REPORT
on the Free Movement of Workers in Slovenia in 2007

Rapporteur: Prof. dr. Polonca Končar
(with mag. Luka Tičar)
University of Ljubljana

September 2008

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Introductory remarks

The present report concerns the reference period 1 January 2007 – 31 December 2007.

1. The period covered by the report is characterized by the ongoing process of the harmonization of the Slovenian legal system with the respective EC law. The Employment and Work of Aliens Act has been amended on 12 June 2007. Its officially consolidated version has been published in August 2007. Its objective was to transpose certain EC directives into domestic law and to simplify the procedures of the employment of alien workers (especially those with deficit professions). On the other hand, it sharpened the conditions under which the aliens shall be able to perform work in Slovenia. A new XV.A chapter under the title "Free Access of the EU/EEA Citizens and Citizens of the Swiss Confederation to the Labour Market and Provisions of Services by Posted Workers" has been included into the Act.

2. In December 2006, the Government of the RS took, based on previous consultations within the framework of the tripartite Economic and Social Council, a decision that it will not introduce the transitional period and shall enable free access to The Slovenian labour market for the citizens of Bulgaria and Romania. Consequently, Slovenian citizens have free access to the Bulgarian and Romanian labour markets.

3. The Government has already in the past shown political will to introduce a stable overall system of statistics regarding migrations in general, and migrations of the EU citizens in particular. The 2007 amendments to the Employment and Work of Aliens Act Permanent have completed the Act by provisions on statistical data that must be collected by the Employment Service of Slovenia. New regulation already results in the improved quality and the level of detail of the available statistical data on the migration within the EU Member States.

Chapter I
Entry, Residence, Departure

A. ENTRY

Texts in force

Aliens Act (Ur. l. RS, No. 61/1999, 87/2002, 96/2002- ZTuj-1-UPB1- officially consolidated text, 93/2005, 112/2005-ZTuj-1-UPB2 - officially consolidated text, 79/2006, 107/2006-ZTuj-1-UPB3-officially consolidated text, 44/2008[1])
Instructions for the Refusal of Entry into Slovenia (Ur. l. RS, No. 74/2006)

The Aliens Act, adopted in 1999, has been amended several times since that year. It is of the highest importance to underline that in the framework of the 2006 amendments a new chapter under the title "Entry and residence of 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, 2003/109/EC, 2003/110/EC, 2004/38/EC, 2004/81/EC, 2004/114/EC 2005/71EC, 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 Aliens Act in force, citizens of the EU may enter RS if providing they have a valid identity card or valid passport.

Entry to an EU citizen may only be refused in the following cases:

- he/she does not have a valid identity card or a valid passport,
- his/her staying in the RS poses a threat to public order[2], 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,
- he/she is coming from the territory with infectious or epidemic diseases and is without a proof of being vaccinated. (Article 93.b (3))

As regards *the threat to public order* as one of the reasons to refuse the entry the following can be mentioned. According to Art. 93 b of the Aliens Act the border control authority decides on the refusal of entry based on the Instructions for the Refusal of Entry into Slovenia, 2006, adopted by the Ministry of Internal Affairs, in which the criteria to decide about the existence of the threat to public order or security are set forth. By the adoption of special stricter criteria for the EU citizens (those from the Member States with the transitional period), different treatment of EU citizens and third countries citizens has been introduced in law. Due to the lack of the respective case law, it is impossible either to confirm or to deny that the term "public order" is interpreted in a strict sense when the EU citizens are in question.

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.

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1 Amendments adopted outside the reference period.

2 The Slovenian term "javni red", used in the text, is closer to the expression "public order" than to the term "public policy".

B. RESIDENCE

Text in force

Aliens Act as cited under A.

New provisions have been laid down by the 2006 amendments of the 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 with the competent authority. According to the Article 93.c (3), he/she is 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.

Conditions, under which one of the above mentioned registration certificates is issued, are laid down by the Act (Articles 93.c – 93.g). E.g., a registration certificate is issued to an EU citizen, who wishes to be employed or work or 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 purpose 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 he/she has been admitted to studies, if he/she declares that he/she 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 an EU national after the completion of 5 uninterrupted years' period 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)

In some cases, provided for by the Act, permanent residence permit may be issued to an EU national even before the completion of the five years period of his/her staying in Slovenia.

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 owing to his/her illness or accident,
2. if after the period of one year of employment, he/she lost his/her job,
3. if he/she registered for professional training. (Article 93.d)

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

1. He/she is not in possession of the documents 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 has no proof of being vaccinated,
4. The period for which he/she is prohibited to enter the country has not expired yet,
5. It is found out that the work he/she performs in RS in not done in accordance with the labour law or regulations on employment, or is in contradiction with the regulations preventing the clandestine work. (Article 93h (1)).

C. DEPARTURE

Text in force

Aliens Act as cited under A.

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

The 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.

According to the Act, EU national or family member who does not want to leave the country voluntarily, shall be *deported* in cases when:

- the additional executable sentence of expulsion from the country has been passed against him/her,
- the residence has been denounced,
- the registration of the residence has been refused on the grounds that he/she may pose a threat to public order, national security or international relations of the RS, or if one may suspect 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,
- the registration of the residence or the first registration certificate for the residence has been refused due to the existence of the threat of public health.

The rules on the deportation of an alien are mutatis mutandis applied for the deportation of the EU citizen or his/her family member.

D. REMEDIES

EU citizen may appeal against: 1. The decision of the border control authority to refuse entry, 2. The decision of an administrative unit related to the registration certificate, 3. The decision of an administrative unit related to the residence permit of the EU citizen or a family member. The competent authority to decide on the appeal is the Ministry of Internal Affairs. The appeal against the decision to refuse the entry shall not withhold the execution of the decision. According to the General Administrative Procedure Act, everyone may appeal

against the decision of the Ministry of Internal Affairs to the Administrative Court. (See articles 93. b, 93. o and 93. u).

