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THE EUROPEAN UNION**

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**SCH-EVAL 11
COMIX 281**

NOTE

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to : the Working Party on Schengen Evaluation
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REMARQUES LIMINAIRES

Ce rapport a été rédigé sur la base des contributions des experts. Cette Commission d'experts a réceptionnée l'avis écrit de la France. Dans la mesure du possible, elle a tenté de trouver un consensus entre les 2 documents par la correction ou l'adjonction de certains passages, en fonction de certaines remarques pertinentes. Lorsque la contribution française complète l'information apportée par la **commission d'experts**, cette contribution est précédée du signe distinctif "(F)" et est reprise en caractère italique. Lorsque des différences d'appréciation subsistent, le rapport des experts a été étoffé, en présentant la position française en tant que note de bas de page, avec une référence au texte visé.

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I. BORDERS

A. LANDBORDERS

1. Intro

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 Def) and the programme of evaluations adopted by the Council (8881/01 SCH-EVAL 17 COMIX 371), expert teams have been sent to France.

From 20 to 26 January, experts from the EU Member States, Norway, the Commission and the Council Secretariat were able to scrutinise both the external border controls and the police cooperation.

The following sites were visited:

- Paris-Gare du Nord : exit controls towards the UK
- Londen-Waterloo Station : entry controls towards the Schengen area
- Menton-Ventimillia : Police cooperation with Italy
- Thonex-Vallard : entry controls towards the Schengen area
- Genève-Cornavin railway station : entry controls towards the Schengen area
- Hendaye-Biriatou : Police cooperation with Spain
- Paris-SCCOPOL : Information sharing and distribution and central level.

The experts are grateful to the French authorities for having allowed the experts to collect a full insight in the strength and weaknesses of the French operative set of measures.

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2. Management summary

The experts left France with contrasted feelings: Where the police cooperation with neighbouring countries seemed to be developed in a very satisfactory way, it appeared on the contrary that the border controls with non Schengen States (UK, Switzerland-CH) receive insufficient attention, both in terms of risk analysis, staff and equipment and therefore do not meet the Schengen standards.

(F) En terme d'analyse de risque, la France estime que les pays limitrophes hors Schengen (Royaume Uni et Suisse) ne présentent actuellement que peu de danger migratoire potentiel, notamment en comparaison des risques existant sur d'autres frontières extérieures Schengen.

Technical means and human resources were considered insufficient both at Border Crossing Points (BCP's) held by the Police aux Frontières and those held by Customs. The findings by the experts in this respect are confirmed both by the figures showing the distribution of staff allocated to border controls with the police and with customs and by information provided to the experts by local staff. The border surveillance between the BCP's as well as surveillance on BCP's outside their opening hours and on other roads crossing the external border cannot be considered effective: since it is carried out in a very random way, the authorities cannot have a comprehensive knowledge about the illegal immigration or smuggling situation on so called green border. Furthermore, experts found the possibilities to access SIS to be often unsatisfactory, both in terms of equipment, communication and training.

Experts were of the opinion that the policy decision taken in November 1995 at central level and aiming at transferring the responsibility over the vast majority of BCP's to Customs was inspired by financial arguments without ensuring sufficient accompanying measures to ensure a secure situation after this transfer of competence. In particular, it appears that Customs do not have the same legal power to perform checks as the Police had before such powers were transferred.

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(F) La décision de transfert s'inscrit dans un contexte de complémentarité entre les forces de police et de douane participant à une même mission. Dans le cadre de cette mission de contrôle aux frontières, la douane dispose en matière de non-admission des mêmes pouvoirs juridiques que la PAF.

France should therefore consider to reinforce the technical and human resources available to police and customs and/or to build real multi-agency teams (Police, Gendarmerie, Customs) in order to profit from synergy. The need for this kind of synergy exists on every level, and to make the best use of it, it is advisable to develop effective co-operational way of thinking and acting throughout the whole field of border security and police co-operation

These findings are considered worrying for the internal security of France and its Schengen Partners as well as towards candidate countries.

