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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 147
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REPORT

from : Evaluation Committee

to: Schengen Evaluation Working Party

Subject : Draft report on the Evaluation Committee's mission to the **Embassy - Consulate Section - of Slovakia in Kiev** in the context of Slovakia preparations for the full implementation of the Schengen acquis (Time of visit: June 2006)

Delegations will find attached the draft report of the Schengen Evaluation mission to the Embassy - Consulate Section - of Slovakia in Kiev, drafted by the Evaluation Committee (Annex II) (hereinafter *EvalCom*). It is presented to the Sch-Eval Working Party for discussion and adoption, allowing for its eventual submission to the Council.

Comments of the Slovakian authorities are set out in footnotes.

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Introduction: General context

Ukraine covers an area of 603 700 km². The country has 47 million inhabitants, 78 % of whom are Ukrainian and 17 % Russian, the remaining 5 % being nationals of Belarus and Moldova. The capital, Kyiv, has 2,6 million inhabitants. The official language is Ukrainian, but Russian is still widely spoken, especially in the east and south of the country.

Ukraine became independent on 24 August 1991. The 2004 presidential election triggered a strong popular movement (the "Orange Revolution") which brought the democratic opposition leader to power. The March 2006 general election gave the advantage to the supporters of the former Prime Minister but at the time of the evaluation mission a government had not yet been formed.

The country is 70th in the world ranking of developed countries (2004 UNDP Human Development Index). The per capita GDP is USD 970 (the average in the EU was USD 28 500 in 2005). The official rate of unemployment is 4 %, but according to the ILO it is nearer 11-12 %. Since 2000, the Ukrainian economy has registered a steady growth rate of 8 % per year on average.

The main problems facing the Schengen States ¹ visa services in Kiev are:

- managing migration risk and possible misuse of visas:

There is a substantial risk of illegal immigration to the Schengen area (cf. the monthly CIREFI reports), and the risks of visa misuse are real: given the differences in wage levels, a person can, in a month of illegally working in certain European countries, earn as much as in a year in Ukraine. The risk is especially high in the case of workers on building sites and farms and in nursing. The real, concealed reason for travelling to Europe may also be to contract a marriage or obtain medical treatment.

- detecting document fraud:

Document fraud is widespread but seems to be confined to non-secure documents (employer's certificates, various invitations, etc.). Few falsified official documents (international or internal passports, deeds of ownership, etc.) have been detected, and the quality of the forgery of those that have been detected has been very high.

- the internal passport

As a general rule, the Ukrainian internal passport is issued once in a lifetime (only the photo is regularly changed) and rarely forged or issued out of convenience. This document is very useful as a "supporting document" because the international passports issued to a Ukrainian citizen are listed in it and thus the frequency of the change of passports can be verified.

¹ In this context "Schengen States" refers to the States applying the Schengen acquis in full.

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– dealing with invitations of convenience:

False invitations are commonplace but often easy to detect owing to conspicuous errors (spelling errors, incorrect geographic locations, etc.).

However, it is hard for consular services to do anything about invitations of convenience that are formally authentic but conceal the real purpose of the applicant's stay. Additional documents often have to be requested to prove the purpose of the trip (for example, receipts and evidence of customs clearance for products previously purchased may be requested for business trips).

– managing tourist flows:

Most European consular representations have introduced a procedure for accrediting local travel agencies so that visa applicants wishing to visit an European country as tourists are spared the need to appear in person. To guard against abuses, a system of accrediting the agencies' representatives (who are issued with badges including photos) has also been introduced in most cases. Agencies are penalised for any shortcomings in the handling of applications. Moreover, it does happen that travel agencies submit applications (for a fee) for the sole purpose of sparing the applicant the need to appear in person.

- security situation

Ensuring the security of the premises and of the staff: the risk of pressure on the staff of the visa sections is a matter of concern as it may lead to irregular issuance of visas. This risk is not only hypothetical in Kiev. The physical security of the staff and of the stickers must also be taken into account.

Conclusion

It appears that the processing of visa applications requires considerable vigilance in both the detection of false documents and the investigation of the applicants' real situation. Decision-making thus requires a systematic and thorough examination of a range of evidence proving the actual purpose of the planned stay. Individual in depth interviews are also necessary whenever there is doubt as to the applicants' intentions.

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Management summary

EvalCom considers, on the basis of the checks carried out and the information gathered, that the Slovak Republic, as far as its Embassy in Kiev is concerned, may be in a position to implement the Schengen Acquis in full in due course provided that substantial efforts are made to establish an integrated visa processing system which is a precondition for an effective and secure visa issuing process.

In addition, EvalCom wishes to comment on certain points which merit special attention or reviewing by the Slovak authorities in order for the Slovak Republic to achieve this objective:

- reinforcement of the security of the premises;
- ensuring personal appearance of visa applicants as the basic rule;
- more attention should be given to assessing individual applications, incl. risk of illegal immigration and misuse of visa;
- the system for keeping track of visa stickers should be modified;
- denunciation in due time of the bilateral agreement with Ukraine on waiver of handling fees (to which steps have already been taken).

1. ACCESS TO THE CONSULATE

1.1. Location and opening hours

The consular section of the Embassy of the Slovak Republic in Kiev is situated centrally in a separate building from the embassy on the upper ground floor. The main entry to the building is shared with other occupants. There are two staff entrances to the premises of the consular section from the internal corridor of the building. Applicants enter via the courtyard which also serves as a passage of cars to a parking lot.

Visa applications can be submitted from Monday to Friday, 9 - 12. Passports are returned Monday - Friday from 14.00 - 14.30. The entry to the waiting room is situated in a backyard. It is difficult for the public to locate the consular section's entrance as there are no apparent indications outside.

