker, a national of a EU member state, is entitled to the same measures (also social advantages) not connected with social insurance, as Slovenian job-seeker. One of the main social advantages derived from this Act is the right to active employment measures.

It is expressly laid down by the Employment and Unemployment Insurance Act that the employers who perform the activity of the mediation of employment on the basis of a concession contract and the so-called temporary employment agencies may perform their activity for the Slovenians, EU citizens and those third countries nationals with a permanent residence permits (Art. 6.b/1). Temporary employment agency, performing its activity on the basis of another EU member state regulations may perform its activity in Slovenia under the condition provided for in the Act (before-hand registration of the activity, fulfilment of the conditions in relation to the staff, rooms etc) (Art. 6.b/4).

Employment Relationships Act (Ur.l.RS 42/2002) has laid down that “employers may not place a job seeker or a worker in an unequal position on the basis of...national and social origin, ... or any other personal circumstance” (Article 6). Direct and indirect discrimination on different grounds, nationality included, is also expressly forbidden. It is also provided, that national and social origin is not a valid reason for the termination of employment relationship at the initiative of the employer (Article 89).

Act concerning the Exercise of the Principle of Equal Treatment (Ur.l. RS 50/2004), by which Directive 2000/78/EC has been transposed into Slovenian legal order, determines common bases and premises for ensuring equal treatment of all persons in performing their rights and duties and their basic freedoms in every field of social life, especially in the field of employment relationships, freedom of association, education, social security, access to and supply of goods and services. This shall be “available irrespective of personal circumstances such as nationality, ... or other personal circumstances” (Article 1).

It is possible to penalise an employer for discrimination in employment. Penal Code of 1994 (Ur.l. RS, 95/2004) makes it a criminal offence to deprive anyone – for reasons connected with nationality,...or any other circumstance – of any of the human rights or fundamental freedoms recognised by the international community or laid down by the Constitution or by a statute, to restrict those rights or freedoms or to grant a right or a specific advantage for such discriminatory reasons (Article 141). In pursuance of Article 206/1 of the Penal Code, the infringement of the right of free access to employment on the basis of equal conditions is an offence. Both offences are punishable by a fine or by a maximum of one year’s imprisonment.

It has to be mentioned that RS is a contracting party to all the most important international instruments, adopted in the framework of UN, ILO and the Council of Europe, concerning the prohibition of discrimination on different grounds. Due to the monistic system

are the ratified international treaties in principle directly applicable in our internal legal system.

2. Language requirement

As regards language requirement the knowledge of the Slovenian language is not required by the legislation applicable in private sector (e.g. Commercial Companies Act, Employment Relationships Act etc.) As regards provision of services see Chapter XI.

3. Recognition of diplomas

The field of recognition of diplomas is regulated by the Act on Recognition and Assessment of Education (Ur.l.RS, 73/04), which has entered into force in January 2005. It introduces a modern system of recognition of foreign certificates and diplomas and assessment of certificates and diplomas obtained in Slovenia and abroad. As regards procedures and the used criteria it takes account of the principles of education system reforms as well as it respects and honours the tradition of transparency provided for by the previous Act regulating the recognition of foreign school certificates.

The act inter alia provides procedures of i) recognition with a view to access to education in the Republic of Slovenia (Articles 7-10.) and ii) recognition with a view to access to employment in the Republic of Slovenia (Articles 10-12.).

The contents and the form of specimen applications for recognition or assessment of education, documents, costs, and the manner of keeping records in recognition or assessment procedures are specified by The Rules on forms, documents, fees and record keeping in procedures for recognition and assessment of education (Ur.l.RS, no. 6/05).

Recognition with a view to access to education in the Republic of Slovenia is a procedure by which, in the course of enrolment, holders of foreign certificates and diplomas are issued decisions recognising their right to continue education in the Republic of Slovenia (Article 7).

The procedure is initiated by holders of foreign certificates and diplomas submitting the special form to schools, other educational establishments or higher education institutions in the Republic of Slovenia, where they seek to pursue their education (Article 8).

The procedure is free of charge.

Recognition with a view to access to employment in the Republic of Slovenia is a procedure leading to a decision stating the following (Article 10):

- the level of the Slovene education system equivalent to the level of foreign education;
- the major or discipline of the completed foreign education programme if it is stated by the certificate or diploma;
- foreign vocational, professional or academic title.

If so required by the applicant, the procedure can also lead to a decision on the equivalence of foreign vocational, professional or academic titles to Slovene ones, but just in cases where a comparable programme is offered in the Republic of Slovenia. Decisions on the equivalence of foreign professional and academic titles to Slovene ones entail additional costs charged to applicants by the higher education institution stated in individual applications, as the opinion on the equivalence is issued by that institution.

The procedure for recognition with a view to access to employment is initiated by the holder of a foreign certificate or diploma submitting the special form to the Ministry of Education and Sport or Ministry of Higher Education, Science and Technology.

The procedure is administered in compliance with the General Administrative Procedure Act. The decision shall be issued within two months after the day of submitting a complete application.

As regards *mutual recognition of qualifications in EU* special emphasize has to be given to the system of Recognition of qualifications for the pursuit of regulated professions in the Republic of Slovenia. This field is regulated by:

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- Act regulating the recognition procedure for qualifications of citizens of EU Member States relating to access to regulated professions and professional activities in the Republic of Slovenia (Ur.l. RS, No. 21/02),
- Rules on detailed rules for the procedure of recognition of qualifications for the pursuit of regulated professions or regulated professional activities in the Republic of Slovenia on the basis of sectoral Directives (Ur.l. RS, No.41/04),
- Rules on detailed rules for the procedure of recognition of qualifications for the pursuit of regulated professions or regulated professional activities on the basis of the first and second Directives of the general system for the recognition of qualifications (Ur.l. RS, No. 41/04),
- Rules on detailed rules for the procedure for recognition of qualifications for the pursuit of regulated professions or regulated professional activities on the basis of third Directive of the general system for recognition of qualifications (Ur.l. RS, No. 41/04),
- Rules about more detailed contents and mode of keeping records in the field of mutual recognition of qualifications of nationals of the EU Member States for the pursuit of regulated professions or regulated professional activities in the Republic of Slovenia (Ur.l. RS, No. 41/04),
- Record of regulated professions or regulated professional activities in the Republic of Slovenia (Ur.l. RS, No. 44/04).

