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Introduction

The process of government inspection in any sphere is acknowledged internationally as a tool to improve societal outcomes, whether it is fire safety, occupational health, tax compliance, or other public policy issues. Inspections attempt to achieve these outcomes through:

1. Maximizing compliance with clear government regulations;
2. Minimizing uncertainty for businesses;
3. Fighting corruption; and
4. Minimizing costs to businesses and optimize government resources.¹

While these procedural goals are admirable, however, they can be difficult to achieve, given that inspections are, at best, an imprecise tool; while inspections are crucial for enforcement, it is impossible (and undesirable) for the government to inspect every single business on every single law in a country in a given year. The intensive interactions that inspections require between government and the private sector can represent a real burden on businesses.

Over the past decade, and commonly with international donor assistance, transition economies have dramatically reformed their inspection systems to achieve these outcomes and reduce the burden on businesses. Under the old Soviet model, inspections were conducted through a central inspection bureau, a centralized institution that had sole responsibility for cross-cutting enforcement. After the fall of communism, however, many countries in Eastern Europe and the former Soviet Union replaced this centralized, top-down approach with a decentralized system (perhaps the most common system in the world for all governments). Under a decentralized inspection regime, specific inspection duties are spread across government, with Ministries or Inspectorates empowered to enforce laws in their particular area of competence (i.e. the Health Ministry carrying out health inspections).

While the decentralized regime has many improvements over the centralized inspection system, it is also subject to problems; if governments do not design coordinated and transparent enforcement programs, inspections can also burden businesses and, more prevalent in transition economies, encourage corruption, by providing opportunities for rent-seeking activities. In order to avoid these problems, it is important for governments with decentralized systems to focus on the efficiency of both particular inspectorates and the government's inspectorate system as a whole. While a particular inspectorate may take measures such as risk-based enforcement or voluntary abatement to improve their own processes and increase compliance, the effect on businesses and national outcomes may be small if other organs of the government do not also reform. Thus, a key attribute of successful inspection regimes is the **coordination of inspections across government**.

¹ Scott Jacobs and Cesar Cordova, "Good Practices for Regulatory Inspections: Guidelines for Reformers," Prepared for the World Bank, December 2005, <http://rru.worldbank.org/Documents/PapersLinks/6943.pdf>.

The purpose of this paper is to examine how several transition countries have created coordination of their inspections, through different administrative means, in order to tackle the shortcomings of a decentralized inspection system. The past decade has offered several international best practices in this field, and, for countries looking to improve their inspections or particular inspectorates, many practical steps can be taken along these models.

Decentralized Inspections: Administrative Difficulties

Countries that have chosen a decentralized inspection system commonly have difficulties in making these systems operate at maximum efficiency. Decentralized systems suffer from a common set of weaknesses, including:

- Diffuse expertise

Diffusion of responsibility for inspections results in a diffusion of expertise, with each separate inspectorate tackling only a small area of safety or rights. Inspectorates that may have complementary mandates (for example, a Labor Inspectorate in occupational safety, the Health Ministry in health, a Technical Center in equipment standards), are compartmentalized under decentralization and may not be able to draw on each other's expertise on a routine basis.

- Lack of Information-Sharing

Diffuse expertise means diffuse information, but the diffusion of inspection services would not be a problem if there were concrete mechanisms for information-sharing among different inspectorates. Unfortunately, most countries with decentralized inspections fail to institutionalize information-sharing and work instead on an *ad hoc* basis when it comes to coordination.

- Increased burden on businesses

Lack of coordination represents a real cost to businesses, who must spend time either filling out forms for separate inspectorates, or, even worse, allow inspections to several different agencies at different times. The burden felt by ongoing concerns over inspections can hamper real output and deter FDI in the long run. Moreover, increased inspections means increased opportunities for corruption, causing further harm to the business environment in a specific country.

- Duplication of effort within government

With no centralized control of the inspection process and a lack of information-sharing, there is undoubtedly going to be replication of inspections and data collection. Besides representing a burden on businesses, this also will lead to duplicated efforts across government, as inspectorates waste their precious resources and staff is occupied needlessly to acquire data that already exists elsewhere.

- Disparate quality and procedures of inspections

Coupled with the need for businesses to respond to different inspectorates, there is also a real issue of inspections, when they do take place, being of divergent quality and length. This is due mainly to the differences among inspectorates in government, as the capabilities, budget, and staffing of different inspection bodies throughout a government diverge. Additionally, with each Ministry devising its own administrative procedures for inspections (in some cases without reference to international best practices),

businesses is faced with uncertainty as to how their inspection experience will be from each governmental entity.

- Inadequate outcomes

Finally, given these administrative problems, decentralized systems are usually not structured to create incentives for businesses to achieve better outcomes, whether these desired outcomes are fire safety, reduced injuries at work, better public health, or increased tax compliance. Given the myriad of inspections that a company is subject to and the duplication of effort, the only incentive is to not get caught violating a procedure, rather than be proactive in fostering safety.

The International Experience with Inspection Coordination

While these challenges are daunting for countries that have chosen decentralized inspection services, international best practice has designed many administrative and operational lessons to alleviate these problems and enhance coordination while retaining decentralization. Transition countries such as Poland, Uzbekistan, Latvia, and Slovenia have all tackled the issues of coordination by creating a formal body at the Ministerial level charged with overseeing the work of all inspectorates within the government. Through such a body, inspection services remain decentralized within the competent Ministries, but inspections themselves have a codified and formal manner to address the issues noted above.

Table 1 – Approaches to Inspectorate Reform

Problems in Decentralized Systems	Under an Inspectorate Coordination Council	Under Complex Inspections
Diffuse expertise		Each Inspectorate would be able to specialize in their area of expertise, but all areas would be present for the inspection
Lack of Information-Sharing	Information sharing done in Council	Information collected at the source by all agencies
Increased burden on businesses	Better coordinated planning of inspections reduces burden	All inspectors present at the same site means less uncertainty; More difficult to extract rents when several Ministries are present
Duplication of effort within government	Government effort is streamlined through planning	
Disparate quality and procedures of inspections		One standardized inspection carried out by all Ministries
Inadequate outcomes	All of government working towards broader goal	Outcomes improved through cooperation at grassroots level

While the creation of a coordination council has solved some of the problems noted above, they have not been sufficient to tackle all the problems that come with a decentralized inspection regime. To rectify these remaining challenges, in tandem with the administrative change of centralized oversight countries have also instituted the idea of “complex inspections.” Complex inspections involve moving beyond merely coordinating oversight, but conducting inspections themselves jointly across Ministries.