EvalCom comments and recommendations

Measures should be taken to clearly indicate that this is the consular section of the Slovak Republic and the public must be guided to the appropriate entrance.

Measures should also be taken to protect applicants against bad weather conditions.²

² Comments of the Slovak Republic: The Slovak Republic would like to inform that measures will be taken and the Consular Section's entrance will be indicated by additional signposts pointing out the way to the backyard entrance used by clients.

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1.2. Information

Information is provided by phone by an Ukrainian secretary, on the web-page, information board of the consular section (inside and outside) and can be requested by e-mail and letter/fax. Information is available in Slovak, Ukrainian, Russian and English, and on the web-site in Slovak, and Russian (<http://www.mfa.sk/zu/index/podstranka.php?id=764>).

1.3. Application form

Application forms are available in Slovak, Russian, English, French, German and Spanish . The visa application forms are provided free of charge at the entrance (by the security guard outside the building), inside the waiting room and at the Embassy's web site

EvalCom was informed that application forms are also available at the main offices of travel agencies and international transport companies

The content and layout to the uniform application form corresponds to the uniform format set out in Annex 12 to the CCI. However, the asterisk concerning boxes 19-20-28-30 to 36 only refers to family members of the Slovak Republic. The reference in box 44 to "Schengen States" has been replaced by "the Slovakia Republic".

EvalCom comments and recommendations

The exemption from giving the information referred to in boxes 19-20-28-30 to 36 of the application form results from the obligation to grant every facility to family members of EU citizens as provided for by Directive 2004/38/EC³ which is binding from the date of accession.⁴

1.4. Access management

The offices of the visa section are separated from the area dedicated to applicants by a security door. In front of the applicants' entrance there is a camera and a video door opener. A security officer (private Ukrainian security company) supervises applicants' movement and carries out security control of them by means of a portable metal detector. There is no metal detector arch. The entry corridor, a combined waiting and counter room with 5 counters, of which one is the cashier, are dedicated to receiving applicants. Three of the counters were open at the time of the evaluation visit for receiving applications. There is a separate waiting room only for visitors from other diplomatic missions, Ukrainian authorities, Slovak citizens and VIPs. Visa applicants are attended to at counters with discretion zones clearly marked in front of each counter. The counters are equipped with intercom systems.

The combined waiting room/counter room is equipped with 2 chairs, 1 desk and several wall desks for filling in application forms. Notice boards display information on visas and fees.

³ Directive 2004/38/EC of the European Parliament and of the Council of 29.4.2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC ,OJ L 158, 30.4.2004:

⁴ Comments of the Slovak Republic: The application will be amended

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Applicants are dealt with on a first come first served basis and EvalCom was informed that queuing rarely occurs. The reception of travel agencies is regulated by the consular section, i.e. travel agencies must call and obtain an appointment in advance.

2. SECURITY FEATURES OF THE BUILDING

2.1. Outside the building

All entrances to the consular section are equipped by a video door opener. EvalCom was informed that the public access to the consular section is always closed but during the visit it remained open. All the windows of the consular section are barred, but the bars mainly serve an aesthetic purpose. Outdoor control during working hours is carried out by a Ukrainian police officer. EvalCom was informed that the premises of the consular post are security controlled by moto-patrol. Outside the building in the courtyard there is one camera. The images are permanently shown at the vice-consul's and consuls office pc's as well as at a specific screen in the visa section. Images are recorded and kept for 2-4 weeks. Even though the images are not sent to the MFA, they can be downloaded by the Ministry if need be.

EvalCom comments and recommendations

EvalCom recommends that measures be taken to enhance the protection of the windows. Furthermore, it is recommended that applicants pass through a metal detector arch. ⁵

2.2. Inside the building

The premises of the consular section are under an electronic alarm system based on motion sensors. During work hours the police officer on duty is in charge of taking action if the alarm is activated. After hours, the alarm is connected to the consul's mobile phone.

Counters (on the side of consular staff) are equipped with an alarm button for emergency cases. Glass at the counters is bullet-proof and equipped with special movable device for passing of A-4 format documents.

There are four cameras inside the building (2 at the visa section and 2 at the applicants' premises). The images are shown and recorded in the same manner as from the outside cameras as described above.

⁵ Comment by Slovak Republic: The Embassy of the Slovak Republic in Kiev will initiate negotiations with the proprietor in order to find out solution. As the premises of the consular section are not the property of the Slovak Republic, any construction work including protection of the windows has to be discussed, approved and provided by the proprietor. Purchase of metal detector arches for Slovak consular posts is being already planned in the forthcoming financial year 2007 and accordingly the detector arches will be distributed to Consular Section of the Embassy in Kiev as well.

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EvalCom comments and recommendations

EvalCom recommends that the premises are protected by an on-line alarm system after work hours.⁶

3. SUBMISSION OF APPLICATIONS

3.1. Description of procedure

The applicant must submit his/her application personally. The following categories are exempted from this requirement: bona fide applicants, minors, persons travelling in organised tours carried out by accredited travel agencies or cultural and sport undertakings - tour leader must be specified on list of participants (having power of attorney). When children are travelling without both parents, parental authorisation must be given, and if they travel only with one parent, the other must give his/her consent. Applications from Ukrainian citizens may be submitted by a third-party, provided that this person has a certified (by a notary) power of attorney. A copy of the power of attorney is kept in the files.

EvalCom was informed that in peak season (winter season) 80% of all applications are submitted by travel agencies, as compared to 30% at other times of the year.