The system of mutual recognition of qualifications within EU Member States applies to the nationals of EU Member States and, in Slovenia, also to the nationals of third countries who have obtained their qualifications in the territory of the EU and who wish to pursue in the Republic of Slovenia a certain regulated profession or professional activity either in a status of employee or self-employed person. The system of recognition, based on agreements between the EU and other countries, also applies to the nationals and qualifications of country-signatories to the Agreement on the European Economic Area (Norway, Iceland and Liechtenstein) and Switzerland.

System applies to professionals who are legally exercising a regulated profession or activity in a Member State. It is imperative to point out that the system of recognition only refers to fully qualified professionals who are already exercising a profession in their Member State of origin or who possess all the qualifications required for the exercise of the profession in that country. The system is not addressed to students or people not fully qualified in professional terms and wishing to validate their education in order to study or continue their studies in another EU Member State. These situations have to be resolved by making use of the existing national academic recognition mechanisms in the education institutions or national authorities of each EU Member State.

System only refers to regulated professions and professional activities. Regulated professions and regulated professional activities are those professions and activities that an EU Member State defines as regulated professions for which a person who wishes to pursue a certain profession has to fulfil other conditions determined by law or another legal act. Where a profession is not regulated in EU Member State or the activity in question is not legally reserved only for professionals with certain qualifications, the judgment of whether a person has suitable qualifications for the pursuit of that profession is only a matter for employers and the labour market. Professions or professional activities regulated in Slovenia are published in the Record of regulated professions and regulated professional activities in the Republic of Slovenia. This record also lists the ministries regulating each profession and is published in the Official Journal of the Republic of Slovenia and on the Internet pages of the Ministry of Labour, Family and Social Affairs: http://www.gov.si/mddsz/pdf/evidenca_reg_poklici.pdf

Specific qualification is recognised by decision of Minister of labour, family and social affairs. Procedure is started on applicant's request, which must consist of documentary evidence of citizenship, higher education diploma, which is subject of recognition and evidence on education program, its duration etc. The act has foreseen the option to require the appli-

cant to complete an adaptation period or take an aptitude test, if the Minister would consider applicants qualification as inadequate.

4. Nationality condition for captains of ships

There is no such condition required in Maritime Code (Ur.l. RS, No. 26/01, 37/04-officially consolidated text). Same is situation in aviation. The legislation (Aviation Act, Ur.l. RS, No. 18/2001) allows the employment of foreign pilots in Slovenia if they fulfil conditions such as: they obtain pilot licence, health etc.

Draft legislation

System of mutual recognition of qualifications in EU, regulated by the Act covering the recognition procedure for qualifications of citizens of EU Member States relating to access to regulated professions and professional activities in the Republic of Slovenia, is going to be amended (deadline: October 2007). The purpose of amendments is to transpose the Directive 2005/36/EC into the legal order of RS.

The Employment and Work of Aliens Act has also been amended (Ur.l.RS, št. 52/2007, 76/2007 – the officially consolidated text) . By the amendments the following Directives intended to be implemented: Directive 2004/38/EC, Directive 2003/86/EC, Directive 2003/109/EC, Directive 2004/81/EC, Directive 2004/114/EC, Directive 2005/71/EC, Directive 2001/55/EC, Directive 2003/9/EC, Directive 2004/83/EC. A new chapter under the title “ Free access of the EU/EEA citizens and the citizen of the Swiss Confederation to the Labour Market and Provision of Services by the Posted Workers” has been included into the Act. According to the amendments the free access to the labour market shall cover not only employment but also self-employment of the said persons and their family members. The principle of non-discrimination during the employment has been underlined. As regards the provision of services it is proposed, that the temporary employment service seated in EU, in EEA or in the Swiss Confederation shall be allowed to perform its work on the territory of Slovenia by the workers irrespective of their nationality who shall not be required to have the work permits.

Miscellaneous

According to the Elementary Schools Act (Ur.l.RS, No. 12/1996, 33/1997, 59/2001, 81/06-officially revised text). Children of migrant workers are subject to compulsory primary education on the same basis as Slovenian children. The children of aliens with the permanent residence in RS also have access to secondary and university education. All foreign children registered in primary and secondary schools receive special teaching in the Slovenian language.

As the language of the receiving country is a vital factor for integration of migrant workers and for equality of treatment it might be interesting to point out courses “Slovenian for foreigners” organised each year by the University of Ljubljana.

Children of foreign workers lawfully residing within Slovenian territory may receive additional optional teaching of their mother language in the primary and secondary schools. As an example lessons in Hungarian can be mentioned.

CHAPTER III. EQUALITY OF TREATMENT ON THE BASIS OF NATIONALITY

Texts in force

1. Working conditions, social and tax advantages

As regards general provisions on equality of treatment from the point of view of *working conditions* see report under previous chapter.

As regards *social advantages* we shall focus primarily on advantages, deriving from article 7 of the Regulation 1612/68 EC. It means that we shall limit ourselves mostly on issues which are not connected with rights legally based on social insurances, in principle covered with Regulation 1408/71 EC.

Right to social assistance in Slovenia is regulated by Social Assistance Act. Right to social assistance includes social welfare services and social assistance benefits in cash as means tested benefits. The Act regulates social, personal and family counselling, institutional care and similar services. The act as alternative to condition of nationality for aliens for all services and financial assistance stipulates condition of permanent residence permit. System of acquisition of these permits is described in Chapter I, see page 8.

The field of family benefits regulates Parental Protection and Family Benefits Act. There are two groups of rights, one connected with social insurance for parental protection and therefore based on paid contributions, the other based exclusively on state funds and therefore not connected with employment. Within the scope of the latter there are three types of benefits, where permanent residence is not condition for entitlement: Parental allowance, Child benefit and Partial payment for the lost income.