Literature

Gregor Maučec, Pravica državljanov EU do prostega gibanja in prebivanja na ozemlju držav članic EU, *Pravna praksa- Priloga*, št. 27/2006.

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

Matjaž Šaloven, Tujci in nevarnost za javni red in varnost države (Aliens and the danger for the public order and security of the State), *Pravna praksa – Priloga*, 31-32/2007, pp.II-VIII.

Chapter II
Access to Employment

Texts in force

- Employment and Unemployment Insurance Act (Ur.l.RS, No. 5/1991, 12/1993, 71/1994, 38/1994, 69/1998, 67/2002, 79/2006, 107/2006-ZZZPB-UPB1 - officially consolidated text),
- Employment and Work of Aliens Act (Ur.l. RS, No. 66/2000, 101/2005, 52/2007, 76/2007- officially consolidated text),
- Employment Relationships Act (Ur.l.RS, No. 42/2002, 103/2007),
- Penal Code (Ur.l.RS, No. 95/2004)
- Act concerning the Exercise of the Principle of Equal Treatment (Ur.l. RS,No. 50/2004),
- Financial Operations, Insolvency Proceedings and Compulsory Dissolution (Ur.l.RS, No. 126/2007),
- Act on Recognition and Assessment of Education (Ur.l.RS, No. 73/2004),
- 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 21/2002, 92/2007) and the Rules referred to in the report,
- Elementary Schools Act (Ur.l.RS, No. 12/1995, 33/97, 59/2001, 81/2006 - officially consolidated text, 102/2007).

1. EQUAL TREATMENT IN ACCESS TO EMPLOYMENT

In relation to equal treatment in access to employment, there are some acts providing for the equal treatment in more general way (referring to e.g. nationality) and acts containing explicit provisions on equal treatment of citizens of the EU Member States. Among those belonging to the first group, the following may be singled out:

Employment Relationships Act states 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).

The act concerning the Exercise of the Principle of Equal Treatment, 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 penalize an employer for discrimination in employment. Penal Code makes it a criminal offence to deprive anyone – for reasons based on 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, the ratified international treaties are in principle directly applicable in our internal legal system.

According to the *Employment and Unemployment Insurance Act*, citizens of the EU Member States are equal to the citizens of Slovenia as regards rights and duties, laid down by the Act. (Article 4.c) The Act covers the employment of people in general and different rights of the unemployed persons. As regards the unemployed EU citizens, the attention has to be drawn to the *Employment and Work of Aliens Act*. According to Art. 35.č of the abovementioned Act, unemployed citizens of the EU, EEA and the Swiss Federation are equal to unemployed Slovenians. They may register in the evidence of unemployed persons if they fulfil the conditions provided for by the Employment and Unemployment Insurance act and if *they are staying in Slovenia on the basis of residence permit*. It is interesting to notice some inconsistency in the legal regulation. According to the Aliens Act, the EU citizens who wish to reside in Slovenia more than three months have to register their residence by the competent authority, and they are issued a registration certification. It has already been indicated (see chapter I.), that after five consecutive years of their staying in Slovenia and under the conditions laid down by the Act, they may be issued *a permanent residence permit. As the permanent residence permit and not the residence permit is provided for by the Aliens Act*, it is not clear which kind of residence permit, mentioned in Art. 35.č of the Employment and Unemployment Insurance Act is supposed to be taken into account.

It is expressly laid down by the Employment and Unemployment Insurance Act that the organisation/employer who performs the activity of the mediation of employment or work on the basis of a concession contract and the so-called temporary employment agencies may perform their activity for the Slovenians, EU and EEA citizens and those third countries nationals with permanent residence permits. (Art.6.b/1).Temporary employment agency, performing its activity in accordance with the regulations of another EU or EEA Member State, may perform its activity in Slovenia under the condition provided for in the Act (beforehand notification of the activity to the Ministry of Labour, fulfilment of the conditions in relation to the staff, rooms, equipment, etc). (Art. 6. b/4).

The Employment Relationships Act provides for the labour protection of workers employed by the temporary employment agencies. However, the respective legal provisions do not expressly cover workers that are EU citizens.

2. LANGUAGE REQUIREMENT

As regards language requirement, the knowledge of the Slovenian language is as a rule not required by the legislation applicable in private sector (e.g. Commercial Companies Act, Employment Relationships Act etc.). Nevertheless, the new *Financial Operations, Insol-*

vency Proceedings and Compulsory Dissolution Act requires that the administrator of insolvency proceedings fulfils the condition of the active knowledge of the Slovenian language.

As regards provision of services, see Chapter XI.

3. RECOGNITION OF DIPLOMAS (INCLUDING THE ACADEMIC DIPLOMAS)

The Recognition and Assessment of Education Act, which has entered into force in January 2005, covers the issue of the recognition of diplomas. 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, and also 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, during enrolment, holders of foreign certificates and diplomas are issued decisions recognizing 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 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 a special form to the competent ministry (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:

- 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,
- 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, 107/05),
- 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, 104/04, 6/07),
- 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. 50/2006).

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

System applies to professionals 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 already exercising a profession in their Member State of origin, or possessing all the qualifications required to exercise the profession in that country. The system does not address 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 professions and activities 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. In case 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 starts on applicant's request consisting of documentary evidence of citizenship, higher education diploma, which is subject of recognition and evidence on the education program, its duration etc. The act has foreseen the option to require the applicant to complete an adaptation period or take an aptitude test, if the Minister would consider applicants qualification as inadequate.

Draft legislation

System of mutual recognition of qualifications in EU, regulated by the Act covering the recognition procedure for qualifications of the citizens of EU Member States relating to access to regulated professions and professional activities in the Republic of Slovenia, was changed on March 19 2008, when the Ministry of labour, family and social affairs adopted new *Rules on procedure of recognition of qualifications for of citizens of EU Member States, EEA and Swiss Confederation for the pursuit of regulated professions or regulated professional activities in the Republic of Slovenia* (Ur.l. RS, No. 23/08). These Rules are already in force. The purpose of adoption of these Rules was to transpose the Directive 2005/36/EC into the legal order of RS.