In some cases, such as Kazakhstan, complex inspections have involved only three agencies (mainly the labor and sanitary inspectorates in tandem with the technical safety agency, GosGorTechNadzor), while in other former Soviet and Central European countries, ALL inspections are carried out at the same time, resulting in as many as 10-15 inspectors present at a given inspection.

The combination of these two innovations has contributed to mitigating the problems of decentralization (see Table 1). As noted above, while the theory behind Coordination committees and complex inspections is the same, their execution and implementation has differed widely by country. The following are just a few examples of these innovations internationally:

Uzbekistan

Uzbekistan in 2001 suffered through a complicated and unwieldy inspections process: companies in the country reported that they underwent an average of 6.2 inspections a year, with 40 different authorities in the government having the right to conduct an inspection. Other peculiarities of the inspections regime, most notably in the clause that allowed inspectorates to keep 10-15% of the fines they issues for their own budget, created incentives for collecting as many fines as possible rather than focusing on safety outcomes. These problems, coupled with lack of training for inspectors, led to widespread dissatisfaction in the business community and a deep-rooted perception of corruption for each of the inspectorates.

In order to streamline the entire inspection regime, the Uzbek “Republic Inspectorate Coordination Council” (RICC), was instituted as part of an IFC project on SMEs and improved business environment. The RICC is composed of 21 members at the state level (see text box), and is the focal point for all inspections within Uzbekistan. This Council coordinates inspections and analyzes their results, and all inspections (with the exception of inspections in connection to a criminal investigation) have to be approved by the Council. This approach puts the burden of inspection on the government, as, in absence of a Council decision, an inspection is illegal and the entrepreneur has the right not to allow the inspector onto the premises. Such an approach forces Council members to come to agreement in order to not waste precious resources on illegal inspections.

One of the greatest innovations in the Uzbek case is the shared planning among members of the Council for inspections. According to legislation, all individual inspectorates must, on an annual basis, present lists of enterprises they plan to inspect to the Council. The Council then evaluates the list, excludes any inspections which it considers unwarranted, approves the overall inspections plan, and sends it back to the different inspectorates. In the case of unplanned inspections, an inspectorate must submit an application for an unplanned inspection to the Council, which must be reviewed and either approved or declined within 2 weeks. In order to respect local autonomy, the inspections must also be approved by the Khokim (Governor) at the regional level. The final level of inspections, emergency inspections, requires the Council to reach a decision on the day of the application (this applies to mainly epidemiological and sanitary crises).

In tandem with the creation of the Council and the movement of inspection planning to the RICC, the individual inspectorates also implemented to idea of “complex inspections.” Under this concept, all planned inspections were carried out by two or more controlling agencies at the same time (in practice, anywhere from 6 to 10 agencies actually participated). Complex inspections were accompanied by the institution of standardized checklists for inspectors to limit illegal activities or disparate treatment, and a broader public outreach campaign through the Ministry of Justice to inform employers of their rights.

Box 1
Composition of the Uzbek Republican Inspectorate Coordination Council

1. Chairman of the Council: Advisor to the President of the Republic of Uzbekistan, Chief of the Control Inspection of the Presidential Administration
2. Deputy Chairman of the Council: Chairman of the State Tax Committee
3. Secretary of the Council: Head of Department on Coordination of Controlling Agencies of the State Tax Committee
4. Deputy Prime Minister, Ministry of Finance
5. Head of the Administration of the Cabinet of Ministers
6. Head of the Analytical Department of the Cabinet of Ministers
7. Deputy State Advisor to the President of the Republic of Uzbekistan
8. Acting chief inspector of the Presidential Administration
9. Prosecutor General
10. Chairman of the State Customs Committee
11. Minister of Justice
12. Chairman of the Parliamentary Committee on Law and Legal Issues
13. General Director of the State Agency for Monitoring Industrial Workplace Safety and Mines
14. First Deputy Minister for Foreign Economic Affairs, Investment and Trade
15. First Deputy Chairman of the State Committee for the Management of State Property
16. First Deputy Minister for Internal Affairs
17. First Deputy Chairman of the National Security Service
18. First Deputy Chairman of the Central Bank
19. First Deputy Chairman of the State Environmental Protection Committee
20. First Deputy Minister of Emergency Situations
21. Deputy Minister of Health, Chief Sanitary Doctor

The results of these reforms, while still underway, have been impressive to this point. Employers have been more informed of both their obligations and their rights (half of the SMEs surveyed by the IFC claimed to use the outreach materials during inspections), and inspections have been much more coordinated by the government. This has resulted in the average number of inspections per business decreasing from 6.2 in 2001 to 1.2 in 2004, while targeting of egregious offenders meant that law-abiding firms were also seeing less of inspectors: the share of SMEs inspected in a given year increased from 11% in 2001 to 67% in 2004. While there are still many problems in the inspectorate system (including a marked trend towards focusing only on successful firms, rather than high-risk ones), the broader inspection regime in Uzbekistan has improved substantially from 2001.

Latvia²

Latvia was one of the first countries to institute comprehensive inspection reform, and was indeed the model for the reforms in Uzbekistan. Latvia began a comprehensive reform of government inspectorates in 1999, continuing through 2003, as part of a broader program to remove administrative barriers to investment. The impetus for this push came from continuing poor performance by Latvia in fostering commerce, as both the World Bank’s corruption survey and the study of administrative barriers to investment carried out by the Foreign Investment Advisory Service (FIAS) found that government inspections caused substantial problems for businesses, including “disruption of their business activities, risk of sanctions, and corruption.”

² This section relies heavily on the IFC’s report from 2004, “Case Study: Inspectorate Reform in Latvia 1999-2003.”

In order to alter this business environment, the Council of Ministers adopted an Action Plan adopted in May 1999 that called for the creation of a Comprehensive Inspectorate Improvement Program. To oversee and implement such a Program, an Inspectorate Coordination Council (ICC) was created by a decree of the State Reform Minister on April 14, 2000, charged with improving inspections across all 22 inspectorates within the Latvian government. At the first meeting of the ICC on April 18, the State Inspectorate Improvement Program was adopted, and the ICC set to work on drafting an action plan. The key components of the program were:

- Implementation of regulations to prepare internal operating regulations for all 22 inspectorates;
- Training for the Heads of Inspectorates and Inspectors;
- Providing Information to the Private Sector;
- Creation of a System of Performance Indicators and Internal Controls for the Inspections; and most importantly,
- Coordination of the work of the inspectorates.

