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- Questionnaire - Additional questions presented by the Commission
Services - Reply by LITHUANIA

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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SCH-EVAL 69
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NOTE

from : the Lithuanian delegation

to : the Schengen evaluation Working Party

No. prev. doc. : 6556/06 SCH-EVAL 24 COMIX 182

Subject : Schengen evaluation of the new Member States
- Questionnaire - Additional questions presented by the Commission Services -
Reply by LITHUANIA

Question 5 (p. 8, 9)

- *Have any of the illegal crossings of the sea border taken place outside BCPs?*

1 unauthorised crossing of the sea border was recorded in 2004; no such unauthorised sea border crossing were recorded in 2001 through 2003 nor in 2005.

- *Could you specify the estimated detection rate of illegal immigrants?*

Precise statistical data that could help provide an estimate of the rate of non-detected illegal immigrants is not available to the State Border Guard Service.

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- *Is the permit referred to in this question only issued to Lithuanian nationals or to third-country nationals as well?*

Persons wishing to access the state border guard zone, that is, to the strip of up to 1 km adjacent to the border line, must be in possession of a written permit issued by the State Border Guard Service. Such a permit may be issued to nationals of either Lithuania or other countries, including nationals of third countries.

Question 5 and 6 (p. 8, 11)

- *Could you please explain the relation between the number of illegal crossing for 2004 on page 8 and the number of illegal crossing for 2004 on page 11?*

Unauthorised border crossings in Q5, p. 8, include the following categories:

cases when traces of unauthorised border crossing were detected, but no person was apprehended;

cases when persons who had crossed the border in an unauthorised place were apprehended;

cases when persons who attempted to cross the border at a border crossing point while presenting a forged or another person's document were apprehended;

cases when persons who had crossed the border illegally were returned from the neighbouring countries.

It shall be noted that Q5, p. 8, deals only with cases of unauthorised border crossing (in a single case more than one person may be apprehended) while Q6, p. 11, provides the number of persons rather than that of cases. Furthermore, Q5, p. 8, lists all cases of unauthorised border crossing irrespective of offenders' nationality, while Q6, p. 11, lists only nationals of third countries.

The statistics in Q6, p. 11, are based on the following definition:

Illegal immigrants are nationals of third countries, who had illegally entered, and are illegally staying in, Lithuania, while

illegally entered means that they had illegally arrived to Lithuania as a result of either border crossing in an unauthorised place or travelling through a border crossing point and presenting forged or falsified documents; and

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illegally staying means that they had legally arrived to Lithuania with a valid visa, but overstayed or involved in an activity (e. g., got employed) not authorised under the visa they are in possession of.

Question 9

- *Does the Army have any role in the surveillance of the green border? If so, please specify the tasks carried out in that context and how cooperation with the Border Guard is ensured.*

During peacetime, the Army has no authority related to border surveillance nor to border checks, save that it only performs the function of airspace control (acting as air police). During the state of martial law or for the period of national defence (war), the State Border Guard Service (SBGS) is assigned and subordinated to the Armed Forces. When the State border guard measures need to be strengthened in extraordinary situations (provocations at the border or emergency), the Lithuanian President or the Minister of National Defence may order the Army to assist the SBGS.

Question 10 (p. 16)

- *Which BCP do not have the necessary 2nd line equipment for fully applying the Schengen rules?*

All border crossing points will be, by July 2006, fully provided with forgery detection equipment along with the Council Recommendation of 28 May 1998 on the provision of forgery detection equipment at ports of entry to the European Union (98/C 189/02).

Question 11 (p. 16/17)

- *Are there radars for the surveillance of the sea border? What is the coverage of the monitoring of the sea border?*

The State Border Guard Service (SBGS) itself operates only one radar station (model: Anritsu RA 725UA, year of production: 1994, power: 5 kW), which is deployed at a stationary surveillance site (approximately 5 km from the State border between Lithuania and Latvia). This radar station provides coverage of up to 12 nautical miles regarding oil tankers and up to 4 nautical miles regarding yachts. Information on targets is communicated by radio.