Miscellaneous

According to the Elementary School Act, children of all 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 the integration of migrant workers and for the equality of treatment, it might be interesting to point out courses entitled "Slovenian for foreigners", organised on a yearly basis by the University of Ljubljana.

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

Chapter III
Equality of Treatment on the Basis of Nationality

Texts in force

- Constitution of the RS (Ur.l.RS, No. RS/I, 33/1991, 42/97, 66/2000, 24/2003, 69/2004, 68/2006),
- Employment and Work of aliens Act (Ur.l RS, No. 66/2000, 1001/2005, 52/2007, 76/2007- officially consolidated text),
- Social Assistance Act (Ur.l. RS, No. 54/1992, 36/2004 - officially consolidated text),
- Parental Protection and Family Benefits Act (Ur.l. RS, No. 97/2001, 76/2003, 47/2006, 110/2006 - officially consolidated text, 10/2008[3]),
- Personal Income Tax Act (Ur.l. RS, No. 117/2006, 10/2008[4], 78/2008[5])

1. WORKING CONDITIONS, SOCIAL AND TAX ADVANTAGES (DIRECT, INDIRECT DISCRIMINATION)

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

The Constitution of the RS guarantees to everyone 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".

As regards *working conditions*, the *Employment and Work of Aliens Act* provides that citizens of EU, EEA and Swiss federation have the same rights and obligations deriving from the employment relationship as the Slovenian citizens.

As *regards social advantages*, we shall focus primarily on advantages, deriving from article 7 of the Regulation 1612/68 EC. In other words, we shall limit ourselves mostly on issues that have nothing to do with rights legally based on social insurances, in principle covered with Regulation 1408/71 EC.

Social Assistance Act regulates Right to social assistance in Slovenia. This right 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.

Family benefits are regulated by Parental Protection and Family Benefits Act. There are two groups of rights, one dealing 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,

[3] Amendments adopted outside the reference period.
[4] Amendments adopted outside the reference period.
[5] Amendments adopted outside the reference period.

where permanent residence is not condition for entitlement: Parental allowance, child benefit and partial payment for 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. Residents are liable to an income tax on their worldwide income (i.e. income derived in Slovenia as well as abroad). Non-residents are liable to an income tax on income derived in Slovenia. According to Personal Income Tax Act an individual, regardless of his nationality, is a resident in Slovenia for personal income tax purposes if he has a formal residential tie with Slovenia or actual residential tie with Slovenia (has a habitual abode or centre of personal or economic interests or is present in Slovenia more than 183 days in a taxable year).

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 allowances. Non-residents are not obliged to pay an income tax out of capital profits and savings profits with its source in Slovenia.

Non-residents can claim general allowance, seniority allowance and family allowance if an individual can attest that the taxable income derived in Slovenia amounts to at least 90% of his entire taxable income for the tax year. A non-resident claiming such allowances is obliged to file the same annual active income tax return that applies to residents.

2. SPECIFIC ISSUE: FRONTIER WORKERS (OTHER THAN SOCIAL SECURITY ISSUES), SPORTSMEN/SPORTSWOMEN

2.1. Personal income tax of frontier workers

Some problems appeared in the 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 37 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 in cases when law of the country where the work has been performed stipulates lower tax obligation. As for frontier workers, residents of the EU Member State, working in Slovenia, they are considered as non-residents and therefore obliged to pay the personal income tax in Slovenia on based on the fact that their income derives in Slovenia.

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 the member state where work is actually performed.

2.2. Obstacles to free movement of sportsmen/sportswomen

In the field of (collective) *sports* two kinds of obstacles to free movement resist: 1. Compensations for the education/training until a certain age of a sportsman within a club in the case of his transfer, set forth by a respective national sport association in its Rules[6] concerning registration and status of players (e.g. in basketball and football) and 2. quota in some sports. In hockey and basketball, the number of the registered foreign players (players who are not

[6] The Rules in the above mentioned sports have been amended or entered into force in 2007.

Slovenians[7]) may be unlimited, but the rules fix a minimal number of Slovenians that have to take part in a match.

Situation has changed to a certain extent in football. According to the decisions adopted in the framework of the national football association, the number of players who may be registered for a match is fixed, but there is no doubt that the number refers to those who are not Slovenian and/or EU citizens. It might be interesting to mention that in the part, relating to the protection of players younger than 18 years of age, the amended Rules concerning registration and status of players, adopted by the Football Association of the RS (they partly entered into force on 1 January 2007) set forth that a player, not having reached the age of 18 years of age, is allowed to be transferred to a club abroad if his family has moved abroad for reasons not connected with football. The transfer of a player between 16 and 18 years of age is also allowed, but only in case it is carried out inside EU or EEA.

2.3. Workers in maritime sector, cultural activities and researchers

The Employment and Work of Aliens Act as amended in 2007 has transposed the Directive 2005/71/EC into Slovenian legal order. "Researchers, having signed an agreement with the research institution, and researchers performing a research program, which lasts up until three months, and if they were issued the resident permit of the researcher in another EU Member State" were added to the list of persons, to whom the Act did not apply already before 2007 Art. 3). This list also included aliens-crew members on ships, aircrafts etc., employed by enterprises with the registered office in a foreign country, and aliens performing different activities in the field of culture. The non-application of the Act means that persons from the list do not need work permit to perform work/activities in Slovenia.

3. Relationship between Regulation 1408/71 and article 39 and Regulation 1612/68

EU member since 1 May 2004, Slovenia has not yet faced itself with its own case law, connected with relationship between the two 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 whenever this particular situation occurs, one has initially to examine whether a particular problem falls within the scope of Regulation 1408/71 or not. Despite a rather broad scope of Regulation 1408/71, the article 7 of Regulation 1612/68 must be taken into account. Worker, who is a national of a Member State, shall enjoy the same social and tax advantages as national workers. Advantages related to employment are not the only ones relevant; the same applies to those having a direct connection with the worker him/herself. Disability allowance for worker's children, different advantages for large families, and the like, might for instance be considered social advantages.