In reference to the first action, the ICC helped to prepare internal operating regulations and scientific-methodological manuals for conducting inspections across government. These regulations were crucial in establishing a unified inspection procedure, and became a source of information for those inspected on the scope of inspectors' rights, duties and responsibilities, as well as on-site inspections procedures. This in turn facilitated a common understanding between inspectors and businesses about the official inspection procedure.

Beyond the mere provision of a manual, the Inspectorate Improvement Program utilized civil service procedures already in place to tailor training courses for inspectors specifically and to arrange inspectorate-only courses; the civil service trainings also accommodated the desire of individual inspectorates to conduct training on their own premises. Courses were arranged on a variety of subjects, from how to establish an internal audit system, to assessing risks, preparing informational materials for the clients, and creating an information system (the Labor Inspectorate and Fire Rescue Service also hosted a course on strategic planning, conducted by a Swedish management consultant, and used it to develop a 4-year strategic plan). Altogether, 492 participants attended the seminars organized within the framework of the Training Program for the Heads of Inspectorates and Inspectors.

The training of inspectors was complemented by an intensive push to create information strategies for involving the public on activities of the inspectorates, main objectives, services provided, rights and duties, requirements established in the legislation and recent changes, and rights and duties of the clients. The inspectorates used a variety of media – leaflets, informational stands in their offices, Internet home pages, meetings with clients, provision of information on the phone or at the office. Some inspectorates (the State Construction Inspectorate, State Environmental Inspectorate, and State Pharmaceutical Inspectorate) organized seminars in which current issues, requirements of the normative acts and changes in legislation referring to the sector monitored or controlled by the inspectorate were discussed.

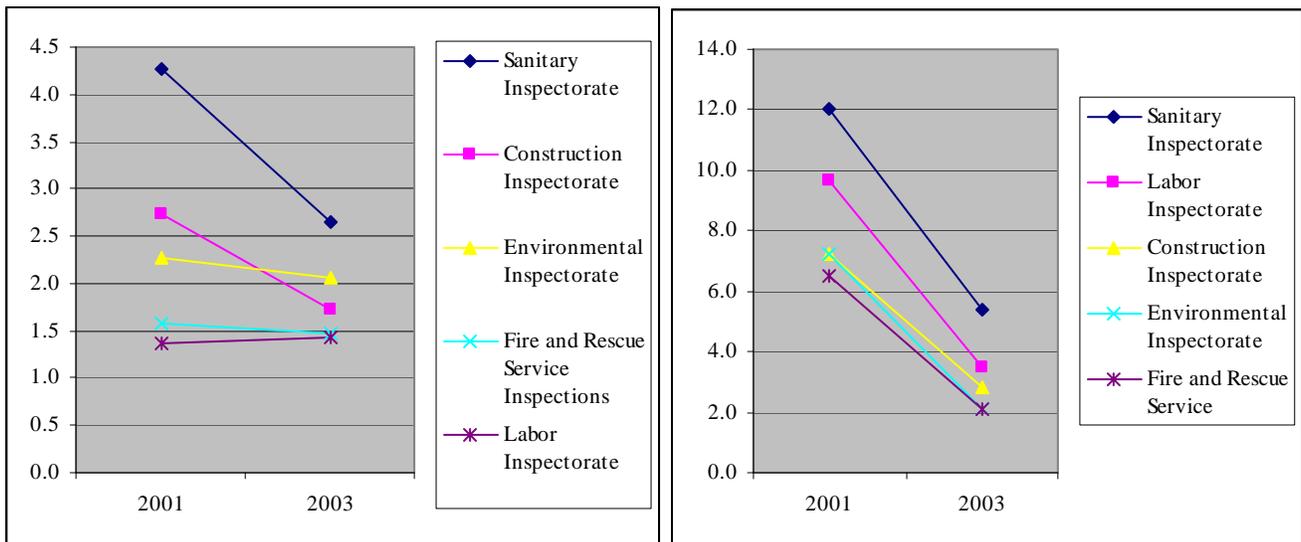
To continue the emphasis on quality, the ICC and international donors assisted seven inspectorates to establish internal audit divisions, in order to carry out evaluations of internal control systems and provide recommendations on improvements (nine other inspectorates in the government had their auditing carried out by the internal audit unit of their Ministries). Internal auditors also developed several recommendations for improvements of the inspection procedures.

Finally, in addition to coordinating all of these operational issues, the ICC was entrusted with the most important task of facilitating coordination with other inspectorates “of similar competence” in order to

improve information circulation. The ICC's mandate was not as centralized as the Uzbek example, with planning of inspections still held in the separate Ministries; budgeting also remained decentralized, unlike the Slovenian case. The ICC also utilized its power to name leading or competent Ministries on specific issues. For example, as part of its mandate, the ICC was to also organize complex inspections and to coordinate the conduct of these complex inspections. Further legislation in June 2001 on "Procedures for Industrial Accident Risk Assessment and Risk Reduction Measures" required complex inspections for industries identified as hazardous, naming the State Environmental Inspectorate as the lead agency to coordinate planning under ICC. Thus, the ICC continued the government's emphasis on decentralization by not aggregating this power unto itself.

Because of these administrative changes and concerted reforms, the ICC has been an unqualified success in reducing administrative burdens on businesses in Latvia, saving time for Latvian enterprises (see Figures 1 and 2), as well as helping to create positive outcomes in worker safety; while fatalities remain stubbornly high in the construction sector (due mostly to a building boom in Riga), non-fatal injuries have dropped in the most dangerous industries (mining, agriculture, and manufacturing).