The application form is pre-checked by the Ukrainian security officer at the clients' entrance into the consular post, i.e. it is made sure that the form has been filled in properly. The applicant chooses the first available counter to hand in the application and (in case the administrative fee is applicable), the file is returned to the applicant who then pays the fee at a separate counter. The applicant receives a receipt indicating that the fee is not refundable in case of refusal. Then the applicant returns to the previous counter, where expatriate and local staff checks the application, travel document (authenticity and validity) and all supporting documents regarding the purpose and conditions of stay in Slovakia. Consular staff also checks previous visas (Slovak and others) and entry and exit stamps. The applicant receives a receipt (indicating the date where the passport can be picked up (issuing time is five days), and the name of the person who submitted the application). Another "receipt" is attached to the file, indicating the name of the applicant, number of passport, type visa applied for, date of submission and date for picking up the passports.

At this stage the stamp indicating that an application has been lodged is put into the passport.

⁶ Comment by Slovak Republic: The Embassy of the Slovak Republic in Kiev will take necessary steps and will initiate negotiations with private security company as well as with Ukrainian police in order to verify the possibility to make arrangements related to on-line alarm system to protect the premises.

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EvalCom comments and recommendations

EvalCom recalls the importance of the basic rule of personal appearance (set out in the CCI, Part III, section 4 and Part V, 3rd paragraph) and recommends caution when exemptions from this rule are introduced.⁷

3.2. Nationality of applicants

The vast majority of applicants are Ukrainian citizens (99,31%). The remaining are mainly Russian nationals (in 2006 0,4% of "C" visas and 0,8 of "B" visas were issued to Russian nationals).

Non-Ukrainian citizens must appear in person and prove the legality of his/her stay in Ukraine. Normally this means the possession of a resident permit, and only in exceptional cases a visa is sufficient proof.

3.3 Particular rules applying to nationals from certain third countries.

Nationals, whether residents in Ukraine or not, who are listed on either of the two lists, referred in point 4.2.1 below, must apply for a visa at the Slovak embassy accredited to their country of origin.

EvalCom comments and recommendations

The restrictive rules described in 3.3 may lead to visa shopping. Attention is drawn to the fact that the CCI does not contain any provisions preventing third country nationals from applying for a visa in their country of legal residence.⁸

3.4 Possibility of future representation under the provisions of CCI (Part II, section 1.2)

According to current national legislation, another Member State could on the basis of an international agreement represent the Slovak Republic for the purpose of issuing visa allowing for the entry into the Slovak Republic. However, in order for the Slovak Republic to represent another Member State for the purpose of issuing visas, the legislation would have to be amended.

EvalCom comments and recommendations

Measures should be taken to permit the Slovak Republic to represent other member States once the Slovak Republic will apply the Schengen acquis in full.

⁷ Comment by the Slovak Republic: The Slovak Republic would like to inform that the exemption from personal appearance is mostly related to bona-fide persons, applicants represented by travel agencies and minors. Nevertheless, the Consular Department of MFA will instruct all Slovak diplomatic missions and consular posts to allow exemptions from personal appearance only in exceptional cases when no doubts occur (well-known, reputable and trustworthy person, applicants lodging their applications through accredited travel agency in case of organized tours). In case of any doubts, applicant is due to come for personal interview.

⁸ Comment by the Slovak Republic: The practice will be changed to match the situation when applying the Schengen acquis in full.

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3.5 Processing of applications from 3rd country nationals holding a non-recognized travel document

Since 15.4.2004, Slovak consular missions use the separate sheet for affixing a visa (Regulation 333/2002) when the applicant's travel document is not recognised by the Slovak Republic, the most common being TD UNMIK and series "S" of Iraqi passports. In practice the form is thus only used in the Balkan region for TD UNMIK and diplomatic mission in Bagdad. If the visa applicant submits a travel document not recognised as valid for entry on the territory of the Slovak Republic, the prior approval of Office of Border and Alien Police (UHCP P PZ) is required.

EvalCom comments and recommendations

EvalCom recalls that when applying the Schengen acquis in full, the Slovak Republic should be aware of the rules applicable when other Member States do not recognise a given travel document.

3.6 Administrative fee

Currently Ukrainian citizens do not pay any fee when applying for a visa. This waiver is limited in time and will expire once the Slovak Republic applies the Schengen acquis in full. From that date, the handling fee, as provided for in Annex 12 to the CCI will be introduced.

Nationals from other third countries pay fees (in cash in USD) in accordance with Slovak legislation (on average 1 applicant a day).

EvalCom comments and recommendations

EvalCom recalls that bilateral agreements on waivering of the handling fee (not covered by EU agreements) must be denounced upon application of the Schengen acquis in full, and acknowledges that steps have been taken to meet this requirement.

Attention is drawn to the fact that the present organisation and work flow cannot be maintained, in particular in relation to the collection of the handling fee from all applicants, once the Slovak Republic will apply the Schengen acquis in full.

3.7 Cooperation with travel agencies

EvalCom was informed that visa formalities have been described twice a year by consular staff at a tourist fair in Kiev. For the time being 140 travel agencies are accredited.

The consular section manages its own register of Ukrainian travel agencies. In order to be accredited, a travel agency must present the following documents:

- valid licence on performance of tourist services;
- valid agreement concluded with a Slovak travel agency or hotel;
- current extract/record of the Slovak travel agency from the business register;
- document signed by the agency's legal representative, which delegates a competent person to apply for Slovak visas on behalf of the agency's clients.

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If necessary, additional supporting documents are requested. Original copies of vouchers of Slovak travel agency are usually requested in order to avoid falsification of vouchers, as well as specimen of the competent persons' signature.

Accredited/registered Ukrainian travel agencies receive badges for specific employees allowing him/her to submit visa applications on behalf of clients. Since February 2006 couriers must present badges with photo.