[7] There is no express provision in the Rules that EU citizens are equalized with the Slovenians.

Chapter IV
Employment in the Public Sector

Texts in force

- Civil Servants Act (Ur.l. RS, No. 56/2002, 32/2005, 113/2005, 33/2007, 63/2007 - officially consolidated text, 65/2008[8]) and the Acts listed under 1.1 of this chapter,
- Health Service Act (Ur.l. RS, No. 36/2004 - officially consolidated text)

1. ACCESS TO PUBLIC SECTOR

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

Civil Servants Act in the provisions covering all public servants in the public sector, in general, does not require nationality of the RS as a condition for access to positions of civil servants. On the other hand, the nationality is required as a condition for the appointment to title, in which officials in state bodies, judiciary and local community administration perform their public tasks.(Articles 88). In addition, nationality of the RS is also required by special legislation for, for example, the following functions:

- within the courts (Court Service Act, Ur.l. RS, 41/2006 - officially consolidated text, ZSS-E-127/2006, ZSS-UPB3- Ur.l. RS, 27/2007, 57/2007, 94/2007- ZSS-UPB4),
- the public prosecutor's office (Public Prosecutor Act, Ur.l. RS, 63/1994, 59/1999, 56/2002,110/2002, 17/2006, 1/2007, 57/2007),
- the attorney general's office(State Attorney Act, 20/1997, 56/2002, 17/2006, 41/2006 - officially consolidated text, 57/2007, 94/2007),
- the police (Police Act, ZPol-UPB6-Ur.l.RS 107/2006 - officially consolidated text),
- the defence (Defence Act, Ur.l. RS, 82/1994, 44/1997, 87/1997, 13/1998, 32/200087/2001, 42/2002,40/2004, 103/2004 - officially consolidated text, 138/2004, 53/2005),
- the customs service (Customs Service Act, Ur.l. RS, 55/1999, 57/2004, 103/2004 - officially consolidated text,),
- notary's office (Notary Act,ZN-C-73/2004, ZN-D-98/2005, ZN-UPB3-Ur.l. RS 124/2007).
- 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 broad sense of the term). However, in the part of the Act, covering civil servants in state bodies and local community administrations, the knowledge of the Slovenian language is required; indirectly, so to say. It is prescribed as a condition to be fulfilled by those civil servants (officials) who perform their tasks in titles[9]. (Article 86) Namely, one can perform

[8] Amendments adopted outside the reference period.

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

work of an official in title, provided 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 members of Italian or Hungarian minorities live).

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

In the previous reports, it has already been indicated that according to the Health Service Act workers in health service are obliged to use the Slovenian language at their work (in addition to Italian or Hungarian language in the respective regions). The standard of the language has to be determined by their employer. The command of Slovene as the condition for the performance of health workers' work has for some time been object to 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.

Labour relationships of civil servants are in principle regulated by Civil Servants Act. Employment Relationships Act, used in private sector, applies only subsidiary in cases 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 with posts in the private sector.

1.5. Recognition of professional experience for access to the public sector

The general rule in this regard can be found in the Employment Relationships Act. It has laid down that a worker, who concludes the employment contract, must meet prescribed conditions for carrying out his/her job. Conditions may be set forth in collective agreements and in employer's general act (act containing the list of workplaces representing the working process and the conditions for performing work at these workplaces). In practice, professional experience is one of the conditions that is very often set forth.

Civil Servants Act contains two parts. The first part deals with general principles that should apply to all persons employed in the public sector. The second part, relating to civil servants employed in state administration and in local communities, distinguishes between the so-called officials (performing tasks of public authorities) and civil servants working at so-called professional-technical posts. As regards the first group of civil servants (officials), they perform their tasks in title. Civil Servants Act provides for the conditions that have to be

met in order to nominate a candidate for a title; professional experience is one of them. Professional experiences that is to be met by officials in state administration, judiciary and local administration bodies, is provided for by the Government's regulations, professional experience that has to be met by the officials working in other public bodies, is set forth by "the employer's general act".

Civil Servants Act gives the definition of professional experiences in Article 6. The term relates to the years of service spent at the posts for which the same level of education is required.

The Act does not contain any express provisions on the professional experience in other EU Member States.

2. EQUALITY OF TREATMENT

2.1. Recognition of years of service for determining the professional advantages

It could be said that there is a general principle applied according to which workers in private sector as well as civil servants in public sector are entitled to supplements for years of service (in private sector the years of service with the employer). The length of paid annual leave also depends on the years of service.

We distinguish between years of service and professional experiences. By years of service, the period spent in employment relationship is meant. Professional experiences are the period spent in the employment relationship, in the framework of which worker was carrying out the work for which the same level of education is required, and/or a work very similar in content.

In the recent past the question has been raised several times, whether the years of service acquired abroad should be taken into account, when in accordance with the General collective agreement for the non-economic sector (Ur.l.RS, No. 18/1991 amended several times since then) fixing the supplement for the years of service or stating the length of annual leave. In the past, the term years of service has in principle been interpreted as a period of employment in Slovenia. The period of employment abroad was taken into account only when such period has been inscribed into the employment book (e.g. when workers were posted abroad or when work abroad has been performed in accordance with a bilateral agreement), a special document of public nature on the basis of which a worker could prove the existence of the employment relationship.

As of January 2009, the inscription of the years of service into employment books shall no longer be required. This, along with the fact that Slovenia as EU Member State has to honour EC law on freedom of movement of workers, as well as the respective case law of the ECJ, the Ministry of Public Administration issued in May 2008 a call to all Ministries, Government's services, local administration units and communities, according to which the length of service, accomplished by a civil servant of the EU citizenship, in a EU Member State, must always be taken into account when deciding about the supplement for the years of service and the length of annual leave.