Tax status of workers coming from EU Member States depends on whether he/she has a status of resident according to the national tax legislation. According to Personal Income Tax Act (Ur.l.RS, no.21/06- officially revised text) a taxpayer is any natural person with permanent residence in the Republic of Slovenia (resident) receiving in its territory, in individual calendar years, income for which the law expressly stipulates that it is subject to the payment of income tax. As resident is considered also taxpayer who is not a resident of the Republic of Slovenia but has resided in the territory of the Republic of Slovenia for at least 6 months and was receiving in its territory income that is subject to income taxation under the law. Being a resident or non-resident is relevant for workers' obligation to fulfil tax declaration and for scope of taxation as well.

Personal Income tax Act treats EU worker, resident according to tax legislation, the same as Slovenian worker, special treatment is stipulated for non-residents. This special treatment applies to tax exemptions and tax relief. Non-residents are not obliged to pay income tax out of capital profits and savings profits with its source in Slovenia.

Non-residents can enforce general tax relief, special tax relief for persons older than 65 years and special tax relief designed for taxpayers' children.

2. Specific issue: frontier workers (taxation field)

Some problems appeared in a field of personal income tax of frontier workers, especially Slovenian (e.g. performing work in Austria on a daily basis). In order to avoid double taxation of personal income Slovenia has concluded 41 bipartite double taxation conventions. According to the principle of world's income and the conventions, frontier workers enjoy special treatment. Slovenian frontier workers, who are Slovenian residents, are usually obliged to cover difference between taxes paid in a country where they work and taxes they would pay in Slovenia. This formula is relevant when in the country where the work has been performed law stipulates lower tax obligation. As far frontier workers, residents of a EU member state, working in Slovenia are concerned, they are as non-residents obliged to pay personal income tax in Slovenia on a basis to principle of world's income.

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The system for Slovene frontier workers might have been changed towards fully respect of the principle of world's income. In that case they would have been obliged to pay taxes only in a member state of performing work.

CHAPTER IV. EMPLOYMENT IN THE PUBLIC SECTOR

Texts in force

1. Access to public sector

1.1. Nationality condition for access to positions in the public sector

Civil Servants Act (Ur.l.RS, 56/2002, 110/2002, 23/2005, 113/2005, 32/2006 – officially consolidated text, 33/2007, 63/2007 – officially consolidated text) does not require nationality of the RS as a condition for access to positions of civil servants. The same is true for the inspectors. On the other hand nationality of the RS is still required by special legislation for the following functions:

- within the courts (Court Service Act, Ur.l. RS, 41/2006-officially consolidated text),
- the public prosecutor's office (Public Prosecutor Act, Ur.l. RS, 63/1994, 59/1999, 56/2002,110/2002),
- the attorney general's office (Attorney General Act, 20/1997, 56/2002, 17/2006, 41/2006-officially consolidated text),
- the police (Police Act, Ur.l.RS 107/2006-officially consolidated text),
- the defence (Defence Act, Ur.l. RS, 82/1994, 44/1997, 87/1997, 13/1998, 32/2000,87/2001, 42/2002,40/2004, 138/2004, 53/2005),
- the customs service (Customs Act, Ur.l. RS, 103/2004-officially consolidated text),
- notary's office (Notary Act, Ur.l.RS, 4/2006-officially consolidated text),
- human rights ombudsman's office (Ombudsman Act, Ur.l. RS, No. 71/1993, 15/1994).

1.2. Language requirement

Civil Servants Act does not contain a general provision according to which the knowledge of the Slovenian language is required as a condition for access to positions of civil servants (in a large sense of the term). But in the part covering civil servants in state bodies and local community administrations the knowledge of the Slovenian language is provided, it could be said in an indirect way, as a condition to be fulfilled by those civil servants (officials) who perform their tasks in titles² (Article 86). Namely, one can perform work of an official in title provided that he/she has been nominated in a title. One of the conditions for the nomination is the active knowledge of the "official language" (in our case the Slovenian language and in addition the Italian or Hungarian language in regions where Italian or Hungarian minority live).

Acts requiring nationality of Republic of Slovenia (listed above under 1.1.) also require the so-called active knowledge of the Slovenian language.

In the previous report it has already been indicated that according to the Health Service Act (Ur.l. RS, 36/2004- officially consolidated text) health workers are obliged to use the Slovenian language at their work (in addition to Italian or Hungarian language in the respective regions). The level of the knowledge of the language has to be determined by their employer. The knowledge of the Slovenian language as the condition for the performance of the health workers' work has for some time been object to the discussions as it was found to be the possible impediment in the recruitment procedures of the doctors coming from the EU Member States.

1.3. Recruitment procedures

Slovenian legislation does not provide for a system of recruitment comparable to the system of "concours" applied in France.

² The term is used for persons in certain position. So-called titles are divided into 16 levels.

Labour relationships of civil servants are in principle regulated by Civil Servants Act. Employment Relationships Act, used in private sector, applies only subsidiarily, when a respective issue is not dealt with by the Civil Servants Act. Employment relationship is entered into by employment contract. Before the decision on the recruitment of a new person is taken, the “internal” recruitment procedure may be carried out.(Article 57 (2) of the Civil Servants Act) New persons are employed on the basis of open competition (public vacancies). The Act has to honour the Constitution according to which the employment in the state administration is possible only on the basis of open competition, except in cases provided by law. (Art. 122)

1.4. Recognition of diplomas

System of recognition of diplomas, described in Chapter II does not make any distinction for posts in the public sector in comparison to posts in the private sector.

1.5 Recognition of professional experience for access to the public sector and for the purpose of determining the professional advantages

Civil Servants Act prescribes conditions that must be met by the candidates for carrying out their work. Working/professional experiences are not expressly mentioned. But special statutes (e.g. Notary Act) or “employers” internal regulations may provide for professional experiences as a condition for access to the so-called officials’ posts.

2. Equality of treatment

System of accession to education and training and study grants is described in Chapter V and does not make any distinction whether a person gets employed in public sector.