In case of misuse, the accreditation is withdrawn and the consulate informs the travel agency by letter, without indicating the reasons for withdrawal. Thirteen travel agencies have been blacklisted so far.

Information on travel agencies blacklisted by other Member States is received, but is not exploited as it generally concerns agencies, who do not organise trips to the Slovak Republic, where the main purpose of tourism is winter sports.

EvalCom was informed that random checks of individual travellers are carried out through police authorities in the Slovak Republic. Some of the tourists and travel agencies are asked, after return from Slovakia, to submit travel documents to the consulate in order to check the length/period of stay and entry and exist stamps. These checks are done at random. If abuse is detected the holder of the visa is entered into the local black list.

EvalCom comments and recommendations

EvalCom notes that the system for accreditation of travel agencies seems satisfactory, but it is recommended that information from other Member States be taken properly into account.

4. PROCESSING THE APPLICATION

4.1. Lodging and examination of an application

The application is checked at the counter to verify data and purpose of stay in the Slovak Republic (see also point 3.1). The staff at the counter may seek advice from the vice-consuls while assessing the application.

Applications are then taken to another office where the authenticity of the travel documents is checked. No proof that such a check has been carried out is indicated on the application form. Subsequently the file is brought to one of the vice-consuls or the consul who manually check it against the central and local black lists.

During the examination it is verified whether additional supporting documents are required and whether the applicant must come for an interview. The consultation described below are carried out at this stage.

Data are entered into the computer system only after the final decision has been taken by the consul either to refuse or grant the visa (i.e. the validity of visa and the length of stay is entered). While entering the data, the number of the application and the number of the visa sticker are entered into the database.

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All previous Slovak visa stickers - including expired ones - are annulled by a stamp when a new visa is applied for.

4.1.1 Interview

There is no separate interview room. Interviews are carried out in the general reception room. The "counter staff" may also suggest that an interview must be carried out (in such cases the applicant is invited to come back later). EvalCom was informed that on average, there are 1-2 interviews per day. In the summertime more interviews are carried out, as it is judged that there is higher risk of illegal immigration in summer season (in the winter season most applicants are tourists).

EvalCom comments and recommendations

EvalCom fails to understand the added value of the "annulation" stamp and draws the attention to the fact that the CCI does not contain any provisions to this effect. Moreover, the presence of such a stamp might create problems for the holder of the passport.⁹

EvalCom recalls that interviews are essential to the risk-analysis related to illegal immigration and other forms of misuse of visas. The privacy of applicants should be provided for during interviews. EvalCom recommends that interviews are conducted in a separate secure interview room.¹⁰

4.2. Consultations

4.2.1. Consultation of central authorities

The central authorities' list of third countries for which consultation of central authorities is required is composed by two categories of third countries: one group of 21 third countries (plus 5 Russian Federation Republics) (based on security risk) and a second group of 78 third countries (based on migratory risk). Some third countries are in both groups. It should be noted that consultation must also be carried out for Ukrainian nationals born in one of the countries on the central authorities' "consultation list". (Neither Ukraine, Russia nor Belarus are listed on the "consultation list", and as a consequence the consultation procedure does not apply to 99 % of the applicants in Kiev).

During the processing of the application, the present and past nationality of the applicant is examined in order to establish whether consultation is required. The consultation is not integrated into the "visa processing system" but is conducted by means of a special form sent by e-mail (via an encrypted line) to central authorities using a separate pc.

⁹ Comment from the Slovak Republic: The Slovak Republic would like to inform that measures will be taken in the manner that Consular Department of the MFA of the Slovak Republic will prepare a new instruction referring to the expired visa stickers. As per the new instruction the visa sticker will no more be annulled by a stamp.

¹⁰ Comment from the Slovak Republic: The Embassy of the Slovak Republic will initiate a negotiation with the proprietor of the building in order to verify the possibility to make some construction changes and build a separate secure room for interview

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4.2.2. National and local "black" lists

There are two "black" lists - a national one (containing 10.000 names) and a local one consisting of the names of applicants refused at Slovak consulates in Kiev and in Uzhorod, information from other Member States' consulates and Ukrainian authorities (containing currently 1.700 names). Both lists are consulted manually using an Excel table. The local "black" list is updated by either the consul or the 2 vice consuls and copies are circulated internally.

The consul manually checks against both lists before handing the application file over to the person who will enter the basic data from the application form into the "visa system". However, the national "black" list is automatically re-checked during this process.

Every two weeks the national "black" list is updated. However, EvalCom was informed that every month, 1-2 visas are cancelled at the border, because the holder has been blacklisted after the issuance of the visa.

The two lists are in "Excel" format, meaning that they could be modified accidentally and may be printed integrally. The "Excel" format does not allow for neither automatic nor phonetic checks. It is possible to check both lists without a link to an application and it is possible to check the lists on the basis of date of birth.

Being listed on the local list does not automatically mean that the applicant is refused when submitting a new application, whereas persons listed on the national list are refused automatically.

EvalCom comments and recommendations

There is presently no integrated visa processing computer system. That means, i.a. that consultation of central authorities are performed separately. There are no technical safeguards against issuing a visa despite a negative reply from central authorities or a match against the national black list.

EvalCom is concerned that the current system would not prevent the Slovak Republic, when applying the Schengen acquis in full, from issuing visas to nationals listed in the Schengen Information System or in Annex 5B to the CCI.

The lack of an integrated visa processing computer system also makes it difficult to check the history of the workflow and to trace the history of the applicant electronically.

The duplication of tasks means loss of efficiency and increases the risk of errors because of the need to enter the data several times.

