**Identification of the participant**

Name: LIGI

First name: VIIVE

Nationality: ESTONIA

Country of exchange: REPUBLIK OF SLOVENIA

**Publication**

For dissemination purposes and as information for future participants in the Programme please take note that ACA-Europe may publish your report in its website.

**REPORT**

**Identification of the participant**

Nationality: ESTONIA

Functions: ordinary tasks of the Supreme Court judge of the administrative chamber

Length of service: 33 years as a judge in different court levels

**Identification of the exchange**

Hosting jurisdiction/institution: SUPREME COURT REPUBLIK OF SLOVENIA

City: LJUBLJANA

Country: SLOVENIA

Dates of the exchange: 26.10.-30.10.2015

**SUMMARY**

Through the ACA-Europe I had the opportunity to participate in the judges exchange program which took place in the Supreme Court of Slovenia and lasted for one week (26.10.-30.10.2015).

The main part of the program concentrated on becoming familiar with the organization of work of the Supreme Court. I learned that a well-organized Registry Department may play an important role in unification of court practice. The tour in Central Judicial Library was bodacious. I took part of deliberations and had discussions with judges and advisers of the Administrative Department.

I visited the Administrative Court of Slovenia and had discussions with judges of this court. It was interesting to listen to how the Slovenian judges interpret the right of action and to follow work of the different units of the court.
The exchange provided me a valuable first-hand experience.

ANNEX
GUIDELINES FOR DRAFTING THE REPORT

I- Programme of the exchange

The program prepared by my Slovenian colleagues was interesting. I attended the following activities:
- meeting with the head of the Administrative Department of the Supreme Court of the Republic of Slovenia, who gave an overview of the work of the Administrative Department and introduced us (I participated in the exchange program together with a colleague from the Turkish Council of State) to the judges and advisors of the Administrative Department;
- meeting with the judges of the Registry Department of the Supreme Court, this Department deals with data-processing of the records and gives their contribution to unification of the court practice;
- tour in the Central Judicial Library, there we became familiar with the functioning of the Library, its facilities and possibilities;
- attending the panel sessions of the Administrative Department, where the advisors present the cases to the panel;
- visit to the Administrative Court of Republic of Slovenia, where we got an overview of the work of this first instance court and the private database of the legal acts which the judges have access to.

II- The hosting institution

The uniform judicial system of the Republic of Slovenia includes courts of general and specialised jurisdiction. There are four levels of courts of general jurisdiction, three levels of courts which deal with labour and social security disputes and two levels of courts which deal with administrative cases.

The Administrative Court of Republic of Slovenia is a first instance court but has the status of a higher court.

The Supreme Court of the Republic of Slovenia is situated in Ljubljana. It is the highest appellate court in the state and acts primarily as a court of cassation. It is a court of appellate jurisdiction in criminal and civil cases, in commercial lawsuits, in cases of administrative review and in labour and social security disputes.

The Supreme Court is not empowered to decide upon matters relating to the confirmity of statutes, regulations and by-laws with the constitution and with international law, matters relating to complaints of breach of the constitution involving individual acts infringing human
rights and fundamental freedoms. These matters belong to the jurisdiction of the Constitutional Court.

The Supreme Court has six departments:
1. the Criminal Department
2. the Civil Department
3. the Commercial Lawsuits Department
4. the Labour and Social Security Disputes Department
5. the Administrative Review Department
6. the Registry Department

The Supreme Court has 27 judges. About 14 judges from district and local courts perform duties of advisors in different departments or work in the Registry Department as legal experts in keeping records of judicial practice. In the preparation and hearing of cases the judges are assisted by advisers. The Supreme Court has 50 advisers. There was only four judges in the Administrative Department during my visit because three of the Department’s judges had retired. The Administrative Department of the Supreme Court has jurisdiction to review first instance court judgements, to decide on jurisdictional disputes between administrative court and other courts and to decide on disputes connecting with elections.

The Slovenian Administrative Dispute Act makes distinction between an appeal and a revision. An appeal may be lodged against a ruling passed in an administrative dispute if the court itself established facts, which are different to those established by the defendant, and if it changed on the bases thereof the contested administrartive act, or if the court bans the continuation of an illegal action and adopts the remedies. The parties may file a request for revision against the lower court’s ruling when the value limit exceeds 20.000 euro, if the legal issue is of fundamental importance or if the decision that is being contested has very grave consequences for the party. The panel of the Supreme Court decides whether or not such revision is admissible and this decision can be brought before the Constitutional Court.

III- The law of the host country

I was interested in the organisation and functioning of the court system. There are about 850 judges in Slovenia. This number is quiet big (the population of Slovenia is approximately 2 million) even if it includes the judges who work for the Land Registry Department. Slovenia increased the number of judges by 200 after the European Court on Human Rights turned the state’s attention to the unreasonable time for solving cases. Of course the number of the pending cases fell quickly and the average time for solving cases as well. In the Supreme Court it is now 5,3 months. All so called old cases are still under special attention.

Anyway, the trend is to reduce the number of judges.

There are many small courts, only with two or three judges where there are not many possibilities to discuss legal matters with colleagues.
I learned that the Register Department plays an important role in unification of judicial practice and not only in keeping a well-organized internal database. In Slovenia, it is common that judges send legal questions to the Registry Department who forwards questions to other judges or to the Supreme Courts plenary session. Thereby the judges may communicate through the Registry Department and exchange their expertise. When the plenary session takes the legal question under consideration, their decision is binding only for the Supreme Court itself, but usually all other courts follow this interpretation of the law as well.

IV- The comparative law aspect in your exchange

Estonia and Slovenia are both small countries and don’t have a separate highest administrative court. In Estonia we don’t have separate constitutional court as well, the Supreme Court has the Constitutional Review Chamber. Slovenia has a two-level court system in administrative cases, in Estonia there are three-levels.
The number of judges in Estonia is smaller. We have only 231 judges (our population is 1,3 million). We use more legal advisers in first and second instance courts to manage with the big number of cases. As I understood Slovenia is going to do the same.

In Slovenia, the mandatory pre-court procedure in administrative disputes is a rule, in Estonia it is the exception. Usually the person in Estonia can bring action directly to the court.

In general we work in the same way – deliberations in a panel of three or five judges, very rare oral hearings, mostly written proceedings.

V- The European aspect of your exchange

I did not have the opportunity to observe the implementation of the law of the EU or European Convention on Human Rights, but I was introduced with the request for a preliminary ruling of the Supreme Court of Slovenia and judgement of the European Court of the Justice. This judgement concerns the interpretation of Articles 2(1), 14, 24 (1) and 90(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (C-209/14).

VI- Good Practice within the host jurisdiction.

I think the mandatory pre-court trial is useful because it gives the opportunity to skip one court level. We have in some cases even a four level system to solve the administrative disputes in Estonia. This is expensive and it takes too much time to solve a dispute.

VII- The benefits of the exchange

The entire program in the Supreme Court including the visit to the Administrative Court of Slovenia was very educative. It was a good experience and I gained many insights to improve my work. I have shared and will share my knowledge and experience obtained in Slovenia with my colleagues in different meetings and deliberations.
VIII- Suggestions

I have no particular suggestions for the program. All aspects of the training program were organized in a very good way. I appreciate very much that I was allowed to participate in this program and would like to express my sincere thanks to ACA-Europe and to the Supreme Court of Slovenia.