CHAPTER V. MEMBERS OF THE FAMILY

Text in force

Residents rights

The *definition of family members* of the EU citizen and of the Slovene citizen has been incorporated into the Aliens Act in 2005 (Ur.l.RS (Official Gazette, NO. 107/2006- officially consolidated text)(Art. 93.k). For the purpose of this act 'family members' shall mean:

- the spouse,
- unmarried³ children under the age of 21,
- unmarried children of the spouse under age 21,
- unmarried children above the age of 21 and the parents who according the Slovenian legislation have the right to be maintained by the EU citizen or the Slovene citizen,
- unmarried children above the age of 21 and the spouse's parents who according to the Slovenian legislation have the right to be maintained by the spouse of the EU citizen or the Slovene citizen,
- parents of the EU citizen and the Slovene citizen under his age of 21.

The same definition is also included in the Employment and Work of Aliens Act (Ur.l. RS, No 101/2005, 4/2006-the officially consolidated text).⁴

A competent body shall have the discretion to recognize a status of a family member also to another relative, if this would be in favour of the unification of a family.

In order to *enter* the RS, a *family member having the nationality of a Member State* must be in possession of a valid identity card or a valid passport. Irrespective of the reason of the entry no visas or resident permits shall be required. Income requirement does not apply in this case.

Third-country family members, who want to pay only a visit to EU citizen in Slovenia, may enter the country with a valid passport and visa if it is still required. In fact, Slovenia does not require visas any more for nationals of a lot third countries.

For the purpose of family reunification a third country family member needs a residence permit. Those who wish to *reside* on the territory of RS for more than three months have to apply for a temporary residence permit. It shall be issued under the following conditions: 1. he/she is a family member of a EU citizen who is residing in RS and has been issued the residence certificate, 2. he/she has a valid identity card or passport, 3. he/she has sufficient resources for maintenance which are higher than the threshold provided for the entitlement to social assistance,⁵ 4.he/she has a suitable health insurance, 5. he/she has legally entered the territory of RS, 6. it has been established that marriage has not been concluded exclusively or mainly in order to obtain the residence permit, 7. there are no reasons, that are provided for by law, to reject the issue of the residence permit.

The amended Aliens Act has also laid down conditions under which the third-country family member retains temporary residence permit in the case of death of EU citizen or the Slovenian citizen with whom he/she has resided in RS for at least one year, in the case of divorce or in the case of the annulment of the marriage.(Article 93.m)

Permanent residence permit is as a rule issued to third- country family members after 5 years residence in Slovenia on the base of the temporary residence permit.(Article 93.n (1)) Conditions relating to the issue of the permanent residence permit to a third-country family member before the expiration of five years, to the annulment of temporary and permanent

3 The requirement to be »unmarried might not be in compliance with Article 10(1) of the Regulation 1612/68 and its doctrinal understanding.

4 In the draft amendments of the Employment and Work of Aliens Act it is proposed to speak about family members of the EU, EEA and Swiss confederation citizens.

5 It may be assessed that this condition is not in conformity with Article 10 of the Directive 2004/38.

residence permit of a family member and to the termination of the validity of the permit are also provided for by the Act. (Article 93.n (4))

As regards the *refusal* of entry of the family members, in principle, the same reasons and the same procedure that apply for the EU citizens, apply also for the family members.

2. Access to education

In relation to the issue of access to education and study grants the Higher Education Act (Ur.l. RS, no. 67/93, 99/99, 64/01, 100/03, 63/04, 100/04- officially consolidated text) has to be taken into consideration. Act was changed several times, in year 1999 also in order to harmonize its content with the EU standards. Since Slovenian membership in EU all students from EU have enjoyed the same status as Slovenian students. They have got the right to education at faculties under the same conditions as Slovenian students. Therefore it is not possible to provide obligation of EU students to pay for undergraduate study performed as public service, unless a specific study exceeds certain by the state stipulated standards.

EU country family members have the same rights to education as Slovenians at all other levels of education as well. This right is stipulated in all laws regulating basic education, secondary (vocational, technical and general) education and higher vocational education. The Law regulating pre-school education does not mention EU country family members as equal to Slovene children, but according to common practise they are all treated the same.

As far third country family members are concerned they are also treated the same as Slovenians. The only additional condition for them might be the principle of reciprocity.

About entitlement of EU students to scholarship financed from public funds there must be mentioned Rules on scholarships (Ur.l. RS, no. 48/99, 43/00, 62/01, 85/02, 40/03, 64/04, 28/06) which demanded Slovenian citizenship as condition for entitlement. Provision stipulated that condition was annulled by Slovenian Constitutional Court in 2003. Nevertheless the same condition still applies for entitlement for students' loan subvention, regulated in Rules on Study Loan (Ur.l. RS, no.61/99, 87/99, 78/00) and for state help with accommodation of students, regulated in Rules on subvention of student accommodation (Ur.l. RS, no. 22/01, 35/06), as well.

Draft legislation

Amendments of the Employment and Work of Aliens Act have been adopted in 2007. The purpose of the amendments was, inter alia, to implement Articles 2., 23. and 24. of the Directive 2004/38/EC and Article 14 of the Directive 2003/86/EC.

According to the amended act EU, EEA and Swiss Confederation citizens shall have free access to the Slovenian labour market (no work permit needed). The right to free access shall be granted to third countries family members, too. Work permit shall not be needed for their employment or self-employment. They shall prove their right to free access to labour market on the basis of residence permit issued to them for the purpose of family reunification.

It is laid down that in the case of unemployment EU, EEA and Swiss Confederation citizens and their family members shall be treated equally to Slovenian citizens. They shall be able to register as unemployed persons under the condition that they fulfil conditions laid down by the Employment and Unemployment Insurance Act and if they are in possession of residence permit.

In accordance with Art. 14 of the Directive 2003/86/EC the above mentioned Act provides for the priority of third countries family members in comparison to other aliens as regards the access to employment or self-employment.

The system of scholarships is going to be changed in order to treat EU students the same as Slovene students. Therefore Parliament enacted Act on Scholarships, which will come into force in the year 2008.

CHAPTER VI. INFLUENCE OF RECENT JUDGMENTS OF THE COURT OF JUSTICE

In this regard we can refer only to the regulation of *free movement in the sports sector* to point out that the Court of Justice judgements did not have any influence on what is going on in some sport associations (collective sports), though they are aware that practice in respective clubs which are their members is not in accordance with the case law of the Court of Justice.