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EvalCom was informed that a new electronical visa management system is being developed. This development is encouraged. ¹¹

EvalCom has noted the high number of countries entered on the national consultation list as compared to the total number of countries referred to in Annex 5 of the CCI. ¹²

4.3. Supporting documents

According to information available to EvalCom, the applicant must present the following documents depending on the purpose of their stay:

- a) Private visit: a notary verified invitation ¹³ letter from a person legally residing in the Slovak Republic. Ticket/Vehicle certificate of registration, Ukrainian labour book (i.e. proof of employment)
- b) Tourism: hotel booking, voucher, invitation (not verified by the Office on Aliens Police), ticket, labour book, in case of minors - notary verified consent of parents;
- c) Official or Business: notary verified business licence/registration of Ukraine company, extract/record from business register of Slovak partner, agreement on co-operation between Ukraine and Slovak company, letter of the Ukrainian company asking for granting visa for concrete employee, invitation letter written by the Slovak partner;
- d) TIR drivers: notary verified business licence/registration of Ukraine employer, extract/record from business register of Ukraine employer, extract/record from business register of Slovak partner, agreement between Ukraine and Slovak companies, labour book, and driving licence, letter of the Ukrainian company asking for granting visa. The consular section has a list of registered Ukrainian international transport companies and a list of their drivers.
- e) Travel agencies, see part 3.7.

The following categories must in addition present the Ukrainian internal passport: first time applicants, applicants with new passports or who hold more than one passport, lorry drivers, bus drivers, crew of trains, persons who apply for multiple entry visas and persons giving rise to particular doubt.

¹¹ Comment by the Slovak Republic (related to all EvalCom comments in this chapter): The Slovak Republic is currently developing a new integrated computer system for processing visa application. This system will include photo on the visa sticker, MRZ will be in compliance with CCI, integrated consultation system with Central Visa Authority, visa stickers management. This system will be compatible with new Visa Information System built up by EU. We are currently performing extensive testing of our new national visa information system. According to our plan we will start to install a new visa system to the embassies at the end of this year.

¹² Comment by the Slovak Republic: this list will be amended by the time SK will apply the Schengen acquis in full

¹³ Ukrainians are not required to be in possession of an invitation.

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4.3.1 Proof of invitation, sponsorship and accommodation

According to national law, non Ukrainian applicants must be in possession of an invitation verified by the local alien police authority or by proof of pre-paid services (voucher, invitation is submitted in person and by the inviting person on an official form. This form, which can be obtained from the local alien police authority, contains information on person inviting, person invited, reason of the journey and obligation of person invited that he/she will cover the costs related to stay and return journey of alien.

The registration number on the official form, is checked against central authorities' list (EvalCom was informed that this lists is updated every 2 weeks) ¹⁴ of applicants invited on this basis.

4.3.2 Travel Medical Insurance (TMI)

Applicants applying for multiple entry short-stay visa or multiple transit visa must present an international medical insurance valid on the territory of the Slovak Republic for the period of validity of the visa, covering expenses of minimum 30 000 EURO. The proof of medical insurance policy is presented upon submission of the application. Upon request, the proof of TMI may be checked at the border.

EvalCom comments and recommendations

Even though officially all of the documents referred to in 4.3 are required (depending on the purpose of stay), a random check of files carried out by EvalCom could not confirm that the practice corresponds to the requirements. ¹⁵

EvalCom does not immediately see the grounds for limiting the categories of applicants who must present the Ukrainian internal passport. ¹⁶

Even though the Schengen acquis does not require applicants to present an officially certified invitation, the Slovak Republic should be aware that when applying the Schengen acquis in full, applicants will have to provide proof of purpose of stay, means of subsistence and accommodation. ¹⁷

¹⁴ Comment by the Slovak Republic: this list is updated every 2-3 days.

¹⁵ Comment by the Slovak Republic: The random check of files, especially those visa applications that have been lodged in the past, might not be in correspondence with currently required documents by Consular Section in Kiev. Nowadays, the documents mentioned in 4.3. have to be presented by visa applicants according to the purpose of stay in the Slovak Republic.

¹⁶ Comment by the Slovak Republic: The Ukrainian internal passport will in the future be requested from all visa applicants as one of the required documents.

¹⁷ Comment by the Slovak Republic: As regards the obligation to submit the proof of purpose of stay, means of subsistence and accommodation, this is required by Slovak Republic at present in the cases of certain third countries, listed on migratory risk list (invitation verified by police authority which will be part of annex 15 of CCI). In the other cases is this proof (no need for police verification) asked according to purpose of the stay. For example in the case of sport or cultural undertakings this proof (annex 15 CCI) can not be asked for and the confirmation of the organizer should be sufficient. Slovak Republic will align all the necessary steps concerning supporting documents with the requirements of the Schengen

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EvalCom recalls that TMI, as clarified by the Guidelines ¹⁸, is required for short stay visas irrespective of number of entries and not for transit visas. ¹⁹

5. TYPES OF VISA ISSUED

Airport transit visas, "A", have not been issued yet. Transit visas, "B", are granted for one-way, two-ways or multiple transits according to the type and validity of country destination visa. Short-stay visas, "C", are granted for one entry, two entries or multiple entries, mainly for tourist, official/business purpose, visits, cultural and sport undertakings. The maximum validity of multiple entry visa is six months.

Visas "B" and "C" can be issued as group visas, in case of organised tours or participation at cultural events but due to the visa fee exemption such visas are not issued.

