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- Draft-Council conclusions on the state of preparedness of the
REPUBLIC OF SLOVAKIA towards the implementation of all provisions of
the Schengen acquis except SIS-related issues

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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Brussels, 27 October 2006 (27.10)
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NOTE

from : the Presidency
to: the Schengen Evaluation Working Party

Subject : Schengen evaluation of the new Member States
- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF SLOVAKIA towards the implementation of all provisions of the Schengen acquis except SIS-related issues

PART I

a. Background applicable to all new Member States

1. The Schengen Evaluation Working Party has started evaluating the new Member States from 2005 on and has completed by the end of 2006 all non-SIS-related tasks. Altogether 58 themes were evaluated for the ten countries in the course of nineteen evaluation missions.
2. The evaluations were meant to ascertain whether the countries involved are able to apply all parts of the Schengen acquis with the ultimate goal of allowing the Council to decide on the abolition of controls at internal borders.
3. The evaluation task fits within the requirements of Article 3(2) of the 2003 Act of Accession which foresees that the provisions of the Schengen acquis and the acts building upon it or related to it, listed in the Annex referred to in that Article, shall be binding on and applicable in the new Member States from the date of accession.

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The provisions and acts not referred to in that Annex, although binding on the new Member States from the date of accession, will only apply in a new Member State pursuant to a Council decision to that effect in accordance with that Article.

4. The Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will be taken on a Member State-by-Member State basis. Each Member State will be evaluated on its own merits.
5. The legal basis for the evaluations is the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (Sch/Com-ex (98) 26 Def.
6. The evaluation process started with a Declaration of Readiness for all non-SIS related evaluations by the Member States involved.
7. The Schengen Evaluation working party verified in writing the preparation of the new Member States for the application by them of all parts of the Schengen acquis through a questionnaire and a series of supplementary questions and answers.
8. These visits led to exhaustive reports containing factual descriptions as well as positive and critical assessments, and recommendations.
9. The purpose of the following Council Conclusions is to establish whether each of the new Member States subjected to the full evaluation procedure satisfies the conditions that are necessary for the application by it of all parts of the Schengen acquis, where additional follow-up measures are required and in which cases the necessary changes should be reassessed during inspection visits.
10. In taking the Decisions referred to in Article 3(2) of the 2003 Act of Accession, the Council may determine that all the new Member States will not be ready to apply the Schengen acquis as a whole from the same date. In such a case, it may be necessary to organise additional visits in order to evaluate the application of the Schengen acquis at borders between Members States at which the Council has decided not to abolish border checks and which have not already been evaluated. No such evaluation has taken place so far.
11. These conclusions should be read in conjunction with the detailed inspection reports. A list of the relevant reports and a follow-up table is annexed to these Council conclusions.

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12. The Council considers it necessary to require follow-up measures to remedy the weaknesses that were detected during the evaluation process, in particular as to the ones mentioned in the following Part II, in order to allow the Council to adopt the Decisions referred to in point 3 and 9.

b. Background for Slovakia

13. The Declaration of Readiness of Slovakia allowed to start the Schengen evaluation by 1 May 2006, without any reservation.
14. Inspections on site took place at the land and air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.
15. (Slovakia has provided the Schengen evaluation working party with a follow up report, in which it states that it will be possible to remedy the weaknesses that have been detected without creating unnecessary delays.)

PART II - Specific findings

As stated before, the current conclusions should be read in conjunction with the evaluation reports. In these reports, many positive findings are mentioned in these, in some cases even best practices; However, for the purpose of the underlying conclusions and in particular with a view to defining which sites should be revisited, it is obvious that more focus has been put on weaknesses that should be remedied.

In general, the responsibility towards border management was well understood by the Slovak authorities, although it is unfortunate that no written strategy is available.

The current infrastructure at the **airports** is not fully in line with the Schengen requirements. At the airports, there is also room for improvement in terms of language skills, statistics, managerial skills and border checking procedures. A revisit to the Bratislava airport is deemed necessary.

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The infrastructure, procedures and equipment do not meet many of the Schengen requirements in the **road crossing point** Vysne Nemecke and the crossing point should be revisited later on.

The **border surveillance system** at the Slovak – Ukraine border still has serious technical deficiencies and the current situation does not fulfil Schengen requirements. Slovakia has presented a plan of new border surveillance concept which should fulfil prevailing gaps in the system. This new system should be re-evaluated before lifting internal border controls in order to verify development of the border surveillance concept.

The Customs is responsible for maintaining of public order in the area of land crossing points. This means that the role of the Border Police in special and emergency cases related to border security is only supportive and its operational independency is territorially limited. In the context of the revisit, this organisational issue should be re-evaluated.

The number of visas issued at the border is very high. These visas should mostly be issued at the appropriate consular post. Further reporting is required on this issue as well as on cooperation between the Border Police and consular authorities to guarantee effective pre-frontier measures and prevention of false documents.

Following the inspection of Slovakian **visa issuance** at its consular sections in Kiev and Belgrade, it was concluded that Slovakia may be in a position to implement the CCI/Schengen acquis in full in due course and that no significant shortcomings were noted in the daily work.

Access management, information and staff training were appreciated.

However particular attention should be paid to certain security issues (premises: Kiev and Belgrade, storage of visa stickers: Belgrade); proper assessment of individual applications including personal appearance and interviewing, particularly in light of the low current rejection rate and the risk of illegal immigration and misuse of visa; the current practice of accepting group visa applications; the traceability of visa stickers, and the reviewing of bilateral agreements including waiver of the handling fee and other differences in fees. Monitoring of accredited travel agencies should be introduced. Finally, national legislation should take account of the procedural safeguards enjoyed by EU family members (refusals, right of appeal).

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The introduction of **Data protection** requirements complying with the Schengen acquis faces problems of staff and budget to perform its duties with respect to the SIS, but it appears equally important to establish and reinforce a real functional independence of the. It is considered useful to verify this balance of competence during an additional visit.

Police cooperation

Important parts of the tasks indicated in the National Action Plan for the implementation of the Schengen standards have already been achieved. The National Action Plan gives a clear time schedule for the implementation of the Schengen Acquis. However, concrete measures to implement the Action Plan are still in an early stage. The Action Plan should be revised and updated on a regular basis.

Close cross-border cooperation is an integrated part of the day-to-day police work. The European Criminal Intelligence Model (ECIM) is to be introduced..

The ratification procedures for bilateral agreements should be accelerated. The need to conclude a bilateral agreement with Poland on hot pursuit was emphasised. The establishment of new Police Cooperation Centres is recommended.

Fostering the launch process of the SIRENE bureau and starting recruitment and training of personnel at the earliest possible is indispensable.

Access to the Handbook on International Police Cooperation is to be provided.

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[PART III

The Council is of the opinion that Slovakia has progressed in a substantial manner towards applying the Schengen acquis in full.

It is necessary to follow up the weaknesses that were detected, in particular to require correction of the weaknesses taken up in Part II, in order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession. The Schengen partners must be kept informed of the measures adopted to this end. Among the weaknesses that will be re-visited in-situ, one can refer to the issues mentioned in Part II.

The Council cannot but underline the considerable challenge Slovakia will be facing to bring its landborder controls at the border with Ukraine up to the standards.]

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