3. Background

on external borders

It is important to recall that the French authorities have decided already in 1995 to divide the responsibility over border controls between Customs, in charge nowadays of 184 authorised border crossing points (BCP) and Police, which operates 41 BCP's. However, the competencies of both law enforcement agencies with regard to fighting illegal immigration are not similar. They do not fall under the competence of the same Ministry. Therefore complementarity of services would be necessary.

on Police cooperation

France is making use of two instruments for inspiring the police cooperation: these are the articles 39 and following of the Schengen Convention on the one hand, and the bilateral agreements between contracting Parties with a common border (article 39-5 of the Schengen Convention) on the other hand:

- direct exchanges of information;
- creation of police and customs cooperation center PCCC.

These PCCC's are in place or will be in place in the near future with Belgium, Germany, Italy, Spain, Luxembourg. There will be also a PCCC with Switzerland.

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Schengen Exit controls on Gare du Nord onto the U.K¹.

Within the premises giving access to the Eurostar from Paris to London on the Gare du Nord, there are two controls booths available for exit controls. This exit control is performed by the Brigade des Chemins de fer. Immediately behind the French Schengen-exit controls, the U.K.I.S. (United Kingdom Immigration Service) is performing a systematic UK entry control, which is separate from any Schengen procedure and not the purpose of this report. Furthermore, there is a so-called second line facility of the French police downstairs.

The task of performing exit-controls is compulsory under Schengen rules. There is also pressure on France to perform 100 % exit controls, due to the attraction of the UK to immigrants. SIS verifications require a telephone call to be made to the second line, where one pc is available. An average number of 10 verifications a day was mentioned. There are approximately 8000 to 10.000 passengers a day travelling to London, out of which some 25 % are non-EU/EEA* citizens. The experts were told that the current building was only provisional and should be replaced before the end of the year by more sophisticated structures which will include SIS terminals in every booth. The current second line included basic features such as a documentary base for false en falsified documents, but it seemed very basic as for what concerns investigation or detention room, ...

(F) Remarques liminaires de la France sur la frontière FR-UK

Les contrôles sur la frontière britannique

Les passagers empruntant les liaisons EUROSTAR sont soumis à des contrôles transfrontaliers prévus par le traité de Cantorbéry, signé le 12 février 1986. Les conditions sont également précisées par le protocole franco-britannique de Sangatte, signé le 25 novembre 1991 et son protocole additionnel signé à Bruxelles le 29 mai 2000, tous deux relatifs à la liaison fixe transmanche.

¹ At Gare du Nord station, the experts have been met by a trade unions delegation of the police, which distributed a paper containing an opinion about the level of controls

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Afin de tenter d'endiguer le flux des demandeurs d'asile désirant se rendre au Royaume-Uni, ce dernier texte prévoit notamment la création de bureaux de contrôles dans les gares de Paris-Nord, Calais et Lille-Europe côté français et de Londres-Waterloo et Ashford côté britannique.

Les agents du service d'immigration britannique sont, dans ce cadre, autorisés à procéder à des contrôles au départ de PARIS-Nord, de CALAIS-Fréthun et de LILLE-Europe, ce qu'ils font depuis le 8 juin 2001. Les agents de la police aux frontières peuvent agir de même à LONDRES-Waterloo et ASHFORD.

En tout état de cause, le dispositif mis en place ne réglait pas le problème des arrêts à CALAIS permettant à certains étrangers de prétendre effectuer un trajet national, alors qu'ils continuaient sur le Royaume-Uni. C'est la raison pour laquelle il a été décidé de préparer un projet de loi étendant les dispositions du protocole additionnel de SANGATTE à l'ensemble des passagers des trains Eurostar au départ de PARIS, quelle que soit leur destination, y compris CALAIS. Cette mesure a été insérée dans l'article 38 de la loi relative à la sécurité quotidienne entrée en vigueur en novembre 2001.

Comments by the experts:

The experts found it satisfactory that France is performing the 100 % exit control which is compulsory at the outer borders but learned that the controls are not fully adequate since there is yet no SIS connection available in the two exit control booths. This explains the insufficient figure of about 10 verifications a day, especially in regard to the fact that there are approximately 2.500 non EU-EEA nationals crossing this border daily.