EvalCom comments and recommendations

It is recalled that the CCI allow for the issuance of B and C visas with a validity of up to five years

EvalCom note

It is recalled and in addition under Directive 2004/38/EC Member States have to grant every facility in issuing visas to family members of EU citizens, which includes the issuance of visas with a long period validity for this category of persons. ²⁰

6. ISSUANCE OF VISAS

6.1. Printing and affixing of stickers

After the printing of visa sticker, expatriate or local staff - different from the one who printed the sticker - checks the data printed on the visa sticker, comparing to the data in the passport. The visa sticker is affixed in the passport covering the "application" stamp. The visa sticker is finally stamped and signed by the consul or the vice-consuls.

EvalCom was informed that there are possible remarks that can be entered into the "comments" section of the visa sticker. A remark, when applicable, is typed each time, i.e. it is not a closed list integrated into the visa system.

Visas with integrated photo are planned to be introduced from end of 2006.

¹⁸ 9654/06 VISA 137 COMIX 482

¹⁹ Comment by the Slovak Republic: The Consular Department of MFA will harmonize the requirement of TMI with the Guidelines 9654/06 VISA 137 COMIX 482.

²⁰ Comment by the Slovak Republic: the Slovak authorities will consider the implications of this note.

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EvalCom comments and recommendations

It is recalled that national remarks (differing from the mandatory remarks) should be notified in due course to the SG in order for them to be published in Annex 9 to the CCI.

The MRZ of the visa sticker does not comply with the international (ICAO) standards. At the second position there is a bracket where the type of visa should be indicated.

In the observed cases visa stickers were not placed correctly against the edge of the page of the passports, thus rendering machine reading of the sticker difficult.

EvalCom recalls that a photo of the applicant should be integrated in the visa sticker as provided for in Regulation 334/2002, and acknowledges that steps have been taken to meet this requirement.²¹

7. REFUSALS

7.1. Notification and motivation of refusal

In accordance with current national legislation, the decision on refusal of a visa is not notified in written form and there is no obligation to motivate the refusal. Applicants cannot appeal a negative decision. The same rules apply to family members of EU citizens. However, in practice applicants are, upon request, informed verbally about the grounds for refusal.

In case of refusal, this mention is added in the "application" stamp.

Depending on the reasons for refusal, refused applicants are not allowed to apply for a visa within a period of 6 months after the refusal. The names of all refused applicants are put on the local black list. This information remains in the database.

EvalCom comments and recommendations

EvalCom recalls the procedural safeguards enjoyed by family members of EU-citizens under (Directive 2004/38/EC), meaning that refusals must be notified in written form, detailed motivation must be given and this category of persons also enjoys a right of appeal of such decisions.

²¹ Comment by the Slovak Republic: The Slovak Republic is currently developing a new integrated computer visa system for processing visa application. This system will include MRZ that will be in compliance with international ICAO standards. The Consular Department of MFA will work out an instruction concerning to correct placing of visa stickers against the edge of page of the passport. The consular staff will also be trained in those intentions before posting to Consular Posts abroad. The Slovak Republic is currently developing a new integrated computer visa system for processing visa application. This system will also include photo integrated in the visa sticker.

RESTREINT UE

It is recalled that the sole purpose of the application stamp is indicating that an application has been lodged, and that no additional codes may be added. ²²

7.2. Refusal rates

The refusal rate is very low: average for 2005: 1,47% and the period 1.1.-31.5.2006: 0,26%.

EvalCom comments and recommendations

Compared to the average of all Schengen States, the refusal rate is very low. Given the fact that the processing of visa applications seems to be of a purely formal nature (practically no supporting documents are required from the vast majority of applicants, i.e. Ukrainian citizens), this situation is a matter of concern. ²³

Awareness of the issue of illegal immigration risk and other forms of misuse of visas should be increased as this will become a key issue when the Slovak Republic starts issuing Schengen visa.

8. VISA STICKERS

The number of an erroneous visa sticker not yet affixed in the passport is registered in a daily evidence of erroneous and destroyed visa stickers. The kinogram of visa sticker is crossed with a pen, sticker is crossed as well. These stickers are affixed to a sheet of paper and kept in a register. An erroneous visa sticker already affixed in the passport is annulled by a stamp and the kinogram is crossed with a pen. In that case a photocopy of the sticker is put into the above mentioned register and the number is put on the daily evidence.

After hours, this evidence is stored in a metal closet together with the related application files. At the end of each month the list is checked and the cancelled stickers are stored in the archives for 5 years. Information on cancelled visa stickers is submitted to central authorities every month. In the month of May 2006, 37 stickers were cancelled.

EvalCom was informed that the Office of Border and Alien Police is notified of transmission of blank visa stickers to consular posts (series and number of visa stickers). The existing "visa system" does not allow for on-line transfer of information about used and cancelled visa stickers. Such information can be provided by MFA at any time upon request of the Office of Border and Alien Police.

²² Comment by the Slovak Republic: The Consular Department of MFA will remind to Consular Posts abroad of the correct use of the "application stamp" according to CCI.

²³ Comment by the Slovak Republic: Awareness of the issue of illegal immigration risk and other forms of misuse of visas is present in the common cooperation between consular offices and police authorities as regards to this issue. Available information is exchanged i.e. on misuse of the visa for illegal border crossing, unreliable travel agencies or on overstayers. Consular Section in Kiev also exchanges the list of black listed persons with Slovak Consulate General in Uzgorod and negative experience is reported to Bureau of Border and Alien Police. Of course there is always a space for enhanced cooperation.

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Every five years the consul asks the MFA in writing for the authorisation to destroy a certain part of the archives. To that end, a Commission of Destruction is set up and meets on the premises of the Embassy where the files are incinerated, including the cancelled visa stickers. All acts of destruction are registered in a protocol.

EvalCom comments and recommendations

Cancelled stickers should be securely archived separate from the files and shredded on a regular basis. ²⁴

9. FILING

All files are stored for one month in the consular section in a metal closet in the consul's office and thereafter moved to archives, where they are kept for five years. In each box refused applications are separated from approved applications.