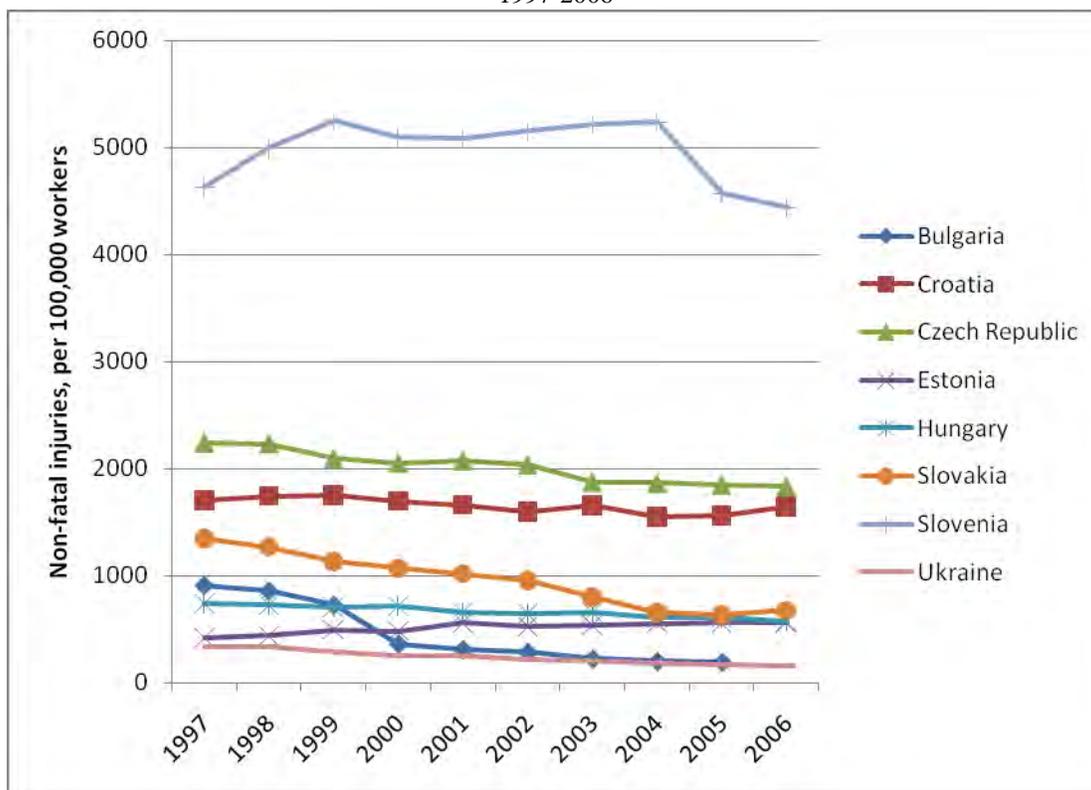
Figures 1 and 2
Average Number of Inspections per year and Average Duration of Inspections, in hours



Slovenia

Slovenia had, by virtue of its status as one of the most advanced transition economies, fairly high awareness of occupational safety and health, while use of personal protective equipment was standard in high-risk operations across the country. However, like Latvia, Slovenia was also plagued by an inefficient and, most prominently, corrupt inspections regime: as the World Bank noted in a 2002 survey, 4.5% of all firms surveyed reported having to pay a bribe to occupational safety and health officials, with similar levels reported for fire safety inspections, environmental inspections, and (especially) building inspections. The entire system was seen by businesses within the country as a way of filling government coffers or the pockets of inspectors, rather than ensuring safety. The exigencies of the inspection regime helped to erase the advantages of the broad acceptance of safety and health within Slovenia, with non-fatal injury rates in the country incredibly high even when compared with other transition countries (see Figure 3). Moreover, injury rates had stayed in the same range or even climbed as inspections failed to help protect Slovenian workers.

Figure 3 - Non-fatal Injury Rates (per 100,000 persons) in Transition Economies
1997-2006



Source: ILO Laborstat Database

As part of a consolidation of inspectorate duties, Slovenia created a central council through an Act on Inspections (Ukaz o razflastitvi zakona o inspekcijskem nadzoru (ZIN)) passed in 2002 (see Appendix 1). Article 11 of this Act defines the Inspectorate Council (IC) as a permanent interdepartmental body, comprised of “inspector generals and the directors of inspections offices,” with the task of coordinating inspection plans for the year. Going beyond the Uzbek example, the Slovenian council is also responsible for the budgeting relating to the separate inspectorates, “coordinat[ing] the resolution of organizational, space, cost, financial, and administrative issues of inspectorates” regional units and branch offices.”

The authorizing Act on Inspections did not only encompass the creation of the Council, however, and instead laid out as a legal document the training and conduct of inspections for all inspectors in the Slovenian government. Standardizing the rights and obligations of both inspectors and the inspected, the Act on Inspections took a large step towards reducing disparities in the quality and timing of inspections in the country. However, for the most part, the Inspections Act did not supplant the individual inspectorates and their authorizing environments, as agencies such as the State Labor Inspectorate (SLI) continued to operate under their law from 2000 which outlined responsibilities of the SLI.

Indeed, both the operations of the IC and the implementation of the Inspections Act were more decentralized than originally conceived, as the workings of the Council tended towards the formation of Committees regarding specific industries or threats rather than a broader cooperation among inspectorates; among the organs created by the IC since 2002 were “the Inspection Committee for Building Safety” and “the Inspection Committee for the Market in Non-Food Products,” two groups that solicited participants from constituent inspectorates and facilitated information sharing at their meetings.

The inspection coordination system functioned for 4 years in Slovenia, until the responsibilities of the IC were subsumed at the end of 2006 into a new Ministry for Public Administration, which had broader and more powerful coordination functions across government. This increased and even more formal consolidation was made in response to lingering problems with coordinating the inspectorates; indeed, the annual report of the Human Rights Ombudsman of Slovenia in 2005 bemoans “the lack of coordination between the various inspectorates often results in inaction from any of them” (the report goes on to claim that despite “a recommendation in 2002, urging the government or the relevant ministries to resolve the pressing issue of unclear competence of various inspectorates in cases where a certain activity is in violation of regulations from multiple areas... nothing has changed since that time”).

While Slovenia still has a long way to go to improve its worker safety (especially in the field of agriculture), its work at coordinating the IC and now in creating a Ministry of Public Administration has helped to improve safety outcomes across the country. In the short time that it was in operation, the IC had a powerful effect on corruption and safety, especially in highly technical areas where complex inspections could have the most impact. For example, in mining and quarrying, non-fatal injuries fell from a high of over 17,000 injuries per 100,000 workers in 1997 to 8,566 per 100,000 in 2006, with the largest drop coming from 2001-2002. Fatal injuries in mining also fell from a rate of 96.2 per 100,000 workers in 2000 to 26 per 100,000 in 2006. Across the economy, non-fatal injuries fell at a rapid pace, going from 5,152.9 per 100,000 workers in 2001 to 4,437 per 100,000 in 2006. The reality of corruption plummeted during the IC’s operations as well, with only about 1% of firms saying in 2005 that they felt pressure to offer a bribe to inspectors (of any stripe).

