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Subject:	Schengen evaluation of SWITZERLAND - Replies from Switzerland to additional questions put forward by the Belgian, Estonian and Norwegian delegations regarding the draft report on Air Borders
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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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THE EUROPEAN UNION**

**Brussels, 23 October 2008**

**14591/08**

**RESTREINT UE**

**SCH-EVAL 79  
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## **NOTE**

from :	the Swiss delegation
to:	Schengen Evaluation Working Party
Subject :	Schengen evaluation of SWITZERLAND - Replies from Switzerland to additional questions put forward by the Belgian, Estonian and Norwegian delegations regarding the draft report on Air Borders

## **Additional questions from the Norwegian delegation**

**1. Will Switzerland put in place measures designed to create a risk analysis system as recommended by the EvalCom?**

This question will be answered in the follow-up report.

**2. If so, when will Switzerland be prepared to include information on these measures in its follow-up report to the report on Air Borders?**

The first version of the follow-up report will be prepared for the meeting of the Scheval working group on 31.10.08.

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## 3. Issue of visas at the border

### a) On which grounds are visas at the border being issued?

According to our today's regulation, border guards can issue as an exception visas at the border according to the instructions of the Federal Office for Migration (FOM) (Art. 24 para 2 Ordinance on procedure of entry and visa OPEV). For the implementation of this provision the FOM has elaborated the following principles and conditions for the issue of visas at the border:

#### General principles:

- Foreigners subject to the visa obligation who at the border crossing point are not in possession of a valid visa are in principle refused entry.
- Border guards can issue by way of exception visas at the border for transit or entry into Switzerland.
- They issue the visa either in their own responsibility or after approval by the FOM or the Federal Department of Foreign Affairs (FDFA).

#### Conditions:

Visas at the border can be issued according to instruction of the FOM or the FDFA when one of the following conditions is met:

- Foreigners that apparently were not able to apply for a visa at the competent foreign representation at their place of residence,
- Foreigners who must travel for urgent and important reasons to Switzerland (e.g. case of illness or case of death e.g. of a family member),
- Foreigners travelling together with family members or in an organized group provided that the other persons of the group are allowed entry into Switzerland.
- Drivers working for a company based abroad who transport persons or goods in or through Switzerland,
- Foreigners who can for humanitarian reasons not be refused entry or whose refusal would be an unreasonable hardship or would seem disproportionately formalistic,
- Foreigners and accompanying persons who due to their political position affect the international relations of Switzerland (Art. 21 para. 1 lit. a OPEV),
- Foreigners holding a diplomatic passport, a service passport or an official passport independent of their purpose of stay ( Art. 21 para. 1 lit. b OPEV),

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- Foreigners including their family members, travelling as a member of a diplomatic or consular representation to take office in Switzerland. (Art. 21 para. 1 lit. b OPEV),
- Foreigners who enjoy privileges and immunities due to international agreements (Art. 21 para. 1 lit. c OPEV).

The period of validity of visas issued at the border is:

- At the utmost 16 days if the visa is issued to divers in cross border traffic
- Otherwise at the utmost 3 month.

## **b) Which factors may explain the high numbers?**

Switzerland today pursues a visa policy independent of the Schengen countries. The competent authorities for the issue of visas at the border have a rather big administrative discretion in their decision.

## **c) Will Switzerland consider changing its practice of issuance at the border in the light of the EvalCom conclusion?**

Yes, Switzerland will change its practise. The council regulation 415/2003 is part of the Schengen aquis and has already been translated into national law. Art. 13 lit. d of the Ordinance of entry and visa procedure refers to the council regulation. The FOM issues new instructions for border guards which also deal with the issue of visas at the border. These instructions are in accordance with the council regulation 415/2003 and limit the possibility to deliver visas at the border. Border guards are aware of the council regulation 415/2003 and are trained on the Schengen regulations.

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## Additional questions from the Estonian delegation

**1. According to the report (p 3.1.2 at page 5), Switzerland has no written national border management strategy and does not intend to elaborate a national plan. Same is repeated as first point under „General conclusions” (p 8 at page 71) and EvalCom recommends drafting comprehensive national plan. Has Switzerland considered following the recommendation by EvalCom (please provide timeline in case a plan will be drafted)? Additionally, it is not clear if Switzerland has (or intends to elaborate) a national strategy and/or action plan to implement recommendation of the EvalCom?**

This question will be answered in the follow-up report.

**2. According to the report (p 7.1.3 at page 60) 6 facilitators were arrested in Zurich airport in 2007. We would like to know how many facilitators were detected in Switzerland in 2007?**

Geneva (airport)	1
Sion (airport)	0
Zürich (airport)	6
Border Guard Corps	244 (Euroairport Basel an landborders)

**3. According to the general conclusions (p 72) issuing visas on borders has increased by years, although issuing visas on borders should be limited to exceptional cases. Does Switzerland intend to change its visa policy in this respect?**

Please refer to the answer to the third question of the Norwegian delegation.

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## Additional questions from the Belgian Delegation

### **General remark from Switzerland concerning the question 1.2 of the Belgian Delegation:**

Relating to the risk of the illegal migration, please refer to the follow up report on air borders. (The first version of the follow-up report will be prepared for the meeting of the Scheval working group on 31.10.08.)

### **3. The Belgian delegation asks Switzerland to provide the following information:**

- the total number of visa issued at the air borders for the past 3 years
- the number of visa broken down by type
- the number of visa broken down by airport
- a general oversight of the reasons for issuing visa at the air border
- a general oversight of the nationality of the applicants
- the number of visa refused at the air border and the reason for refusal.