10. SECURITY

10.1. Staff

The consular section has the following staff:

Expatriate staff :

- a) head of the consular section (diplomat);
- b) deputy, vice-consul (diplomat);
- c) other vice-consul (diplomat);
- d) administrative staff (2 persons posted by the Ministry of Foreign Affairs of the Slovak Republic /hereinafter referred as "MFA")
- e) administrative staff (3 persons upon contract with MFA – family members of posted diplomats or administrative staff), Slovak citizens.

In peak season (December and January) two additional expatriate staff are posted to the consular section.

Local staff:

- a) 1 person receiving applications at the counter, checking printed visa sticker, return of passports, providing information;
- b) 1 person for providing information, translation and other administrative and secretary tasks.

²⁴ Comment from the Slovak Republic: New instructions will be issued to consular posts.

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10.1.2 Checks upon recruitment and further evaluation

EvalCom was informed that staff work is checked by the head of consular section. Local staff must be approved by central authorities before employment. The head of the diplomatic mission is responsible for the general management and control of the staff of the diplomatic mission. The head of mission evaluates the carrying out of staff duties. In case of duty violence, sanctions are imposed in accordance with relevant internal regulation and Slovak legislation. The correctness of carrying out of local staff duties is controlled by the head of consular post and head of diplomatic mission. If the violence of duties or misuse is detected, depending on the seriousness of violence of duties, sanctions are imposed on the person concerned up to lay off.

10.1.3. Misuse of professional position

EvalCom was informed that regarding local circumstances of Ukraine, the real assumption exists that the “criminal organisations” will influence the consular work. Some of consular posts of Schengen states have had such negative experiences. The consular post has not had such negative experiences yet.

However, to avoid negative influence, the consular post set up own “security mechanisms” consisting of frequent controls carried out by the head of the consular post and head of diplomatic mission, strict application of the rules on contact and communication with applicants (only at the counter) and rotation system of staff. In practice, duties and position of member of local staff is changed from the counter work to check up of printed visa stickers or issue of passports with granted visa.

10.1.4 Protection of staff

See 10.1.3.

EvalCom comments and recommendations

EvalCom appreciates the organisational measures taken in order to cope with the increased number of applicants during peak seasons.

EvalCom notes that measures are taken to protect staff from pressure. It is recommended that due attention is given to a possible increase in the risk of pressure on staff when the Slovak Republic commences to issue Schengen visas.

10.2. Sensitive documents.

Visa stickers are delivered to the consular post by diplomatic courier from the MFA 4-5 times a year. The head of the consular section receives the visa stickers (a signed receipt must be returned to MFA) and stores them in a special safe (with a combination lock), placed in the office of the head of the consular section. According to the evidence book and upon signature, the head of consular section passes usually to deputy, vice-consul 1000 visa stickers(day-to-day supply). The vice-consul stores visa stickers in a special safe and upon signature hands out 100 visas stickers to the consular staff who will get a new supply when these have been used.

At the end of the working day, the consular employee returns the rest of non-used visa stickers to vice-consul safe deposit. Daily rest of non-used visa stickers is recorded and signed by the consular employee concerned on the envelope where the rest of non-used visas stickers are kept.

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There is daily check up of the rest of visa stickers by comparing it with the daily statistics on received applications, number of granted visas, number of applications in process, number of refusals, number of issued visa stickers, number of destroyed/annulled visa stickers are carried out on daily basis and monthly statistics are sent to MFA on the last day of month.

Passports, application forms and supporting documents are stored in metal locked boxes. After visa processing, the applications are archived in separate locked room.

The head of the consular post and vice-consul are the only persons using the stamps stored in safe deposit. The keys for the metal boxes and the archives are stored in a safe deposit.

EvalCom comments and recommendations

In the opinion of EvalCom the system for keeping track of visa stickers is complicated and labour intensive. The complexity of the system does not allow for an immediate control of the actual stock of stickers and there are not sufficient safeguards against accidental mistakes. ²⁵

10.3. IT

10.3.1 Entry/access

The consular section is equipped with four computers, which are interconnected. Only expatriate staff has access to computers under password. A separate computer is dedicated to on-line connection with MFA. Update of the central authorities' "black list" is received via an encrypted e-mail line from the capital. The consul's and the vice-consuls' computers containing the black lists database are under password access. All computers are equipped with UPS. Back up of visa data is made once a month and sent to MFA.

EvalCom comments and recommendations

EvalCom refers to chapter 4 regarding the electronic visa processing system.

10.3.2 Encryption

On-line connection between consular post and consular department during consultation process with Central Visas Authority is carried out through encrypted VSAT links.

10.3.3. Data protection

Only expatriate staff has a right to access to visa computer (see above).

EvalCom was informed that all members of consular staff have been trained for handling of personal data in accordance with national legislation. They have signed a declaration on not misusing of personal data and prevention of misusing of personal data. The screens are automatically blanked after 2 minutes, except the consul's computer, which is blanked after 10 minutes.

²⁵ Comments by the Slovak Republic: As already mentioned in comments to chapter 4.2, the Slovak Republic is currently developing a new integrated computer visa system for processing visa application. This system will i.a. include visa stickers management which will allow an immediate control of visa stickers (number of blank visa stickers, used, cancelled or erroneous stickers as well as information of the person who handled the visa sticker).

RESTREINT UE

11. TRAINING

EvalCom was informed that before being posted abroad, expatriate staff follow special courses in the consular department of MFA. Minimum two weeks training on consular issues of which 1 weekend is dedicated to visa issues and 1 1/2 day is dedicated to "Schengen visa" related issues. Upon individual request, expatriate staff can receive specific training in the detection of false documents and language training. Local staff is trained by the head of the consular section and the vice-consuls, locally. New staff must serve as a trainee for 2-3 months before dealing with applicants.