Chapter V
Members of the Family

Texts in force

- Aliens Act (Ur.l. RS, No. 61/1999, 87/2002, 96/2002-ZTuj-1-UPB1- officially consolidated text, 23/2005, 112/2005-ZTuj-1-UPB2-officially consolidated text, 79/2006, 107/2006-ZTuj-1-UPB3 - officially consolidated text),
- Employment and Work of Aliens Act (Ur.l. RS, No. 66/2000, 101/2005, 52/2007, 76/2007- officially consolidated text),
- Higher Education Act (Ur.l. RS ,No. 67/1993,39/1995, 99/1999, 64/2001, 100/2003, 134/2003-ZViS-UPB- officially consolidated text, 63/2004, 100/2004-ZViS-UPB2 - officially consolidated text, 94/2006, 119/2006-ZViS-UPB3- officially consolidated text,59/2007, 64/2008[10])
- Rules on Scholarships (Ur.l. RS, No. 48/1999, 43/2000, 62/2001, 85/2002, 40/2003, 64/2004, 28/2006, 57/2007),
- Rules on Study Loans (Ur.l. RS, No. 41/1999, 87/1999, 78/2000),
- Rules on Subvention of Students accommodation (Ur.l. RS, No. 22/2001, 35/2006)

1. 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 (Art. 93.k). For the purpose of this act, family members shall mean:
- the spouse,
- unmarried[11] 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 to 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/her age of 21.

The same definition is also included in the Employment and Work of Aliens Act.[12]

A competent body shall have the discretion to recognize a status of a family member when it comes to other relatives, as well, in cases this may help a family to be reunited.

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

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10 Amendments adopted outside the reference period.

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

12 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.

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 in case the latter is still required. In fact, Slovenia no longer requires visas for nationals of quite a number of third countries.

For the purpose of family reunification a third country family member needs a residence permit. Those who wish to *reside* in 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,[13] 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 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. This may occur in the case of the 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 upon the completion of 5 years' residence in Slovenia on the basis 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 year's period, to the annulment of temporary and permanent 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 to the family members, the same reasons and procedures apply as to the EU citizens.

2. ACCESS TO WORK

The purpose of the amendments of the Employment and work of Aliens, 2007, 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 country 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 if they fulfil conditions laid down by the Employment and Unemployment Insurance Act, and provided that they are in possession of residence permit.

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

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

3. ACCESS TO EDUCATION AND STUDY GRANTS

In relation to the issue of access to education and study grants, the Higher Education Act has to be taken into consideration. Act was changed several times, in 1999 also with the scope of harmonizing its content with the EU standards. As of the day Slovenia joined the EU, all students from EU have enjoyed the same status as Slovenian students. They have the right to education at faculties under the same conditions as Slovenian students; it is therefore impossible to provide obligation of EU students to pay for undergraduate study performed as public service, unless a specific field of study exceeds standards stipulated by the state.

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 specifically mention EU country family members as equal to Slovene children, but according to common practice they are all treated the same.

As far as 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.

When it comes to entitlement of EU students to scholarship financed from public funds, Rules on scholarships that demanded Slovenian citizenship as condition for entitlement need to be mentioned. Provision stipulated that the Slovenian Constitutional Court annulled this condition in 2003. Nevertheless, the same condition still applies for entitlement for students' loan subvention, regulated in Rules on Study Loan, and for state help with accommodation of students, regulated in Rules on subvention of student accommodation as well.

Draft legislation

The system of scholarships is going to be changed in order to treat EU students equally to their Slovene counterparts. Therefore, Parliament enacted Act on Scholarships (Ur.l. RS, No. 59/2007), which came into force on September 1st, 2008.

Chapter VI
Relevance/Influence/Follow up of Recent Court of Justice Judgments

According to information from the Ministry of Labour, Family and Social Affairs, jurisprudence is usually not in-depth analysed, therefore the evaluation of its relevance or influence is not possible at the time being. We have not yet been able to evaluate State's action as a response to the latest Court of Justice decisions.

Chapter VII
Policies, Texts and/or Practices of a General Nature with Repercussions on Free Movement of Workers

Texts in force

- Employment and Work of Aliens Act (Ur.l. RS,No. 66/2000, 101/2005, 52/2007, 76/2007- officially consolidated text)

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, quotas 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, and into three priorities, namely: valid work permits, work permits issued on the basis of international agreements which already include agreed-upon quotas, new work permits.

Until now, the Government of RS adopted a quota of work permits for employment of third countries' citizens three times: for years 2004, 2005, 2006, 2007 and 2008[14]. Thus, 16.700 work permits were approved by the Government's Decree in 2005

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 upon, the principle of "the long-term macroeconomic 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, the Employment and work of Aliens Act has been amended in 2005 and in 2007. The amendments, in addition to the provisions on free access to labour market for EU/EEA citizens and citizens of the Swiss Confederation, relate, inter alia, to the following fields and/or categories of foreign workers:

- 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 for 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);

[14] For the year 2008 the quota of 24.600 work permits has been adopted.

- additional training (training of the posted workers in a commercial company registered in Slovenia is allowed; the posted workers themselves are allowed to perform training of Slovenian workers; work permits may be issued for three months in the period of two years at the most).

As already indicated, the objective of the amended Employment and Work of Aliens Act was 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 also be mentioned that in the future the Act shall 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 was also to simplify the access to the Slovenian labour market for researchers and students.

Changes of the legislation and of the regimes of employment of aliens in Slovenia may not be transparent enough. To a certain extent, it is also difficult to understand the statistics under the chapter IX. For these reasons, it might be useful to point out that the Employment and Work of Aliens Act in force distinguishes between three kinds of *work permits*: the s.c. personal work permit, a permit for employment and a permit for work.

A *personal work permit* is issued for a limited (in this case it is renewable) or indefinite period 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 be self-employed. Aliens in possession of a personal work permit and job seekers enjoy equal status with the citizens of the Republic of Slovenia, and may enter in the register of unemployed persons. A refugee and an alien fulfilling the legally prescribed conditions for self-employment may submit an application for a personal work permit valid for one year. 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 uninterruptedly by the same employer for five years and who has committed no offence, 4. a self-employed alien, who has been self-employed in the Republic of Slovenia uninterruptedly for three years. A personal work permit for an indefinite period 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 services 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 as the 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 only be renewed in exceptional cases.