As an example we can mention the case of the Basketball Association of the RS. According to its Regulation concerning Registration, 2004, each club, which participates in the I.A men's league, may register unlimited number of foreign players (citizens of the EU are not expressly mentioned). But it is provided that in the first part of each year's competition at least five Slovenian players have to participate in each match. For the second part of the second part of the competition the number of the Slovenian players is reduced to four. In the women's league the situation is similar. The number of the registered foreign players in a respective club may be unlimited, but there is a fixed minimal number of the Slovenian players (9) that have to represent a club in each match.

One cannot find similar provisions in the Regulation concerning the Registration and the Status of Players, adopted by the Football Association of the RS in 2003. The said Regulation is relatively old and does not distinguish between the EU and the third countries citizens and still requires work permit for all foreign players (it means that citizens of the EU-10 Member States are included). It contains some new provisions on the transfer and transfer fees but they are not of special relevance for this report. It might be interesting to mention the provision, according to which a player not having reached the age of 18, is not allowed to trespass to a club abroad except in the case his family has moved to another state for reasons that were not connected with the football.

CHAPTER VII. POLICIES, TEXTS AND/OR PRACTICES OF A GENERAL NATURE WITH REPERCUSSIONS ON FREE MOVEMENT OF WORKERS

Texts in force

In 2000 the Employment and Work of Aliens Act has laid down that the Government shall, in accordance with its migration policy and taking into account the conditions and fluctuations of the labour market, annually determine the quota of work permits and in this way restrict the number of aliens on the labour market and in due time prevent disturbances on the labour market. The said Act has explicitly provided that the quota shall not include aliens who, on the basis of an agreement with the EU, have been granted equality with the Slovenian citizens, nor shall it include aliens for whom the Act does not require personal work permits. According to the Act quota were divided into groups of work permits for different purposes: employment of aliens in the RS, aliens posted to the RS, training and advanced training, seasonal work, individual services provided by aliens. According to the Act quota were divided into three priorities: valid work permits, work permits issued on the basis of international agreements which already include agreed-upon quotas, new work permits).

Up till now the Government of RS adopted a quota of work permits for employment of third countries' citizens three times: for years 2004, 2005 and 2006. In 2005 16.700 work permits were approved by the Government's Decree.

In November 2002 the Resolution on Migration Policy of the Republic of Slovenia has been adopted by the Parliament (Ur.l. RS, 106/2002). Out of the principles on which the Slovenian migration policy is supposed to be based, the principle of "the long-term macro-economic advantage of the relatively free migration" might be pointed out.

In order to assure legally consistent regulation of the conditions and possibilities of employment and work of aliens in Slovenia and in order to implement principles and objectives laid down by the Resolution on Migration Policy of the RS Employment and work of Aliens Act has been amended in November 2005 (Ur.l.RS, 1001/2005; the officially revised text is published in : Ur.l. RS, 4/2006). The amendments inter alia relate to the following fields and/or categories:

- self-employed persons (to prevent misuses of the personal work permits it has been provided, that personal work permit shall be issued to a self-employed person if he/she has resided in RS at least one year and if he/she is in possession of a residence permit for the future);
- the performance of cross-border services with the posted workers (work permits shall be issued for the period of three months in a calendar year with the possibility of the extension for another three months; the condition of at least one year employment with the employer before being posted to Slovenia has also been introduced);
- additional training (training of the posted workers in the commercial company registered in Slovenia is allowed; the posted workers themselves are allowed to perform training of the Slovenian workers; work permits may be issued for at most three months in the period of two years).

In the so-called Normative programme for 2007 the Government of the Republic of Slovenia has foreseen the abolishment of the administrative obstacles existing in the process of obtaining work permits with the intention is to simplify the procedures of the employment of alien workers in general and specially the employment of aliens in deficit professions. It was also proposed to assure the priority in employment and self-employment to alien's family members. For those reasons and for the reason of harmonisation of the respective domestic legislation with the EC law the decision to amend the Employment and Work of Aliens Act has been adopted. It has already been pointed out that the amendments have been adopted in 2007. (Ur.l.RS, No. 52/2007, 76/2007 – officially consolidated text). As the reference period for this report is the year 2006, the amendments are dealt with under the following sub-title.

Draft legislation

As already indicated, the Employment and Work of Aliens Act is going to be amended. The objective is to transpose the respective EC law into the domestic law and to simplify the procedures of employment of alien workers (by e.g. shortening of the period of uninterrupted employment as a condition for obtaining the so-called personal work permit), especially workers with deficit professions on the Slovenian labour market. The amended Act is supposed to allow aliens obtaining the personal work permit to be employed by the temporary employment agency. It might be also mentioned that the Act shall in future sharpen the conditions under which the aliens shall be able to perform work in Slovenia as self-employed persons (independent individual entrepreneurs) or as founders of companies (general partnership). The objective of the amendments is also to simplify the access to the Slovenian labour market for researchers and students.

Miscellaneous

Slovenia has all the time since becoming the EU member endeavoured that the transitional period in relation to free movement of workers should as soon as possible be abolished. In March 2006 The Government has adopted a special Information on the restrictions of the free movement of workers prepared at the end of the two-years transitional period, which has shown that Slovenian citizens do not endanger labour markets of other EU Member States. On the basis of Information the position that the transitional period should be as soon as possible abolished was reaffirmed. Having in consideration different conclusions adopted in this regard and after the discussion in the tripartite Economic and Social Council (See also Chapter VIII – Miscellaneous) the Government decided (25 May 2006) to abolish reciprocity and to introduce free movement of workers, EU and EEA citizens. The pertinent legislation has to be adjusted to the said conclusion.

CHAPTER VIII. EU ENLARGEMENT

1. Information on transitional arrangements regarding EU 8, relating to:

1.1 Changes in national law and practice in all EU Member States since previous national reports

The present situation

Some of the EU Member States have liberalised their labour markets at the end of the two-years transitional period. In addition to EU-10 Member States, Ireland, Sweden and UK free access to labour market has been introduced for Slovenian workers in Finland, Greece, Portugal, Spain, Island and Italy. Free access is still not allowed in Austria, Belgium, Denmark, Germany, Netherlands, Luxemburg, France, Norway and Lichtenstein. Netherlands and France have nevertheless introduced some facilities relating to the acquirement of work permits in certain sectors.