12. EQUIPMENT FOR DETECTING FALSE DOCUMENTS

The consular post is equipped by UV lamps, hand magnifier, and retro-reviewer. A folder describing the main security features of Ukrainian travel documents is at the disposal of consular staff. In addition a database on travel documents (from all over the world, but only the travel documents recognised by Slovakia.) is at the disposal of officials. The database is updated every year).

EvalCom comments and recommendations

EvalCom considers the consular section to be adequately equipped for detecting false documents.

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13. GENERAL CONCLUSIONS AND RECOMMENDATIONS ²⁶

EvalCom considers that, on the basis of the checks carried out and the information gathered, the Slovak Republic, as far as its Embassy in Kiev is concerned, may be in a position to implement the Schengen Acquis in full in due course provided that substantial efforts are made to establish an integrated visa processing system which is a precondition for an effective and secure visa issuing process.

In addition, EvalCom wishes to comment on certain points which merit special attention or reviewing by the Slovak authorities in order for the Slovak Republic to achieve this objective:

1. Organisational aspects

EvalCom recommends that the physical protection of the premises is strengthened.

The present organisation and work flow cannot be maintained, in particular in relation to the collection of the handling fee, once the Slovak Republic will apply the Schengen acquis in full.

2. Practice related to the submission and and processing visa applications

EvalCom recalls the importance of the basic rule of personal appearance and recommends caution when exemptions from this rule are introduced. (Bona fide applicants, minors, persons travelling in organised tours carried out by accredited travel agencies or cultural and sport undertakings are presently exempted from this requirement).

The restrictive rules regarding applicants from certain third countries may lead to visa shopping. (Nationals of third countries for which consultation with central authorities is required must apply for a visa at the Slovak embassy accredited to their country of origin)

Compared to the average of all Schengen States, the refusal rate is very low. Given the fact that the processing of visa applications seems to be of a purely formal nature, (practically no supporting documents are required from the vast majority of applicants, i.e. Ukrainian citizens), this situation is a matter of concern.

There is presently no integrated visa processing computer system. That means, i.a. that consultation of central authorities are performed separately. There are no technical safeguards against issuing a visa despite a negative reply from central authorities or a match against the national black list.

EvalCom is concerned that the current system would not prevent the Slovak Republic, when applying the Schengen acquis in full, from issuing visas to nationals listed in the Schengen Information System or in Annex 5B to the CCI.

²⁶ See comments by the Slovak Republic on specific points in relevant chapters.

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It is recommended that due attention is given to a possible increase in the risk of pressure on staff when the Slovak Republic commences to issue Schengen visas.

Awareness of the issue of illegal immigration risk and other forms of misuse of visas should be increased as this will become a key issue when the Slovak Republic starts issuing Schengen visa.

In the opinion of EvalCom the system for keeping track of visa stickers is complicated and labour intensive. The complexity of the system does not allow for an immediate control of the actual stock of stickers and there are not sufficient safeguards against accidental mistakes.

3. Bilateral agreements

EvalCom recalls that bilateral agreements on waiver of the handling fee (not covered by EU agreements) must be denounced upon application of the Schengen acquis in full, and acknowledges that steps have been taken to meet this requirement.

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EvalCom emphasizes that the above mentioned comments and recommendations under 1 and 2, which are based on the situation as assessed in Kiev, can be relevant for other locations. The Slovak Ministry of Foreign Affairs should ensure an appropriate follow up.

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ANNEX I

VISAS ISSUED BY THE SLOVAK CONSULATE IN KIEV

VISAS ISSUED BY THE SLOVAK CONSULATE IN KIEV									
IN 2005									
	Visas A	Visas B	Visas C	Total Visas A+B+C	Visas D	Total Visas A+B+C+D	Visas Not Issued	Rejection Rate	Rejection Rate in %
January	0	89	1 536	1 625	0	1 625	0	2	0,12
February	0	68	1 561	1 629	0	1 629	0	15	0,92
March	0	79	1 284	1 363	0	1 363	0	14	1,03
April	0	162	1 105	1 267	0	1 267	0	6	0,47
May	0	168	1 354	1 522	0	1 522	0	19	1,22
June	0	241	1 634	1 875	0	1 875	0	13	0,69
July	0	300	1 211	1 511	0	1 511	0	5	0,33
August	0	293	955	1 248	5	1 253	0	21	1,68
September	0	255	861	1 116	0	1 116	0	62	5,56
October	0	310	1 083	1 393	1	1 394	0	10	0,72
November	0	229	3 043	3 272	0	3 272	0	9	0,28
December	0	356	10 208	10 564	0	10 564	0	20	0,19
Total	0	2 550	25 835	28 385	6	28 391	0	196	1,47

VISAS ISSUED BY THE SLOVAK CONSULATE IN KIEV									
IN 2006									
	Visas A	Visas B	Visas C	Total Visas A+B+C	Visas D	Total Visas A+B+C+D	Visas Not Issued	Rejection Rate	Rejection Rate in %
January	0	386	2 470	2 856	0	2 856	0	13	0,46
February	0	199	2 439	2 638	0	2 638	0	9	0,34
March	0	0	0	0	0	0	0	0	0
April	0	0	0	0	0	0	0	0	0
May	0	0	0	0	0	0	0	0	0
June	0	0	0	0	0	0	0	0	0
July	0	0	0	0	0	0	0	0	0
Total	0	585	4 909	5494	0	5494	0	22	0,4

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