Chapter VIII
EU Enlargement

1. INFORMATION ON TRANSITIONAL ARRANGEMENTS REGARDING MEMBER STATE

The right to free movement of workers, EU and EEA citizens, and their family members is implemented in Slovenia. The same right of the Slovenian workers is implemented in the following EU and EEA Member States: Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Greece, Ireland, Italy, Lithuania, Latvia, Hungary, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain, Sweden, Great Britain and Iceland.

The transitional period still applies in Austria, Belgium (less restrictive implementation), Denmark (less restrictive implementation), France (less restrictive implementation), Luxembourg, Germany, Liechtenstein, and Norway.

1.1. 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 in May 2006, the existing three regimes of employment of aliens in Slovenia have changed. There are only two regimes to be applied now:

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

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 Slovenian 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, the free access to the labour market applies after a period of 18 months' legal residence in the Republic of Slovenia.

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 register 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 in the Slovenian territory. It enabled us to asses the situation on the labour market, and to collect better statistics.

According to new Regulation as of 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 in the territory of the Republic of Slovenia. 3.941 registration certificates have been issued in the period between 1 May and 31 December 2004.

Information on transitional arrangements regarding Member States that joined the EU in 2007

On 20 December 2006, the Government of the Republic of Slovenia took a decision that it will not introduce the transitional period, and shall therefore enable 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. This decision results in free access of the Bulgarian and Romanian labour market for the Slovenian citizens.

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Chapter IX
Statistics

TABLE 1: VALID WORK PERMITS ON 31ST DECEMBER 2007

WORK PERMITS	PERSONAL	FOR EMPLOY-MENT	FOR WORK	EU REGISTR.	TOTAL
Austria	74	1	7	189	271
Belgium	12			6	18
Bulgaria	21	1	11	1162	1195
Cyprus	1				1
Czech Re-public	21			45	66
Denmark	6		2	2	10
Estonia	1			3	4
Finland	3			2	5
France	54		3	51	108
Greece	2			3	5
Ireland	2			4	6
Italy	99	1	11	80	191
Latvia				2	2
Lithuania	1			9	10
Hungary	16			145	161
Malta				2	2
Germany	91	1	8	95	195
Nederland	30			10	40
Poland	11		1	120	132
Portugal	1			3	4
Romania	50	2	4	227	283
Slovakia	10			1182	1192
Spain	5			10	15
Sweden	3			13	16
Great Britain	13		1	38	52
Total	526	6	48	3404	3984

STATES OF THE FORMER YUGOSLAVIA

WORK PER-MITS	PERSONAL	FOR EM-PLOYMENT	FOR WORK	WITHOUT WORK PERMIT	EU REG-IS-TER	TOTAL
Bosnia and Hercegovina	16313	14441	4554	3	6	35317
Montenegro	20	52	14			86
Croatia	5416	1783	461	2	5	7667
Macedonia	2654	2096	1330		6	6086
Serbia	886	4841	2396	5		8128
Serbia and Montenegro	4608	268	573	8	1	5458
Total	29897	23481	9328	18	18	62742

Source: Employment service of Slovenia

TABLE 2: NUMBER OF FOREIGN WORKERS AND WORKERS FROM THE EU MEMBER STATES – EU REGISTRATIONS ON 31st December 2007

EU registration	EU employed	EU WORK- civil law contract	EU SERVICES by posted workers	total
Austria	26	6	157	189
Belgium	4	1	1	6
Bulgaria	1018	5	139	1162
Cyprus		1		1
Czech Republic	39	1	5	45
Denmark	1		1	2
Estonia	2	1		3
Finland	2			2
France	29	1	21	51
Greece			3	3
Ireland	3		1	4
Italy	40	11	29	80
Latvia	2			2
Lithuania	8		1	9
Hungary	128	8	9	145
Malta	2			2
Germany	31	10	54	95
Nederland	8	1	1	10
Poland	85		35	120
Portugal	2	1		3
Romania	214	5	8	227
Slovakia	464	4	714	1182
Spain	2	2	6	10
Sweden	6	1	6	13
Great Britain	15	13	10	38
Total	2131	72	1201	3404

Source: Employment service of Slovenia

TABLE 3: VALID WORK PERMITS AND REGISTRATIONS OF WORKERS FROM EU ON 31ST December 2007

Personal work permit (PWP)	December 2007			
	STATES OF THE FORMER YUGO-SLAVIA	EU states	Other states	total
Residence in RS over 10 years	7	37	9	53
Refugee in RS	3		8	11
Self-employed for 1 year	1050		136	1186
Alien- immediate family member of Slovenian citizen	138	5	55	198
Alien- immediate family member of alien with PWP	4		1	5
Alien- employed for 5 years with-out interruption	654	5	10	669
Slovenian emigrant or his descen-dent	351	15	5	371
Self-employed for 3 years	166		19	185
PWP for workers for 3 years	598			598
PWP for indefinite period	20355	263	1086	21704
PWP for indefinite period-replacement (transitional provision)	6567	11	3	6581
Free access-eligible person		188		188
Free access- family members		2		2
TOTAL	29893	526	1332	31751

Permit for employment	December 2007			
	STATES OF THE FORMER YUGOSLAVIA	EU states	Other states	total
For 1 year	1450		66	1516
New permit for employment	1336		159	1495
Permit for employment after 4 months	3075		165	3240
Prolongation for 1 year	7648	2	390	8040
Prolongation for 2 years	35		4	39
immediate family member	339	1	18	358
Without labour market control	2			2
Without labour market control since sept. 2006	8453	3	190	8646
New permit after permit for seasonal work	1143		11	1154
Aliens with higher education	23		8	31
Aliens belonging to a certain occupational group[15]	6663		86	6749
Expired PWP valid for 3 years	151		1	152
Foreign sportsmen and trainers	54		9	63
Aliens, at lest 51% owners of commercial company	494		43	537
Foreign experts	23	3	32	58
Aliens with residence permit	95		7	102
Transition from seasonal work to regular employment with the same employer	950		3	953
total	23481	6	1002	24489

[15] 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 (Ur.l. 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.