On 25 May 2006 the Slovenian Government decided to lift the reciprocal TAs which applied to EU 12 during the period up till 1 May 2006.

1.2. Details of the legal regime, including relevant legislation, applicable for the second phase

Due to the withdrawal of the application of the principle of reciprocity the existing three regimes of employment of aliens in Slovenia have been changed. There are only two regimes to be applied:

- EU/EEA citizens have the free access to the Slovenian labour market; they do not need work permit but they shall have to be registered by the Employment Service of the RS;
- third countries' nationals need a work permit.

As regards the third countries' nationals they may be employed in the Republic of Slovenia under conditions laid down by the Employment and Work of Aliens Act (Ur.l.RS, 66/2000, 101/2005, 4/2006-officially consolidated text). The said Act provides for quota of work permits, fixed each year by the Government. In accordance with the Act the Government adopted in 2004, 2005 and 2006 Decree fixing quotas of work permits limiting the number of aliens in the labour market (Ur.l.RS, št.33/2004; Ur.l. RS, št. 31/2005; 30/2006).

The free access to the labour market also applies to *family members of the citizens of the EU Member States*, to whom the free access to the Slovene labour market applies, who, on the day of the entrance to the EU, were legal residents of the Republic of Slovenia. To those, who received the residence permit later on, the free access to the labour market applies after the 18 months of legal residence in the Republic of Slovenia.

The third countries' nationals need work permits to be employed on the territory of the Republic of Slovenia.

In order to understand the statistics under the chapter IX better it might be useful to point out that the Employment and Work of Aliens Act in force differs three kinds of the above mentioned *work permits*: so-called personal work permit, a permit for employment and a permit for work.

A *personal work permit* is issued for a limited (in that case it is renewable) or indefinite period of time by the Employment Service. During its period of validity, it provides the alien with free access to the labour market. An alien who obtains it may be employed by any employer, or may become self-employed person. Aliens who are in possession of a personal work permit and who are job-seekers enjoy equal status with citizens of the Republic of Slovenia, and may enter in the register of unemployed persons. An application for a personal work permit valid for one year may be submitted by a refugee and an alien fulfilling the legally prescribed conditions for self-employment. An application for a personal work permit

valid for a period of three years may be submitted inter alia: 1. by a Slovenian citizen's immediate family member who has been in possession of a valid permit for temporary residence for at least 3 years if, prior to submitting an application, he resided in the Republic of Slovenia on the basis of a permit for temporary residence, 2. a person, who is an immediate family member of an alien who is in possession of a personal work permit valid for an indefinite period of time, and who has been in possession of a permit for temporary residence for at least three years, if he resided in the Republic of Slovenia for at least 3 years, 3. an alien who has been employed in the Republic of Slovenia uninterrupted by the same employer for five years and who has not committed an offence, 4. a self-employed alien, who has been self-employed in the Republic of Slovenia uninterrupted for three years. A personal work permit for an indefinite period of time may be issued to an alien in possession of a permit for permanent residence in the Republic of Slovenia.

A permit for employment is a form of work permit linked to the permanent employment needs of an employer. An alien in possession of this type of work permit may be employed by an employer that has submitted an application for such a work permit but is not permitted to provide service for another employer.

A permit for employment may only be issued on the basis of an application submitted by an employer if the following conditions are fulfilled: 1. the employer fulfils the prescribed conditions, 2. the quota applying to this form of employment has not been filled, 3. the alien's employment has no negative effects on the labour market, 4. an alien has not committed an offence in accordance with the Act. The permit for employment is, as a rule, issued on the condition that there are no domestic job-seekers or people, who, with regard to employment rights, enjoy equal status with citizens of the Republic of Slovenia entered in the records of the Employment Service. The permit is issued for up to one year and is renewable.

Immediate family members of Slovenian citizens or of aliens in possession of a work permit are issued with a permit for employment for a period of validity of their permits for residence.

Permit for work is the third type of work permit on the basis of which an alien may be employed or may work in the Republic of Slovenia in accordance with the purpose for which the permit was issued. It can relate to: work performed by posted alien workers, training and advanced training of aliens, seasonal work of aliens, work performed by alien managers, individual services provided by aliens. The permit is issued within the quota determined for individual purpose. It may be renewed only in exceptional cases.

As regards the above mentioned registration certificates it might be useful to repeat that citizens of the EU Member States, citizens equal to the EU citizens and their family members, to whom the right to free movement applies, do not need work permits. They only have to be registered with the Employment Service of the Republic of Slovenia.

No condition on the side of workers has to be fulfilled. The register has been introduced to simply record aliens working on the Slovenian territory. It enabled us to assess the situation on the labour market and to collect better statistics.

According to new Regulation from April 2004 (Ur.l.RS, at. 45/2004) Employment Service keeps three different registers: register of employments, register of works performed on the basis of civil law contracts and register of posted workers, providing services on the territory of the Republic of Slovenia. 3941 registration certificates have been issued in the period between 1st May and 31st December 2004.

3. The accession of Bulgaria and Romania

On 20 December 2006 the Government of Republic of Slovenia took a decision that it will not introduce the transitional period and shall enable the free access to Slovenian labour market for the citizens of Bulgaria and Romania. The decision has been adopted after consultations carried out by the tripartite Economic and Social Council.

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CHAPTER IX. STATISTICS⁶

Tale 1. Valid work permits on 31 December 2006

WORK PERMITS	PERSONAL	FOR EMPLOYMENT	FOR WORK	EU REGISTR.	TOTAL
Austria	81	1	19	294	395
Belgium	12	1	1	2	16
Denmark	7	1	2	3	13
Finland	3			1	4
France	54	5	7	126	192
Greece	2			2	4
Ireland	4			3	7
Italy	125	8	25	108	266
Germany	94	6	15	97	212
Nederland	30		1	16	47
Portugal	1			8	9
Spain	5			33	38
Sweden	4			15	19
Great Britain	13		2	38	53
Cyprus	1			1	2
Czech Republic	21		1	70	91
Estonia	1			1	2
Hungary	22		2	138	162
Latvia				1	1
Lithuania	1			18	19
Malta				3	3
Poland	11	1	1	212	225
Slovakia	10			1646	1656
Total	502	23	75	2836	3436

States of the former Yugoslavia

WORK PERMITS	PERSONAL	FOR EMPLOYMENT	FOR WORK	WITHOUT WORK PERMIT	EU REGISTER	TOTAL
Bosnia and Hercegovina	15203	7857	2959		11	26030
Montenegro	1	21	1			23
Croatia	5643	1161	357	9	30	7200
Macedonia	2331	1447	918	1	4	4701
Serbia	20	713	151			884
Serbia and Montenegro	5034	2323	1507	8	1	8873
Total	28232	13522	5893	18	46	47711

Source: Employment service of Slovenia.