Conclusion

Inspectorate reform offers a large benefit for government-wide improvement in exchange for a small investment in coordination. The approaches taken by these countries have shown how coordination can be realized administratively, while the integrity of decentralized systems can be maintained; rather than undergo a broad public administration overhaul, countries that have spread inspection services throughout government can retain this system but mitigate its deleterious effects. Moreover, improved coordination along the lines of these transition economies can improve health and safety outcomes while reducing the opportunities for corruption.



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APPENDIX 1. SLOVENIAN INSPECTIONS ACT

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Disclaimer:

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Translated by Ožbej Merc

I. GENERAL PROVISIONS

Article 1

(Contents of the Act)

This Act shall govern the general principles of inspections, organization of inspection offices, position, rights and obligations of inspectors, competencies of inspectors, inspection procedure, inspection measures, and other matters related to inspection.

Article 2

(Inspection)

An inspection shall denote the supervision of the execution of, and compliance with, laws and other regulations.

Inspections shall be performed by female and male inspectors (hereinafter referred to as inspectors) as officials entrusted with special competencies and responsibilities.

Article 3

(Scope of the Act)

With respect to inspection offices, governed by specific Acts, this Act shall govern only matters not covered by such specific Acts.

Procedural matters not covered by this Act or a specific Act referred to in the previous paragraph, shall be governed by the Act governing general administrative procedure.

This Act, except for the provisions on organization (Articles 8 through 11), shall govern inspections, performed by local authorities, unless the Act governing local self-government, or other Act, provides otherwise.

This Act shall not govern administrative inspections, budgetary inspections, defence inspections and other forms of internal administrative supervision of state authorities and local authorities.

II. GENERAL PRINCIPLES

Article 4

(The principle of independence)

Inspectors shall be, within the limits of their competencies, independent in performing inspection related duties.

Article 5

(The principle of safeguarding public interest and private interests)

Inspectors shall perform inspection duties with the purpose of safeguarding public interest and the interests of natural and legal persons.

Article 6

(The principle of publicity)

Inspectors shall inform the public of their findings and measures, if necessary, to protect the benefits of legal or natural persons, and where necessary to ensure compliance with laws and regulations or their respective provisions.

Article 7

(The principle of proportionality)

Inspectors shall perform their duties so as to only interfere with the operations of legal and natural persons to the extent absolutely necessary for effective performance of inspections.

When deciding on a measure, the inspector shall, taking into account the gravity of the violation, take the measure more favourable to the person liable, if this allows for the accomplishment of the purpose of the regulation.

When deciding on a time frame given for removal of irregularities, the inspector shall take into account the gravity of the violation, its impact on public interest and the circumstances which determine the time in which the legal or natural person under inspection (hereinafter referred to as person liable), can remove the irregularities with due diligence.

III. ORGANIZATION

Article 8

(The organization of inspections offices)

Inspectors shall operate within inspection offices, organized per administrative areas.

Inspection offices shall operate within inspectorates, which shall have the position of an independent body under the responsibility of the ministry. Where there are several inspection offices operating within an inspectorate, appropriate internal organizational units shall be formed.

Exceptionally, if so provided by a specific Act or a Government regulation, an inspection office may be organized within a body under the responsibility of the ministry, which is not an inspectorate.

Article 9

(Inspection office management)

The female or male principal (hereinafter referred to as principal) of the inspectorate shall be the female or male inspector general (hereinafter referred to as inspector general).

Where there are several inspection offices organized within an inspectorate, every inspection office shall be headed by a female or male director (hereinafter referred to as director) of the inspection office.

If an inspection office is organized within a body under the responsibility of the ministry, which is not an inspectorate, the inspection office shall be headed by a director of the inspection office.

Article 10

(The authority of inspector general)

The inspector general shall head and represent the inspectorate, organize and coordinate the work of inspectors and, within the entrusted competencies be responsible for legality, quality and effectiveness of the operations of the inspection office.

Article 11

(Coordination of inspection offices' operations)

An Inspectorate Council as a permanent interdepartmental body shall be established to coordinate the operations of different inspection offices.

The members of the Inspectorate Council shall be the inspector generals and the directors of inspection offices and other principals of bodies under the responsibility of the ministry, entrusted with performance of inspections.

In the areas where coordinated operations of several inspection offices are required, and where such coordination is considered necessary to improve efficiency of the operations, the Inspectorate Council shall coordinate operational plans of inspection offices, plan execution of coordinated inspection related

duties by different inspection offices, and propose the formation of inspector workgroups for coordinated task execution and the methods of their operations. The Inspectorate Council shall also handle common matters related to issues in inspection office operations, and shall inform the Government of its work in this area. The Inspectorate Council shall also coordinate the resolution of organizational, space, cost, financial and administrative issues of inspectorates' regional units and branch offices. Matters, related to the operations of the Inspectorate Council, shall be governed by Rules of procedure, adopted by the Inspectorate Council in agreement with the Government.

IV. POSITION, RIGHTS AND OBLIGATIONS OF INSPECTORS

Article 12

(Conditions for performance of inspection duties)

Unless provided otherwise by regulations governing a particular inspection office, a person who:

- has acquired a university degree or a degree of high qualification,
- has five years of working experience,
- has passed the professional examination for an inspector,

may be appointed an inspector.

Notwithstanding the provisions of the previous paragraph, a person who has not passed the professional examination for an inspector may be appointed an inspector, provided that such a person has passed the professional examination on administrative procedure.

An inspector referred to in the previous paragraph shall pass the professional examination for an inspector within one year from their appointment to office as an inspector.

An inspector who has not passed the professional examination for an inspector shall be prohibited to issue decisions, but shall be empowered to perform actions in the proceedings before a decision is issued.

An inspector shall be required to undergo training on an ongoing basis to perform his duties in accordance with a program issued by the inspector general or the director of the inspection office.

Article 13

(removal from office in the case of not passing the professional examination for an inspector)

An inspector shall be removed from office, if he should, for reasons under his control, fail to pass a professional examination for an inspector within the prescribed time frame.

The effects of the removal shall be governed by the provisions of the Act governing state authorities' labour relationships which relate to the finding of incapacity to perform work.

An inspector shall also be removed pursuant to the provisions of this Article, should he, owing to him, fail to undergo training in accordance with the program.

Article 14

(Security of the inspector's position)

An inspector shall not be, without consent from the inspector, for the purposes of work organization, transferred to a position of employment, which does not carry inspection related competencies.

Article 15

(Restriction of pursuit of activities)

An inspector shall not pursue activities or perform work for a different employer, in the area where he performs inspection related duties, except for scientific or pedagogic purposes.