Permit for work	December 2007			
	STATES OF THE FORMER YUGOSLAVIA	EU states	Other states	total
Contract between foreign and home company	168		11	179
Posted workers	1199		1	1200
Aliens working in foreign companies' affiliates in RS	5		9	14
Education and training	40		5	45
managers	2823	48	296	3167
Individual contracts on the basis of permit for work	4			4
Individual contracts-1 year	6		19	25
Seasonal work.-general	29			29
Seasonal work in agriculture and forestry	31		7	38
Seasonal work in construction	5023		97	5120
total	9328	48	445	9821

	December 2007			
Without work permit	STATES OF THE FORMER YUGOSLAVIA	EU states	Other states	total
Artists-max 7 days-no work permit	18		10	28
Circus artists-no work permit				
Trade fair services				
After sales services				
Emergency services				
total	18		10	28

EU registrations	December 2007			
	STATES OF THE FORMER YUGOSLAVIA	EU states	Other states	total
EU employed	7	2131	4	2142
EU work-civil law contract		72	2	74
EU SERVICES by posted workers	11	1201	9	1221
total	18	3404	15	3437

Source: Employment service of Slovenia

TABLE 4: VALID WORK PERMITS BY AGE ON 31st DECEMBER 2007

	All	till 18	18-25	25-30	30-40	40-50	50-60	Over 60
EU	3.984	25	710	626	1.223	953	377	70
Austria	271	2	23	30	95	77	34	10
Belgium	18			3	6	6	2	1
Bulgaria	1.195	4	218	225	382	279	80	7
Cyprus	1				1			
Czech Republic	66		12	12	23	10	7	2
Denmark	10			2	3	3		2
Estonia	4		1		2	1		
Finland	5			2	1		2	
France	108		10	16	38	31	11	2
Greece	5				3	1	1	
Ireland	6				4	1	1	
Italy	191		3	16	61	58	33	20
Latvia	2			1	1			
Lithuania	10		1	2	4	3		
Hungary	161		23	29	63	27	16	3
Malta	2			2				
Germany	195		4	22	53	58	46	12
Nederland	40		3	3	15	13	5	1
Poland	132		14	22	49	27	17	3
Portugal	4			1	3			
Romania	283	3	40	49	118	58	14	1
Slovakia	1.192	16	356	178	272	275	92	3
Spain	15		1	4	7	2	1	
Sweden	16			1	6	6	2	1
Great Britain	52		1	6	13	17	13	2
total	3.984	25	710	626	1.223	953	377	70

STATES OF THE FORMER YUGOSLAVIA AND OTHER STATES

	All	Till 18	18-25	25-30	30-40	40-50	50-60	Over 60
Bosnia and Hercegovina	35.317	107	5.808	5.260	9.573	9.134	4.624	811
Montenegro	86		14	21	36	12	3	
Croatia	7.667	5	493	666	1.937	2.511	1.736	319
Macedonia	6.086	49	901	822	2.158	1.569	535	52
Serbia	8.128	80	1.798	1.315	2.536	1.837	540	22
Serbia and Montenegro	5.458	13	434	605	1.611	1.477	1.037	281
Total	62.742	254	9.448	8.689	17.851	16.540	8.475	1.485
Other states	2.805	6	471	661	1.058	441	128	40

Source: Employment service of Slovenia

TABLE 5: VALID WORK PERMITS BY GENDER ON 31st DECEMBER 2007

	all	Male (men)	Female (women)
EU	3.984	3.272	712
Austria	271	227	44
Belgium	18	14	4
Bulgaria	1.195	1.112	83
Cyprus	1	1	
Czech Republic	66	30	36
Denmark	10	7	3
Estonia	4	3	1
Finland	5	2	3
France	108	75	33
Greece	5	5	
Ireland	6	3	3
Italy	191	143	48
Latvia	2	2	
Lithuania	10	6	4
Hungary	161	136	25
Malta	2		2
Germany	195	141	54
Netherlands	40	33	7
Poland	132	111	21
Portugal	4	3	1
Romania	283	199	84
Slovakia	1.192	957	235
Spain	15	12	3
Sweden	16	15	1
Great Britain	52	35	17
total	3.984	3.272	712

STATES OF THE FORMER YUGOSLAVIA and OTHER STATES

	all	Male (men)	Female (women)
Bosnia and Hercego-vina	35.317	31.810	3.507
Montenegro	86	70	16
Croatia	7.667	6.091	1.576
Macedonia	6.086	5.459	627
Serbia	8.128	7.756	372
Serbia and Montenegro	5.458	4.412	1.046
Total	62.742	55.598	7.144
Other states	2.805	1.215	1.590

Source: Employment service of Slovenia

TABLE 6: VALID WORK PERMITS BY BRANCH ON 31st DECEMBER 2007

	all	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13	16.	18.
EU	3.984	148	6	58	103	1.420	96	5	11	514	137	10	912	222	308	34
Austria	271	1		39	7	55	10		1	43	16	1	34	7	50	7
Belgium	18	1		2			1			4	3		4	3		
Bulgaria	1.195	50			14	529	3		4	257	9	1	251	61	15	1
Cyprus	1									1						
Czech Republic	66	13			6	7	5			5	3		14	4	5	4
Denmark	10	2								3			1	1	3	
Estonia	4	1								3						
Finland	5									2	3					
France	108	3	2	6	7		11			11	9	1	24	8	26	
Greece	5										1		3	1		
Ireland	6									2	1		1	1		1
Italy	191	23		5	5	12	24	2		25	13		33	8	38	3
Latvia	2									1			1			
Lithuania	10				1	2				2				4	1	
Hungary	161	12			7	65		2		1	8	1	21	23	19	2
Malta	2									2						
Germany	195	6	2	2	1	11	5			19	29	5	71	11	28	5
Netherlands	40	4	2		1	2	3	1		9	9		5		4	
Poland	132	14			5	31	3			10	4		18	38	5	4
Portugal	4						1			2						1
Romania	283	12		2	13	106	2		2	14	25	1	73	26	7	
Slovakia	1.192	5		1	33	600	4		4	81	1		337	23	97	6
Spain	15						5			3			7			
Sweden	16				2					4	1		2	3	4	
Great Britain	52	1		1	1		19			10	2		12		6	
total	3.984	148	6	58	103	1.420	96	5	11	514	137	10	912	222	308	34