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For the surveillance of the sea border, the SBGS uses the radar system operated by the Navy. The Navy's 3 radar stations are situated in Palanga, Melnrage and Nida, and the radar data are transmitted through radio links to the Naval and Coastal Surveillance System Control Centre located at the Navy Headquarters. The SBGS and Customs a round-the-clock basis each have 1 person present at the Control Centre, together with military operators. The SBGS officer transmits information on ships down the line of communication, to desk officers at the SBGS's Coast Guard District and stations.

Major features of the Terma Radars System:

Target detection ranges (in nautical miles):

- freight ship, displacement under 5,000 tons – 25;
- medium fishing boats – 17;
- ships, displacement under 200 tons – 15;
- small floating targets – 5;
- small targets (boats) – 2;
- low-flying targets – 17.

The programme for appropriation of the Schengen Facility, which was approved by the Government Resolution No. 389 of 7 April 2005, provides for a project on the deployment of equipment for surveillance of the territorial and frontier waters in the Baltic Sea and the Curonian Lagoon. The project is worth LTL 32 million and, when implemented, will see surveillance posts constructed at the coast of the sea and lagoon for radio location and visual observation with regard to the territorial sea and the State border between Lithuania and Russia in the Curonian Lagoon. The system will be operated by the SBGS. The procurement procedure is in progress.

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Question 16 (p. 19)

- *Are the Police and Customs authorities involved in the check of persons at BCPs as well as in border surveillance? If so, in which cases and which specific tasks do they carry out?*

The State Border Guard Service (SBGS) is the only authority responsible for surveillance of the land and sea borders and border checks at all (motorway, railway, air, sea or river) types of border crossing points. The Police has no authority with regard to border checks at border crossing points. The Customs at border crossing points is only responsible for customs checks (control of goods) in respect of persons crossing the border.

A tripartite inter-agency co-operation agreement provides for a possibility of deploying, in the frontier zone that is a strip of up to 5 km adjacent to the border, joint patrols comprising SBGS, Customs and Police, or only SBGS and Customs, or only SBGS and Police, officials. During joint patrolling, the official of each agency performs only the tasks that fall within the scope of authority they enjoy as representatives of a specific agency.

Question 31 (p. 29)

- *Which organizational methods are used to ensure the effective check on persons and crews travelling in private aircrafts?*

According to the national law, the air traffic control service of a respective airport is obliged to supply information on a private aircraft landed at the border crossing points to the State Border Guard Service (SBGS) and Customs.

SBGS officers meet private aircraft at the ramp; if necessary, aircraft is checked. The check is conducted by SBGS officers (with regard to clandestine persons) and Customs officials (with regard to carried goods). Border and customs checks of the persons and crew travelling by private aircraft are conducted according a general rule: the arriving persons are checked at an arrival terminal and the departing persons at the departures terminal. The persons and crew travelling by a private aircraft are transported from aircraft to the terminal or otherwise by a ground services company while accompanied or visually controlled by SBGS personnel.

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Additional clarification - Visa:

- **69. Do you require travel medical insurance also from nationals of third countries listed in Annex II of Council Regulation 539/2001?**

The above mentioned Council Decision No. 2004/17/EC was implemented by the Law of the Republic of Lithuania No. IX-2206 on the Legal Status of an Alien of 29 April 2004 (came into force on 30 April 2004).

On 6 March 2005, the Resolution of the Government of the Republic of Lithuania No. 230 approving the General Description of Health Insurance Procedure in Respect of Aliens came into force, specifying the implementation of health insurance procedure.

All the provisions from Council Decision 2004/17/EC have been fully adopted by the above mentioned acts of law.

According to the Resolution of the Government of the Republic of Lithuania No. 230 aliens of third countries which are exempted from the requirement to be in possession of a visa when crossing the border should be in the possession of valid travel medical insurance and this document may be requested by the officers of the State border guard service when an alien crosses the border.

- **72. Do you give the grounds for refusal in case of family members of EU citizens?**

Yes, if a family member of an EU citizen officially requests for the grounds of visa refusal, the consular officers or migrations services of the Republic of Lithuania consider the possibility for the disclosing the grounds and usually present adequate answers.

As a general rule, according to the Law of the Republic of Lithuania No. IX-2206 on the Legal Status of an Alien (Article 136-140) there is a formal procedure for the appeal of the decision to refuse a visa. The decision to refuse a visa can be revoked by the decision of the Administrative Court of Lithuania.