Article 16

(Protection of business secrets and other secrets and sources)

An inspector shall protect secrets which he becomes acquainted with while performing inspection related duties. This duty shall remain in effect even after the termination of the labour relationship with the inspector.

An inspector shall protect the secrecy of the source of the complaint and other information, based on which inspection is being performed.

Article 17

(Particular liabilities of inspectors)

An inspector shall be particularly liable:

- should he fail, when performing inspection related duties, to carry out his duties, or fail to take appropriate measures, which he is by law required to carry out or take;
- should he fail to report to, or inform, the competent authorities of the violations of laws and other regulations, which he found when performing inspection related duties;
- should he pursue activities or perform work referred to in Article 15 of this Act.

Any violation of these responsibilities shall be considered to be a major disciplinary offence.

An inspector, against whom a disciplinary action has been instituted due to a major disciplinary offence, shall be prohibited to perform inspection related duties, pending the final decision on disciplinary liability.

V. COMPETENCIES OF INSPECTORS

Article 18

(Performance of inspection related duties)

An inspector shall autonomously perform inspection related duties, conduct administrative proceedings and issue merit based and procedural decisions in administrative proceedings.

The authority to perform inspection related duties shall be presented by a service card and a badge.

Service cards and badges shall be issued by the minister, responsible for the area, in which the inspection office operates, in agreement with the minister, responsible for administration.

The form of service cards and badges and the issue procedure shall be prescribed by the minister, responsible for public administration, unless provided otherwise by a specific Act.

Article 19

(Competencies of the inspector)

When performing inspection related duties at a natural or legal person, the inspector shall have the right to:

- examine the premises, buildings, installations, devices, equipment, circuits, objects, goods, materials, books, contracts, letters and other documents as well as operation and documentation of state authorities, commercial companies, institutions, other organizations, associations and private persons,
- examine the books, contracts, letters and other documents as well as operations and documentation when recorded and kept on electronic media and request its written form, which shall confirm the electronic form authentically,
- question the parties and witnesses in the administrative proceedings,
- examine documents relating to identities of persons,
- acquire and use free of charge, personal and other data from official records and other databases, relating to the person liable and necessary to perform the inspection,
- obtain free of charge samples of goods and conduct examination of the samples taken,
- obtain free of charge samples of materials and equipment for the examination purposes,
- photograph or film on another media the visual data of a person, premises, installations, circuits and other objects from the first paragraph,
- reproduce documents, audiovisual records and other documents,
- seize objects, documents and samples for protection of evidence,
- perform other duties in accordance with the purposes of inspection.

When performing inspection related duties, the inspector shall have the authority to seize documentation, needed to find the facts of the case at hand, for a maximum of 15 days, if he believes that there exists reasonable suspicion that a law or other regulations has been violated, and if by doing so, does not hinder

the natural or legal person's activities. Upon seizing documentation, the inspector shall issue a certificate to this end. The inspector shall not seize information of state authorities classified as confidential. The Government shall have the authority to adopt a regulation to define the manner of performing the inspectors' competencies in greater detail.

Article 20

(Entry onto premises, into buildings and to the person liable's devices)

An inspector shall have the right without prior notification or permission from the person liable or its person in charge and regardless of the working time, to enter onto the premises, into buildings and to the equipment and devices referred to in the previous Article, unless provided otherwise by law.

The person liable may deny the inspector entry to residential premises if the inspector fails to present an order from the competent court.

If the person liable without legitimate grounds (the first paragraph of this Article) refuses the entry onto premises or into buildings where the activity is carried out, the inspector shall have the right to enter onto the premises with police assistance regardless of the will of the person liable. The costs of entry and possible unavoidable damage occurred during entry shall be borne by the person liable.

Article 21

(Entry onto business and other premises not in the possession of the person liable)

The female or male proprietor (hereinafter referred to as proprietor) or the female or male person in possession (hereinafter referred to as person in possession) of business, production or other premises or other premises or land, which need to be examined in the course of the inspection procedure, because there exists a reasonable suspicion that the person liable is conducting operations therein or that effects belonging to the person liable which are the subject of the inspection procedure, can be found therein, shall be required to allow inspection of the premises.

The person referred to in the previous paragraph shall be allowed to refuse inspection in the following cases:

- that the premises in question are residential premises and the inspector fails to present an appropriate court order,
- that the inspection would cause that person serious defamation, material pecuniary liability or subject it to penal proceedings,
- that the inspection would cause a violation of the obligation to protect business, professional, art or scientific secrets or
- in other cases, where the inspection would cause a violation of the obligation to maintain secret what a person has learned in their capacity as priest, attorney, doctor or other professional capacity carrying a similar obligation.

If the person referred to in the first paragraph of this Article refuses the inspection without legitimate grounds, measures prescribed against witnesses unwilling to testify may be authorized against such a person, and if the person continues to refuse the inspection, the inspection may be carried out against the will of such person.

If a person referred to in the first paragraph of this Article refuses the inspection without legitimate grounds and the person cannot be located, and there exists the hazard that the evidence thought to be located on the premises referred to in the first paragraph, could be destroyed or moved, before an inspection could be performed, an inspector shall have the authority to seal-off such premises until the inspection is performed, but in the maximum duration of 7 days or until the person can be found, whichever is sooner. The inspector shall issue a special procedural decision in this respect.

Article 22

(Inspection of residential premises of the person liable)

Where an inspector is required, when performing inspection related duties, to inspect areas of residential premises, and the proprietor or the user is opposed to such an inspection, the inspector shall be required to obtain an order from the competent court in order to perform the inspection.

The court shall authorize an inspection of the premises referred to in the previous paragraph, if there exist reasons for suspicion,

- that illegal activities are being carried out on the residential premises,
- that operations in contravention of regulations are being carried out on the residential premises,
- that goods, animals or other objects are being kept in contravention of regulations on the residential premises or
- that other regulation violations will be found upon performing the inspection of the residential premises or objects located thereon.

When performing an inspection of the residential premises pursuant to the provisions of the previous paragraph, two persons of legal age shall be required to be present as witnesses. The inspection of the residential premises shall be limited to the areas of the residential premises which need to be inspected in order to accomplish the purpose of the inspection.

Article 23

(Smooth performance of inspection related duties)

The person liable shall be required to facilitate a smooth performance of inspection related duties by the inspector.

Where an inspector, in the course of performing inspection related duties, comes across physical opposition or if such opposition is expected, the inspector may request police assistance.