STATES OF THE FORMER YUGOSLAVIA and OTHER STATES

	All	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.
Bosnia and Hercegovina	35.317	224		11	495	18.740	65	10	284	2.257	4.626	55	5.237	1.811	1	25	1.266	3	207
Montenegro	86	6		1	3	22			1	8	14		11	15			4		1
Croatia	7.667	174		13	251	1.825	88	10	74	569	1.455	28	1.758	740		13	474	2	193
Macedonia	6.086	37	1	3	279	3.792	4		9	484	701	2	427	98	1		219	1	28
Serbia	8.128	132		2	90	4.919	10	1	32	299	526		877	797	1	1	368		73
Serbia and Montenegro	5.458	84		8	105	2.312	39	1	11	400	1.197	23	712	158		4	312		92
Total	62.742	657	1	38	1.223	31.610	206	22	411	4.017	8.519	108	9.022	3.619	3	43	2.643	6	594
Other states	2.805	351	1	11	689	205	79	3	9	287	505	3	168	131		1	318	1	43

Source: Employment service of Slovenia

LEGEND to table no. 6:
1.Public and personal services, 2. Exteritorial organisation, 3. Financial intermediary, 4. Hotels and restaurants, 5. Construction, 6. Education, 7. Public Administration, Defence, Social Insurance, 8. Agriculture, Forestry, 9. Business Services, Real Estate, 10. Unknown, 11. Supply of Electric Energy, Gas and Water, 12. Manufacturing, 13. Transport, 14. Fishing, 15. Mining, 16. Trade, 17. Private Business with employees, 18. Health

TABLE 7: VALID WORK PERMITS BY SKILLS-QUALIFICATION ON 31st DECEMBER 2007

	all	unknown	1.degree	2nd	3rd	4th	5th	6th	7th	8th
EU	3.984	70	2.029	102	13	893	380	172	282	43
Austria	271	5	33	3	4	81	67	34	37	7
Belgium	18	3				1	4	4	6	
Bulgaria	1.195	1	954	40	1	142	45	2	10	
Cyprus	1	1								
Czech Republic	66	2	22		1	13	9	5	14	
Denmark	10	2					2		5	1
Estonia	4		1				1		1	1
Finland	5	1					1		3	
France	108	6	6			13	25	13	38	7
Greece	5							3	2	
Ireland	6						3	2	1	
Italy	191	11	27	1		21	66	19	41	5
Latvia	2						1	1		
Lithuania	10		3	2		1	1		3	
Hungary	161	4	60	7		69	8	5	8	
Malta	2								2	
Germany	195	11	21	4		17	46	44	48	4
Netherlands	40	4	2	1		3	12	6	9	3
Poland	132	6	56	1		43	7	3	13	3
Portugal	4		1			1			2	
Romania	283	6	198	7	1	29	26	4	8	4
Slovakia	1.192	2	643	35	6	456	38	3	7	2
Spain	15					1	4	3	6	1
Sweden	16	1		1		1	2	4	5	2
Great Britain	52	4	2			1	12	17	13	3
Total	3.984	70	2.029	102	13	893	380	172	282	43

STATES OF THE FORMER YUGOSLAVIA

	all	unknown	1.degree	2nd	3rd	4th	5th	6th	7th	8th
Bosnia and Hercegovina	35.317	1.255	12.934	4.088	140	14.857	1.833	73	132	5
Montenegro	86		40	6	1	30	6	1	2	
Croatia	7.667	278	2.104	775	74	2.818	913	202	493	10
Macedonia	6.086	128	3.328	953	19	1.141	388	22	104	3
Serbia	8.128		3.774	1.451	54	2.333	295	46	173	2
Serbia and Montenegro	5.458	402	2.931	618	28	934	319	48	177	1
Total	62.742	2.063	25.111	7.891	316	22.113	3.754	392	1.081	21
Other states	2.805	124	1.452	155	64	275	239	114	363	19

Source: Employment service of Slovenia

Table 1 shows us very clearly that in 2007 the structure of immigrants in Slovenia did not change much in comparison to the previous year. Comparing to the EU citizens (3984) those coming from the States of the former Yugoslavia (62742) prevail. Nationals originated from Slovakia, Austria, Italy, Poland and Germany were the most numerous among the EU citizens. The number of both "groups" of workers augmented in 2007.

Table 3 gives us figures of the EU workers who were working in Slovenia on the basis of one of the existing types of work permit (a personal permit, permit for employment, permit for work) or without work permit (on the basis of registration with the Employment Agency of Slovenia).

Table 4 shows us the structure of the EU workers and workers of other nationalities according to their age. The share of those between 30 and 40 years of age was the highest.

Information on gender of the EU and migrants of other nationalities is given in *Table 5*. Only less than 25% of all EU workers are women.

Table 6 presents data with regard to the employment of the EU and other citizens in respective branches.

Employment Agency of Slovenia does not dispose of exact figures on Slovenian citizens employed in the EU Member States. It has data how many citizens tried to get information on employment possibilities by EURES, but there are n o figures how many have de facto found employment in other EU Member States. Government is very much interested in the introduction of the system of reciprocal exchange of statistics among the EU Member States.

Chapter X
Miscellaneous

Internet sites where national legislation can be found

http://www.uradni-list.si/1/main.cp2 (adress of the Official Gazette);
http://www.sigov.si/mddsz (Ministry of Labour)