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➤ *73. Do you issue visas free of charge to citizens of third countries on the basis of nationality?*

Several bilateral agreements of the Republic of Lithuania establish that the visas for the citizens of certain states can be issued free of charge:

- According to the Agreement between the Government of the Republic of Lithuania and the Government of the Russian Federation on the travels of the citizens from both states (Official Gazette, 2003, No. 1-2) visas free of charge are issued to the citizens of Russian Federation, residing in Kaliningrad Region;
- According to the Agreement between the Government of the Republic of Lithuania and the Chamber of Ministers of Ukraine on the travels of the citizens (Official Gazette, 2004, No. 92-3351) visas free of charge are issued to the citizens of Ukraine;
- According to the Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Moldova on the travels of the citizens (Official Gazette, 2005, No. 85-3145) visas free of charge are issued to the citizens of Moldova.

The above-mentioned agreements shall be renegotiated or denounced by the accession of Lithuania to Schengen.

➤ *75. Do you issue visas at the border to family members of Union citizens?*

Taking into account the judgment of the Court of Justices in the Case C-459/99, visas at the border may be issued to third country nationals family members of Union citizens if they are able to prove they identity and the conjugal ties and there is no evidence to establish that they represent a risk to the requirements of public policy, public security or public health.

Annex 5

➤ *How many visas were issued at the sea border? (and out of them, how many to seafarers?).*

The numbers of visas issued at the sea border:

in 2003: 1,280 visas, of these 1,250 issued to seafarers; and

in 2004: 981 visas, of these 927 issued to seafarers.

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Additional questions -Visa:

➤ *Are your diplomatic missions and consular posts empowered to issue residence permits?*

According to the Law of the Republic of Lithuania No. IX-2206 On the Legal Status of an Alien (article 28(2)) an alien who applies for the issue of a residence permit for the first time shall lodge an application for the issue of a residence permit to a diplomatic mission or consular post of the Republic of Lithuania abroad. In this case, diplomatic missions only receive all required documents and forward them to the Migration Department under the Ministry of Interior of the Republic of Lithuania, where all decisions shall be made. After the decision on issue a residence permit is taken, the Migration Department informs the diplomatic mission concerned to issue to an alien a long term visa to enter the country for the execution of the residence permit. Above mentioned provisions apply only to aliens of third countries, which are not exempted from the requirement to be in possession of a visa to enter the country.

➤ *Please describe the practice followed when issuing visas to applicants who are non-residents in the country where they lodge their application?*

According to the rules for submission of visa application and corresponding documents, conditions governing the issue of visas, issue of visas at border crossing points, extending the period of stay being in possession of a visa, grounds for refusing the issue of a visa, approved by the order of the Minister of the Interior and Minister of Foreign Affairs No. IV-280/V-109 of 2 September 2004, the foreign citizens can apply for a visa in any embassy of the Republic of Lithuania in case there is no Lithuanian embassy in his country of origin.

The third country nationals which are non-residents in the country where they lodge their applications, are obliged to provide the documents, proving their legal status in the country.

Visas are not issued to those third country nationals, who reside illegally.

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- *Please describe the practice followed when issuing visas to holders of travel documents which you do not recognise?*

When a visa applicant presents a travel document, which the Republic of Lithuania does not recognise, and if the document does not satisfy the EU document security standards, the consular officer may issue a visa using the a unified format form for affixing the visa, according to the provisions of the EU Council Regulation No. 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form.

When a visa applicant presents a travel document, which the Republic of Lithuania does not recognise, but if that document, on the contrary, satisfies EU document security standards, the procedure of “one-time recognition” can be applied. That procedure is implemented according to the Order of the Minister of Foreign Affairs and Minister of Interior No. 9/1V-16 of 19 January 2004 on approval of list of travel documents, valid for the entry into the Republic of Lithuania and the rules for the recognition.

Using the above mentioned procedure, the consular or border guard officers may accept the travel document (“one-time recognition”) which is not yet recognised for the entry to Lithuania, beginning the procedure of legal incorporation of the document into the list of travel documents, which are accepted for the entry into Lithuania. Afterwards, the document can be added to the list by the decision of a specific working group, established by to the same Order. The work group meetings are held every six months.