The police shall offer assistance pursuant to the Act governing police operations.

VI. PROCEDURE FOR PERFORMANCE OF INSPECTION RELATED DUTIES

Article 24

(Parties to the proceedings)

An inspector shall be required to process reports, complaints, communications and other submissions in matters under his jurisdiction and inform the applicants, upon their request, of the measures taken. Notwithstanding the provisions of the Act governing general administrative procedure, an inspector shall be required to process anonymous reports, unless the circumstances give rise to a suspicion that such reports are false or frivolous.

The person liable shall have the position of a party to the proceedings in the inspector's proceedings. The female or male applicant (hereinafter referred to as applicant) who submitted the petition, report, communication or other submission, shall not have the position of a party to the proceedings.

Article 25

(Competency to perform actions in the proceedings)

Actions in the proceedings before a decision is issued in inspection matters, in particular discovery of facts and circumstances relevant to the decision, may, under written authorization from the inspector general, be carried out by other officials, employed by the inspection office.

Officials referred to in the previous paragraph shall not bear inspection competencies and shall not be empowered to issue merit based or procedural decisions which terminate the proceedings.

Article 26

(Specialist tasks in inspection matters)

Specialist tasks in inspection matters may be carried out by specialist organizations, institutes or individuals, when this does not contravene public interest or interests of the participants to the proceedings.

Article 27

(Revocation of competencies to conduct proceedings)

The inspector general may revoke the competencies to conduct proceedings of an inspector for proceedings already underway and assign the matter to a different inspector or take over the matter himself, only if,

- grounds for challenge exist according to the Act governing general administrative procedure, or
- a disciplinary action has been instituted against the inspector.

Article 28

(Termination of the proceedings)

If it is established, in the course of inspection proceedings, that the person liable has not committed a violation of laws or other regulations, the inspector shall terminate the proceedings with a procedural decision. The substantiation of such a decision shall contain an explanation of the extent of the inspection performed and the reasons for termination of the proceedings.

The substantiation of a decision by which measures have been imposed on the person liable, shall contain an explanation of the extent of the inspection performed and the findings with respect to portions of the inspection which did not produce findings of violations.

Article 29

(Rights and obligations of the person liable in the inspection proceedings)

The inspection may be announced in advance. The person liable, his female or male legal representative or representative by articles of incorporation (hereinafter referred to as legal representative), his female or male proxy (hereinafter referred to as proxy) and the person in charge of the person liable may be present at the performance of inspection related duties, except when the inspector deems their presence to be detrimental to the efficiency of the inspection; the inspector shall issue a special procedural decision in this respect.

The person in charge of the person liable shall be required to, at the request of the inspector, and within the time frame specified in the request, provide a written explanation in relation to the matter under inspection.

In the case that the person liable is a female or male sole proprietor (hereinafter referred to as sole proprietor) or a legal person, and the sole proprietor or the legal representative, or representative by articles of incorporation, or proxy of the person liable is not present at the inspection proceedings, the inspector may perform all actions in the proceedings and consider all the evidence, without the presence of aforementioned persons being required.

Unless urgent and measures which cannot be delayed are in question, the inspector shall in the case referred to in the previous case, prior to issuing a decision, mail to the person liable the minutes and request that the person liable within the time frame specified in the request, which shall not be less than 48 hours, provide its account of the facts and circumstances, orally or in writing. The request shall in this case be delivered to the person liable by handing it over to an employee of the person liable, or, if this is not possible, leaving it on the premises. After the lapse of the time specified in the request, the inspector shall issue a decision without an additional hearing of the party being required.

Where an inspector has ordered the removal of irregularities and deficiencies and specified a time frame within which the person liable is to comply with the order, the person liable shall be required to immediately notify the inspector of the irregularities removed.

Article 30

(Appeal against a decision of an inspector)

An appeal filed against a decision of an inspector shall not withhold its enforcement, unless a specific Act provides otherwise.

Article 31

(The costs of inspection proceedings)

The costs of inspection proceedings which have been crucial to the finding of facts which establish the violation of laws or regulations shall be borne by the person liable.

If the inspection proceedings are terminated pursuant to the first paragraph of Article 28 of this Act, the costs of the inspection proceedings shall be borne by the inspection body. The body shall also bear the costs of actions or tasks performed in the course of inspection proceedings relating to the part of the inspection which did not produce a finding of irregularities.

If the inspection proceedings have been performed on the basis of a false report, the costs of the proceedings referred to in the previous paragraph shall be borne by the applicant who filed the report.

VII. INSPECTORS' MEASURES

Article 32

(Inspectors' measures)

Where in the course of performance of inspection related duties an inspector finds that a law or other regulation or an act, of which the execution is under his supervision, has been violated, he shall have the right and obligation:

- to order measures for removal of irregularities and deficiencies to be implemented and specify the time frame for the implementation,
- to carry out procedures pursuant to the Offences Act,
- to bring a criminal complaint for a criminal offence prosecuted ex offa,
- to propose to the competent authority to take measures,
- to order other measures to be taken and to perform actions, for which he is competent under law or other regulation.

Where the inspector finds that the person liable has through the offence or criminal offence acquired pecuniary benefits, he shall propose to the competent authority to seize any such benefits.

In the case that the inspector in the course of performance of inspection related duties finds that a law or other regulation or an act, of which the execution is under supervision from a different inspection office, has been violated, he shall determine the facts himself and make a report on his findings, which he shall together with the proposal for measures to be taken communicate to the competent inspection office.

Article 33

(Inspectors' preventive measures and warnings)

Inspection offices shall, with the purpose of preventive action:

- answer written inquiries of individuals, enterprises and institutions, relating to the operations of the inspection office,
- through the use of mass media inform the public of their findings of irregularities and of the consequences of violations of laws and other regulations,
- operate in other ways to inform the public.

Where in the course of performance of inspection related duties an inspector discovers an irregularity and is of opinion that given the significance of the offence a warning is to be a sufficient measure, he shall have the right to issue an oral warning about the irregularities and their consequences and specify a time frame for their removal.

His findings, the warning issued and the time frame for removal shall be specified in minutes. Where the irregularities are not removed within the time frame given, the inspector shall take other measures in accordance with the law.

Article 34

(Inspectors' special measures)

Where the person liable does not remove the found irregularities and deficiencies within the time frame given by the inspector, the inspector may issue a decision to temporarily, pending the decision by the

competent authority, prohibit operations or impound objects or documentation used by the person liable for violations, or originating from violations.