6 Statistics are still prepared on the basis of three regimes of employment of aliens, introduced in accordance with the Treaty on Accession (transitional provisions) and due to the application of the principle of reciprocity during the first two years of the seven-years transitional period.

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Table 2. Number of foreign workers and workers from the EU Member States by the type of work permit on 31 December 2006

WORK PERMITS	PERSONAL	FOR EMPLOYMENT	FOR WORK	EU EMPLOYED	EU WORK-CIVIL LAW CONTRACT	EU SERVICES BY POSTED WORKERS	TOTAL
Austria	81	1	19	20	6	268	395
Belgium	12	1	1			2	16
Denmark	7	1	2	1		2	13
Finland	3			1			4
France	54	5	7	23	7	96	192
Greece	2					2	4
Ireland	4			3			7
Italy	125	8	25	41	15	52	266
Germany	94	6	15	21	8	68	212
Nederland	30		1	13	2	1	47
Portugal	1			7		1	9
Spain	5			12	5	16	38
Sweden	4			7	2	6	19
Great Britain	13		2	23	13	2	53
Cyprus	1				1		2
Czech Republic	21			42	2	26	91
Estonia	1			1			2
Hungary	22		2	58	5	75	162
Latvia				1			1
Lithuania	1			17		1	19
Malta				3			3
Poland	11	1	1	150	12	50	225
Slovakia	10			441		1205	1656
Total	502	23	75	885	78	1873	3436

Table 3. Valid work permits and registrations of workers from EU on 31 December 2006

Personal work permit (PWP)	December 2006			
	STATES OF THE FORMER YUGOSLAVIA	EU STATES	OTHER STATES	TOTAL
Residence in RS over 10 years	7	36	10	53
Refugee in RS			2	2
Self-employed for 1 year	1035	1	119	1155
Alien- immediate family member of Slovenian citizen	176	11	62	249
Alien- immediate family member of alien with PWP	8		1	9
Alien- employed for 5 years without interruption	2752	16	31	2799
Slovenian emigrant or descendent	451	39	4	494
Self-employed for 3 years	177	2	19	198
PWP for indefinite period	17043	195	886	18124
PWP for indefinite period-	6583	11	3	6597

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replacement (transitional provision)				
TOTAL	28232	311	1137	29680

Permit for employment	December 2006			
	STATES OF THE FORMER YUGOSLAVIA	EU STATES	OTHER STATES	TOTAL
For 1 year	1347		103	1450
New permit for employment	1607		123	1730
Permit for employment after 4 months	2659	5	150	2814
Prolongation for 1 year	5688	12	454	6154
Prolongation for 2 years	45	1	6	52
immediate family member	241	4	22	267
Without labour market control	150		29	179
Without labour market control since sept. 2006	1597	1	69	1667
New permit after permit for seasonal work	188			188
total	13522	23	956	14501

Permit for employment	December 2006			
	STATES OF THE FORMER YUGOSLAVIA	EU STATES	OTHER STATES	TOTAL
Aliens with higher education	11		6	17
Aliens belonging to a certain occupational group ⁷	1258		3	1261
Expired PWP valid for 3 years	21			21
Foreign sportsmen and trainers	41		12	53
Aliens, at least 51% owners of commercial company	245		23	268
Foreign experts	15	1	24	40
Aliens with residence permit	6		1	7
total	1597	1	69	1667

⁷ Rules on procedures and evidence required for issuing permits for employment in cases where employment of aliens is not linked to the labour market due to the nature of the work (Official Gazette, RS, no. 70/06) defines occupations with less strict procedure for obtaining permit for employment. These occupation groups are:

- foresters
- metal workers
- fitters and plumbers
- mechanics and machinists
- electricians
- glassworkers
- painters and varnishers
- construction workers
- construction finishing worker
- road traffic job profiles.

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Permit for work	December 2006			
	STATES OF FORMER YUGOSLAVIA	EU STATES	OTHER STATES	TOTAL
Contract between foreign and home company	69			69
Posted workers	949		21	970
Aliens working in foreign companies' affiliates in RS	10	2	9	21
Education and training managers	54		4	58
	1928	73	261	2262
Individual contracts on the basis of permit for work	5		1	6
Individual contracts-1 year	8		19	27
Seasonal work.-general	4		3	7
Seasonal work in agriculture and forestry	15		5	20
Seasonal work in construction	2851		70	2921
Seasonal work in agriculture on civil law contract			1	1
total	5893	75	394	6362

	December 2006			
	States of former Yugoslavia	EU states	Other states	total
Artists-max 7 days-no work permit	18		14	32
Circusants-no work permit				
Trade fair services				
After sales services				
Emergency services				
total	18		14	32

EU registrations	March 2006			
	States of former Yugoslavia	EU states	Other states	total
EU employed	5	885	5	895
EU work-civil law contract	1	78	1	80
EU SERVICES by posted workers	40	1873	7	1920
total	46	2836	13	2895

Source: Employment service of Slovenia

From the figures in the Table 1 it is clear that in the first months of 2006 the structure of the immigrants did not change drastically in comparison with the previous year. Comparing to the EU citizens those coming from the States of the former Yugoslavia prevail.

Table 3 gives us figures of the EU workers who were working in RS either on the basis of one of the existing types of work permits or without work permits, being registered with the Employment Agency on December 31, 2006.