#### **Zurich:**

Number of visa issued at Zurich airport:

- 2005: 466
- 2006: 557
- 2007: 648
- 2008 (till Aug.) 404

General oversight of the reasons for issuing visa at the air border:

- business
- transit (landside to Schengen neighbouring countries)
- culture, sports
- others

A more detailed breakdown per categories or nationalities is not available.

#### **Sion:**

Since 2005, the airport police of Sion has issued 1 visa in 2008 to a Russian national.

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## Geneva:

Types of visa	2006	2007	2008
Tourism, visit, business meeting, acquisition without job and transit	249	497	412
Service	82	205	105
Diplomatic	85	152	56
Courtesy	5	11	6
Collective Top five : Mauritanie Zambie Centre-Afrique Côte-d'Ivoire Moldavie	0	1	0

## Basel:

(figures prior to 2007 are not available)

		Jan - Jun 2008	Sep. - Dec 2007	2007
	Number of visas issued. Please split the number between types of the visas issued			
		32	11	
Tourism		6	1	
Visit		4	7	
Business meeting		19	1	
Acquisition without job		1	1	
Transit		1	1	
	Top five nationalities			
	1	6 x TUR	1 x TUR	
	2	5 x GAB	2 x PHL	
	3	4 x IND	div.	
	4	3 x RUS	div.	
	5	2x MRT	div.	

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## **5. The Belgian delegation would like to know how many migration attachés, police liaison officers and documents advisors are posted in Swiss diplomatic missions/consular posts and where.**

The Border Guards Corp employs 11 visa-specialists in Swiss embassies (see list). Their job consists in the extended examination and assessment of visa applications as well in issuing of visas. These colleagues have also been trained in detecting document falsifications.

4 Visa-officers	Russia/Moscow
1 Head visa section	St. Petersburg
1 Head visa section	Morocco/Rabat
1 Head visa section	Tunisia/Tunis
1 Deputy. head visa section	China/Beijing
1 Visa officers	Chine/Beijing
1 Head visa section	Schanghai
1 Visa officers	Shanghai
1 Visa officers	Guangzhou
1 Head visa section	Kosovo/Pristina
1 Head visa section	Macedonia/Skopje
1 Visar officers	Senegal/Dakar
1 Head visa section	Sri Lanka/Colombo

In addition to the BGC personnel the Federal Office for Migration (FOM) has placed migration attachés in the following capitals:

- Moscow
- Ankara
- Pristina

Furthermore, the Federal Department of Foreign Affairs (FDFA) has delegated 3 migration attachés to Colombo, Dakar and Abudja. FOM has no information on the exact number of police liaison officers and where they are posted.

## **6. The Belgian delegation would like to know what kind of specialised services are relevant for air border management, what is there utility and their mission**

The specialised services relevant for air border management depend on the organization of the airports and the organization of the cooperation between the respective federal and cantonal authorities concerned (please refer to the follow up report on air borders).

Where necessary, the existing elite-units (for example for interventions) of the police and the Border Guards Corp will also be employed for their core responsibilities at the airports.

## *Example in the Airport of Zurich:*

At the airport Zurich, the first control line of the border control is effected by 260 functionaries of the cantonal police of Zurich, which operate exclusively on border control and airport related safety tasks.

A unit of 40 further functionaries is specialized at the second control line for the clarification of travellers data and on the execution of rejections at the border. This unit constitutes the link between the authorities and the airlines and promotes the co-operation in the fight against illegal migration through the airway. The document sifting of arriving passengers (for the prevention of illegal migration) belongs also to the activities of this unit.

Four specialists are exclusively concerned with the investigation of documents regarding falsifications and abusive uses. These specialists evaluate tendencies in falsifications, provide reports (Bulletin "Document and Immigration News") and are responsible for the instructions as well as the further training of the border control functionaries.

A special unit of 40 functionaries is responsible for the organisation of expulsions.

Finally, there are 7 functionaries of the criminal police at the airport specialized in uncovering drug smuggling and people smugglers.

## **7. The Belgian delegation would like to know how many BGC officers followed the 5-day special course on document examination and what is the actual occupation of these people?**

Of the 1900 Swiss border guards 600 have acquired a specialized training in the field of document verification and the detection of falsifications. For a better understanding see the following explanations:

- In the basic training during the first three years, a border guard receives a total of 44 hours of teaching on the subjects of document and identity verification. After 4-5 years, he or she can voluntarily sign-up for two supplementary specialised courses that are taught by the relevant experts in the Border Guards Corps. The first specialised course consists of 48 hours the second of 32 hours of lessons.

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- After completing this specialised training, the border guard functions as a contact partner for issues in this area. He or she will also take over teaching responsibilities within the team at the working place. This is done without a special job or compensation.
- For a team (10 -12 Border guards) 2-3 employees have completed the training successfully. In effect, the Swiss Border Guards Corp makes use of 600 employees who have completed this special training.
- In principle, each border guard examines the documents him or herself using the relevant devices and aids provided for at the workplace. The team specialist for documents is only consulted when difficulties occur. For this purpose these specialized colleagues have extended access to the data bases from foreign partners.
- No difference is made between regular and specialized border guards in the use of the relevant technical aids (devices) at the workplaces. All border guards are equally trained on how to use the necessary appliances at their workplace.

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