Furthermore, the experts found the second line facilities to be quite basic, since there is one room in use both for searching detainees, for contacts with the lawyer, where the space is also used as a canteen.

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Schengen Entry controls on Waterloo station

According to the Protocol of Sangatte and the complementary Protocol of 29 May 2000, the French authorities have been granted the right to perform police controls on UK territory on travellers boarding the train to Paris. However, the experts were told that France is making use of this possibility only in a very limited way. In fact, France is not performing any entry control at London Waterloo Station, during 6 out of 7 days every week. French officers have to come from Paris that particular day of the week they are on duty in London, for that purpose. And even on that day of the week when they are in London, French officials cannot control much more than 50 % of the trains, since the French staff arrives by a morning train, when some trains have already departed from London. The same happens in the evening, since French officials do not await the departure of the last train to Paris. The reason is that there is no permanent French presence overnight.

Summarising, one could state that the French side is performing the following controls:

- 1- controls in Waterloo stations, one day per week, amounting less than 10 out of 147 trains per week. This was said to cover approx. 6 % of all trains
- 2- controls on the trains, when a team of two officers boards for controlling passengers. (SIS checks only by phone when being outside of the tunnel). This applies on 15 trains a week, which represents 11,4 % of the trains.
- 3- controls on the platform in Paris: this represents less than 1 % of all passengers

From the information given above, it appears that less than 20 % of all trains, and thus less than 20 % of all passengers are controlled upon entry.

The experts were told also of another situation which is quite worrying: it concerns the possibility leave trains in an uncontrolled manner in Lille (with a possibility to board a French train to Marseille, Rennes, etc) and the possibility to board some trains in Ashford, without being controlled.

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Comments by the experts:

The experts are of the opinion that the French practice with regard to incoming passengers from the UK does obviously not comply with the Schengen requirements, which call for a systematic entry control. In fact, France is actually granting priority to exit controls over entry controls. Furthermore, the experts consider that permanent SIS terminals should be available in London. Just like the UK staff being present in Paris on a permanent basis, it appears necessary to have French staff being present in London on a permanent base.

A discussion with the French officials considered an intermediate solution whereby the French presence in London would be ensured 6 out of 7 days every week. However, due to the loss of time given the fact that there is no staff permanently based in London, and that staff would have to come over from Paris, even a French presence on 6 out of 7 days every week would not ensure systematic controls. France would be missing the first and last trains every day, in total 9 out of 21. This would represent no more than 52 % of all traffic being controlled. Neither does a solution whereby French officials would systematically control on board with mobile systems terminals cover every train.

Even with such a low level of controlling intensity, the results over the past months showed that France found approx. 2 to 3 non-admittables persons every day they were controlling. Statistically, one could estimate that France probably "misses" several thousands of illegals or more alerted persons due to this absence.

Other figures were given which show an impressive increase of the amount of inadmissibles from the first semester 2001 to the second semester, since the French presence on UK territory was authorised. The increase amounts up to 95 %. The main reason for non-admissions was the lack of visa; the most involved countries are Congo, Ivory Coast and Angola. It remained unexplained how France is coping with the issuance of visa at the border, how blank stickers are kept, what the procedures are for granting a visum, how many cases occurred in the recent months, ...

The access to the SIS, which is only possible by phone, is not considered an effective nor a sufficient solution. The figure of approx. 10 calls per month clearly confirms this statement.

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Finally, it is worth mentioning that under article 48 of the French "Loi Sécurité au quotidien" (Law on Security in daily life) UK officers will be allowed to control at such an early stage that undocumented foreigners, or foreigners who are not properly documented for entry into the UK travelling with a ticket limited to Calais will not be allowed to board Eurostar at Paris Gare du Nord and will have to take a local French train. Experts were wondering on what legal base such a provision would be adopted, if there is a limitation from the point of view of inner-Schengen free circulation of persons and whether such deals should not be made in agreement with the transporting company

(F) Comments by France

a) Les dispositifs de contrôle à Londres-Waterloo

Un dispositif permettant d'améliorer le système actuellement mis en œuvre sur le site de Londres-Waterloo est à l'étude. Ce projet permettrait d'effectuer un contrôle de tous les trains au départ de Londres-Waterloo.