As regards the professions in which the EU citizens are mostly working, it comes out of the Information prepared for the Government by the Ministry of Labour that the following are most frequent: professions in construction (Slovakia, Poland), driver (Slovakia, Poland),

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dancers (Czech republic, Slovakia), butcher (Hungary) machinist (Slovakia) and welder (Slovakia).

Employment Agency of Slovenia does not dispose of exact figures on Slovenian citizens employed in the EU Member States. In 2005 6605 Slovenian citizens tried to get information about employment possibilities by EURES, but there are no figures how many have found employment in other EU Member States. This is the reason why the Government is very much interested in the introduction of the system of reciprocal exchange of statistics among the EU Member States.

CHAPTER X. SOCIAL SECURITY

1. The relationship between Regulation 1408/71 and 1612/68

Slovenia has, as EU member since 1st May 2004, not yet faced itself with its own case law, connected with relationship between both regulations. Nevertheless, we are aware of the legal dimension between them. The fact is that Regulation 1408/71, which has its legal basis in Article 42 of the EC Treaty, takes precedence, as *lex specialis*, over the provisions of Regulation 1612/68. This means that in each particular situation at the beginning must be examined whether a particular problem falls within the scope of Regulation 1408/71. Despite rather broad scope of Regulation 1408/71 it must be taken into account the article 7 of Regulation 1612/68. Worker who is a national of a Member State shall enjoy the same *social* and tax advantages as national workers. Relevant are not just advantages linked with employment and not just those directly connected to the worker herself or himself. As social advantage can for instance be treated disability allowance for workers children, different advantages for large families etc.

2. Supplementary pension schemes

Texts in force

Questions on relation between Regulation 1408/71 and 1612/68 on one and rights of migrant workers based on national supplementary pension schemes on the other side are relevant for achieving freedom of movement. National legislation on supplementary pension insurance is therefore an important factor for achieving free movement of workers within the Community. Protection of their supplementary pension rights is also an important social issue which could not be dealt only within the scope of regulation 1408/71. In order to safeguard vested rights and guarantee payments, which are not subject of Regulation 1408/71, Council adopt directive 98/48 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community. Directive protects rights of members of supplementary pension schemes and others holding entitlement under such schemes.

Slovenian basic legislation regulating supplementary insurance schemes is Pension and Invalidity Insurance Act, adopted in 1999. Act was changed several times, including parts dealing with supplementary pension insurance. The fact is that this Act in principle does not have special provisions for workers moving within the Community, who are supplementary pension insured in Slovenia. That means that they are treated as Slovenian workers. The first measure of the directive, that is to ensure equality of treatment as regards preservation of pension rights, is therefore respected.

About cross border payments as a second measure in directive there is a provision in Pension and Invalidity Insurance Act which ensure an insured person who has acquired the right to supplementary old-age pension and has emigrated abroad on a permanent basis, payment of such pension to the territory of another state. Although this provision is not dedicated exclusively to workers from EU member state its applicability for them is not in question.

Special measure dedicated to posted workers concerning continuation of contribution payments in member state, where supplementary pension scheme was established, also during posting period in another member state, is non-problematic. Directive is in Slovenia applicable only for voluntary supplementary pension schemes, which means that worker posted to work in Slovenia would not be obliged to access in a pension scheme unless he wanted to. The same applies for Slovenian workers. Voluntary basis of supplementary pension scheme in Slovenia guarantee the continuation of payments of contribution in a member state, where particular scheme was established.

CHAPTER XI. ESTABLISHMENT, PROVISION OF SERVICES, STUDENTS

Texts in force

Provision of Services

A new chapter under the title “Performance of services and the practice of law by foreign lawyers in the Republic of Slovenia” has been included in the Lawyers Act (Ur.l.RS, št. 24/2001). It was set down that new provisions related to lawyers from the EU Member States shall enter into force on the day the Republic of Slovenia becomes a full EU Member State. According to the said amendments a lawyer from another EU Member State shall be entered in to the *register of foreign lawyers* who are permitted to practise law in the Republic of Slovenia *under the professional title the “lawyer”*, with all rights and duties in the practice of law, provided he fulfils the conditions set down by the Act and provided he has passed the test of knowledge of the legislation of the Republic of Slovenia. The contents of the test and the course of the test are regulated by the Regulation concerning the test of the lawyers from other countries (Ur.l. RS No. 132/2004). A lawyer from another EU Member State shall be entered in to the register of foreign lawyers who are permitted to practise law in the Republic of Slovenia *under the professional title of their home country* provided he submits a certificate of registration with the competent body of his home country. Lawyer who practises law under the professional title of his home country is allowed to provide legal advice on the legislation of his home country, the EU law, international law and the legislation of Republic of Slovenia. When carrying out legal services connected with the representation of clients before courts in our country, he must collaborate with a lawyer who has the right to practise law in the Republic of Slovenia under the title “lawyer”.

A lawyer from another EU Member State shall be entered in to the register of foreign lawyer permitted to practise law under the title »lawyer« regardless the provided conditions (e.g. the passed test) if he has actually and continually practised laws in the Republic of Slovenia for at least three years. Then there is the fourth possible category of foreign lawyers. Namely, a lawyer from another EU Member State who is not entered in the register of foreign lawyers may carry out individual services within the framework of the practice of law. He has to notify the Bar Association of Slovenia his intended activity.

Health occupations

In accordance with the Health Service Act (Ur.l. RS, št. 36/2004 – officially revised text) a special Act on the performance of health occupations by the citizens of other EU Member States on the territory of Slovenia has been adopted in 2002 (Ur.l. RS, št. 86/2002). It deals with the conditions that have to be fulfilled by a citizen of an EU Member States who would like to perform a health occupation in Slovenia. In addition it provides that a health worker is obliged to use the Slovenian language at his work (and in addition the Italian or Hungarian language in the regions where Italian or Hungarian minority live). The level of the knowledge of the Slovenian language has to be determined by his employer. The knowledge of the language as a condition to be able to perform a health profession in Slovenia has already been object to discussions as it was found to be the possible impediment to employ doctors coming from other EU Member States.

Students

The status of students is described in chapter V. The right to education applies the same for EU citizens, who come in Slovenia for education reasons, and EU members of the family, who come in Slovenia due to reunification with the family. There are no quotas for students from any EU member state.