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Subject: Schengen evaluation of SWITZERLAND - Draft Council conclusions on the evaluation of the correct applicaiton of the Schengen acquis including follow-up

Delegations will find attached the partially declassified version of the above-mentioned document.



**Brussels, 31 October 2014
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RESTREINT UE/EU RESTRICTED

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NOTE

From:	Working Party for Schengen Matters (Evaluation) / Mixed Committee (EU-Iceland/Norway/Switzerland/Liechtenstein)
To:	Permanent Representatives Committee/Council
Subject:	Schengen evaluation of SWITZERLAND - Draft Council conclusions on the evaluation of the correct applicaiton of the Schengen acquis including follow-up

1. The Working Party for Schengen Matters (Schengen Evaluation) submits the following comments to the Council on the Schengen evaluation of Switzerland and the subsequent follow-up. The Council is invited to take note of this assessment.

2. In 2014 an evaluation took place of Switzerland's application of the Schengen acquis with regard to border controls at the external borders, police cooperation with neighbouring (Schengen) countries, visa issuance, the use of SIS and the SIRENE bureaux and data protection.

3. After the successful conclusion of this evaluation, Switzerland informed the Working Party for Schengen Matters (Schengen Evaluation) of the measures it has implemented or is implementing to remedy the weaknesses and deficiencies which were detected. This follow-up can be found in ST 14010/1/14 REV 1 + ADD 1 RESTREINT containing information the Swiss delegation was asked to provide to the Working Party for Schengen Matters (Schengen Evaluation).

4. In the area of **data protection**, Switzerland has implemented all recommendations from previous evaluations, a possible exception being **NOT DECLASSIFIED**.

It has further enhanced the transparency of Fedpol's handling of data subjects' requests by introducing an unsolicited annual exchange of statistics – including refusals – with the Federal Data Protection and Information Commissioner (FDPIC), and has improved the multilingual presentation of Schengen/Dublin/DP matters on various federal websites by adding direct links. In future, **NOT DECLASSIFIED** will be repeatedly scheduled within the FDPIC's annual work programmes. By the end of 2014, the Federal Department of Justice and Police (FDJP) is due to decide whether the control mechanisms available to the FDPIC need to be strengthened, **NOT DECLASSIFIED**. At cantonal level, SIS log file inspections, **NOT DECLASSIFIED** to fulfil the requirement of independence and impartiality.

5. In the area of **police cooperation**, Switzerland implements the Schengen acquis well overall. The Swiss authorities have made an effort to implement the recommendations made during the 2008 evaluation mission. Most of the recommendations have been fully implemented, including via the creation of the Swiss Pol Index and the Central Query Mask, but there is some work to be done **NOT DECLASSIFIED**.

Another major change since 2008 is the creation of the International Police Cooperation Division. EvalCom considered this to be a positive step, particularly in relation to bringing together the strategic and operational aspects of international cooperation under the same umbrella.

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A positive aspect is the cooperation between police officers and border guards on a day-to-day basis at all levels. This cooperation makes it possible to overcome the difficulties posed by the decentralised nature of the Swiss police structures.

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In addition, it was found that there was room for improvement **NOT DECLASSIFIED.**

The relevant authorities are also looking into appropriate solutions for the recommendations on training, namely continued use of Schengen e-learning in a more structured way both at federal and cantonal level and establishment of joint training courses for police officers assigned to joint patrols in border areas, focusing on the different procedures and practical police work carried out by each country, as well as any differences in applicable legislation. These recommendations will be implemented by strengthening contacts between relevant authorities at central and cantonal level and by making changes to the course programmes, which should be reflected in Fedpol's training action plan for 2015.

Furthermore, EvalCom recommended that the Swiss authorities consider organising mixed patrols with neighbouring countries **NOT DECLASSIFIED** on a more regular basis and encouraged the Swiss authorities to further explore the possibility of links with other countries when expanding its LO network. Work is still in progress on implementing these recommendations, and will depend on the internal assessments that are currently being made.

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6. As regards **border controls at airports**, EvalCom visited Geneva and Zürich airports in June 2014 and concluded that Switzerland applies the relevant provisions of the Schengen acquis in a generally satisfactory manner. Switzerland follows the principles of Integrated Border Management (IBM) with regard to border control in general, and cooperation between the 26 cantons is functional and well organised. Infrastructure was found to be generally sufficient and to meet requirements. There is clear understanding of the provisions of the Schengen Borders Code as regards border checks, and improvements were noted in risk analysis at central, regional and local level. **NOT DECLASSIFIED**

Recommendations made during earlier evaluations were found to have been adequately implemented and followed up.

Points meriting special attention or review are listed below, together with the actual or intended follow-up.

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NOT DECLASSIFIED The authorities are looking at ways to allow second-line staff and new employees to participate in SBG training sessions providing training in line with the Common Core Curriculum. There are plans for specific English language courses and greater emphasis will be placed on sufficient English skills when recruiting new staff. **NOT DECLASSIFIED**.

NOT DECLASSIFIED

- Regarding carrier sanctions, the chambers of the Federal Parliament passed the amendment to the FNA in June 2014. The amendment is due to come into effect by April 2015.

7. In the area of **visa issuance**, in both **Mumbai** and **Guangzhou** EvalCom considered that Switzerland applied the Visa Code in a very satisfactory manner. No failings or significant or chronic errors were noted in the daily work of the consulates. In both locations, EvalCom was pleased with the thorough and efficient examination procedure, the competence and knowledge of staff, and particular features of the national visa information system "ORBIS". In **Guangzhou** EvalCom was also pleased with the handy and informative "Visa Application Checklist" and it considered the close cooperation among Swiss representations in China to constitute best practice.

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Finally, all security-related aspects are being dealt with or examined and are expected to be implemented by the end of 2014.

8. As regards **SIS/SIRENE**, EvalCom considers that Switzerland's implementation of the SIS (although widely limited to SIS I functionalities) and SIRENE acquis is generally good.

EvalCom observed good practices, particularly in the following areas: the SIRENE bureau's organisation of annual Schengen conferences attended by all end-users, including the cantonal police, the Federal Office of Justice, the Federal Office of Migration and the Swiss Border Guard;

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EvalCom also felt that several procedures put in place by the authorities were positive as regards training. These included the use of Schengen flyers by all end users, the organisation of Schengen conferences, e-learning courses on Schengen and SIS which participants had to pass, and the participation of SIRENE operators in the training of end users. EvalCom also noted the very good languages skills of SIRENE operators and the very high level of security of the Swiss N.SIS and infrastructure in general.

However, EvalCom pointed out that some recommendations made during the previous evaluation in 2008 had still not been fully implemented, **NOT DECLASSIFIED**

EvalCom recommended that the Swiss authorities evaluate the current training measures and examine whether there might be a need for change and/or improvement in order to optimise the tools already in use: e-learning, conferences, intranet and courses. **NOT DECLASSIFIED**

9. The Council is satisfied with the efforts Switzerland has made so far, and is continuing to make, in implementing the recommendations made for the correct application of the Schengen acquis. It invites Switzerland to continue its efforts in relation to the remaining outstanding points mentioned above and described in greater detail in the respective follow-up reports.

The Council invites the Commission to take these results into account in its future dealings with Switzerland.