The inspector shall temporarily, pending the decision by the competent authority, prohibit operations or impound objects or documentation used by the person liable for violations, or originating from violations, without first giving a time frame for removal of irregularities, where necessary, to avert direct life or health hazard for human beings and animals or damage to the natural or living environment or to property.

An inspector may also issue a decision to temporarily impound objects or documentation used by the person liable for violations, or originating from violations where he finds that the person liable is repeating the violation in spite of an issued decision.

In the cases referred to in the first, second and third paragraph of this Article the inspector shall be required to immediately initiate proceedings before the competent authority.

Article 35

(Measures related to prohibition of operations)

An inspector, who pursuant to the first and second paragraphs of the previous Article prohibits operations, shall have the right to order the business or production premises or facilities or other premises, where the operations are being carried out, or equipment, devices and gear used to carry out operations, to be sealed-off.

In the case that the person liable does not comply with the decision prohibiting operations, issued pursuant to the first and second paragraphs of the previous Article, the inspector may issue a decision ordering the enterprises, entrusted with the distribution of electrical energy, water, gas or telecommunication connections, to stop distribution or to disable communication connections to the person liable within 3 days. This measure shall be carried out in a manner which does not cause direct damage to equipment or products. The decision shall also be delivered to the person liable.

The decision referred to in the first paragraph of this Article shall contain a warning that measures pursuant to the second paragraph of this Article shall be taken in the case of non-compliance with the decision.

Where an inspector finds irregularities and by a decision orders measures to be taken, sole proprietors and commercial companies shall not for the person liable perform tasks which would constitute the continuation of the violations or would be in contravention with the measures ordered, provided that they are aware of the measures taken or provided that they should, given the circumstances, be aware of the measures taken. The inspector shall be responsible to ensure that third parties are properly informed of found irregularities.

Article 36

(Security measures to protect third persons' rights)

Where in the course of performance of inspection related duties an inspector finds that the person liable has committed a violation of a law or other regulation or an act, which impinges on the rights or legal benefits of other legal or natural persons, he shall be required, to communicate to such persons at their request, his findings, the measures taken, and other information relevant to enforcement of such persons' rights.

If an inspector is of opinion that the protection of third persons' rights so requires, he may publish, or order to be published, his decision or its summary, for a period of time at a visible location on the business premises of the person liable, on the entrance to such business premises, in public media or in another appropriate manner. The costs of the publishing shall be borne by the person liable.

VIII. LIABILITY FOR DAMAGES

Article 37

(Liability for damages of the state)

The Republic of Slovenia shall be liable for damages caused to the person liable or to other persons, through an illegal act or omission by an inspector in the course of performance of inspection related duties.

In the case referred to in the previous paragraph, the Republic of Slovenia shall have a recourse action against the inspector, if the damages were caused intentionally or due to gross negligence.

The person liable or a third person may request recovery of damages directly from the inspector only in the case that the damages were caused by a criminal offence of the inspector.

IX. PENAL PROVISIONS

Article 38

A legal person who:

- hinders or prevents entry onto premises, into buildings and to devices (Article 20);
 - does not facilitate a smooth performance of inspection related duties by the inspector (Article 23);
 - does not, at the request of the inspector and within the time frame given by the inspector, provide a written explanation and statement in relation to the matter under inspection (Article 29);
 - does not comply with the measures ordered by the inspector's decision;
 - does not remove deficiencies within the time frame given by the inspector (Article 33);
 - does not publish the inspector's decision or its summary in contravention with the measure ordered by the inspector (Article 36);
 - damages, removes or conceals a publicly displayed inspector's decision (Article 36);
- shall be punished by a SIT 300.000 fine for an offence, to be collected on the spot.

The person in charge of the legal person shall be punished by a SIT 100.000 fine for an offence referred to in the previous paragraph, to be collected on the spot.

A sole proprietor who commits an offence referred to in the first paragraph shall be punished by a SIT 200.000 fine, to be collected on the spot.

A natural person who commits an offence referred to in the first paragraph shall be punished by a SIT 100.000 fine, to be collected on the spot.

The fine for the offence referred to in the first paragraph may be imposed successively.

Article 39

A natural person, who files a false complaint with an inspection office, shall be punished by a SIT 100.000 fine.

Article 40

If a specific Act, governing the competencies of a particular inspection office, classifies acts referred to in Articles 38 and 39 of this Act as offences, fines shall be imposed for such offences under the law more favourable to the perpetrator of the offence.

X. TRANSITIONAL AND FINAL PROVISIONS

Article 41

Persons who passed professional examinations, which were prescribed for performance of inspection related duties, before this Act came into force, shall be considered to fulfil this condition pursuant to the provisions of this Act. In the areas where professional examinations could so far not have been passed, principals shall be required to make such professional examinations available within two years from coming into force of this Act. An inspector, who has not yet passed a professional examination, shall pass a professional examination for an inspector within one year from coming into force of this Act or after such a professional examination has become available, whichever is later, or he shall be removed from office pursuant to the provisions of Article 13 of this Act.

Article 42

The Inspectorate Council shall be formed within two months from coming into force of this Act. The Prevention of Illegal Work and Employment Section, formed on the basis of the Prevention of Illegal Work and Employment Act (Official Gazette of the Republic of Slovenia, No. 36/00) shall continue its operations. The means of cooperation with the Inspectorate Council shall be governed by the Rules of procedure of the Inspectorate Council.

Article 43

Inspection proceedings, initiated before the coming into force of this Act, shall be carried out under regulations in force before coming into force of this Act.

Article 44

Internal organization and systematization acts shall be adopted to comply with the provisions of this Act within 6 months from coming into force of this Act.

Article 45

With the coming into force of this Act, the provisions of Article 7 and Articles 83 through 98 of the Administration Act (Official Gazette of the Republic of Slovenia, Nos. 67/94, 20/95 – Constitutional Court decision, 29/95 – ZPDF and 80/99 – ZUP) shall cease to be in effect.

Article 46

Notwithstanding the provisions of the fourth paragraph of Article 3 of this Act, the provisions of this Act, except for the provisions on organization, shall govern *mutatis mutandis* administrative inspections, budgetary inspections, defence inspections and other forms of internal administrative supervision of state authorities and local authorities, until coming into force of the provisions of sectoral Acts governing these areas, but not in excess of two years from coming into force of this Act.

Article 47

This Act shall come into force on the fifteenth day from publication in the Official Gazette of the Republic of Slovenia.

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