- Les terminaux SIS

Les deux aubettes de contrôle de passagers situées en gare de Londres-Waterloo seront reliées à l'architecture CHEOPS. A cet effet, le ministère de l'intérieur a fait procéder, d'une part, à l'installation par British Telecom, d'une ligne spécialisée et, d'autre part, à l'acquisition des moyens informatiques nécessaires à la consultation des fichiers de la police nationale (dont le SIS) depuis ces postes de travail affectés aux personnels de la police aux frontières.

b) Les contrôles en gare du Nord

- L'accès au SIS

Actuellement, les aubettes de contrôle situées sur la mezzanine Eurostar ne sont pas équipées de terminaux de consultation du SIS car il s'agit d'infrastructures provisoires qui ne disposent pas du raccordement au réseau CHEOPS. Toutefois, le projet d'aménagement de l'ensemble du terminal Eurostar en gare du Nord prévoit l'installation d'aubettes définitives qui seront toutes équipées d'un accès au S.I.S. La mise en place effective de ces équipements devrait intervenir à la fin du 1er semestre 2003.

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- Le local de " seconde ligne "

D'une superficie de 61,53 m², il est composé d'un accueil, de deux pièces principales, d'une cellule de garde à vue et de sanitaires. Ce local est effectivement assez exigü et détérioré, mais cette situation est amenée à s'améliorer dans un avenir très proche. En effet, au 31 mars 2002 est prévue la livraison par la SNCF d'un nouveau poste de police situé au 112, rue de Maubeuge Paris 10ème. Ces nouveaux locaux de 110 m² seront équipés d'un mobilier neuf et dotés d'un parc informatique performant. Ils permettront également de consacrer une pièce dédiée au traitement des affaires judiciaires et notamment aux auditions des personnes gardées à vue.

La détection des faux documents

L'unité de contrôle des trains internationaux dispose actuellement des équipements suivants pour l'analyse de documents : un détecteur transportable " Rétrochek ", des lampes ultra-violettes (courts) SAFE 1037, des lampes ultra-violettes (longs), des filtres rouge COKIN, des compte-fils gradués, des compte-sillons, des pinces bruxelles. A brève échéance, cette unité devrait se voir dotée d'un binoculaire de grossissement (x100) et d'un complément de détecteurs " Rétrochek " afin d'améliorer l'efficacité des examens des documents d'identité.

Par ailleurs, le logiciel d'aide à la décision SINDBAD, dernière version 1.6, pourra être mis en place dès l'installation de l'unité de contrôle des trains internationaux dans ses nouveaux locaux car ils seront sécurisés, ce qui n'est pas le cas de l'actuel local de " seconde ligne ".

c) Les contrôles en gare de Lille-Europe

Actuellement, moins de 10% des voyageurs entrant dans l'espace Schengen font l'objet d'un contrôle transfrontière à l'arrivée en gare de Lille-Europe. Cette situation s'explique notamment par la configuration de la gare et par les pratiques de la SNCF. En effet, pour des raisons commerciales (facilitation des correspondances avec les TGV nationaux), la majorité des EUROSTAR arrive sur des quais non stériles. Il est, dans ces conditions, impossible pour les services de la police aux frontières de procéder à des contrôles en raison de l'étroitesse du quai et des nombreuses issues (le quai est long de 450 m et comporte dix sorties possibles). Les premières demandes étant restées sans effet, un courrier de relance sera adressé à la SNCF afin de trouver une solution.

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Visit to the bi-national police station in Ventimiglia and the police station in Menton

The experts have been visiting the "Commissariat commun" in Ventimiglia which brings together French police officers with their Italian counterparts in the premises of the Italian Police, at the railway station. This common Commissariat will become a PCCC (Police and Customs Cooperation Centre, in French centre de Coopération Policère et Douanière, CCPD) at a later stage and will be located near the actual border. Later a visit was paid to the police station of Menton.

The experts were told about the following activities:

About police cooperation:

Figures were shown which represented substantial activity and exchange of information on checking of persons, on verifying documents and cars. The main domain of activities relate to readmission, information to other law enforcement authorities, to the ports in this area, cooperation with other PCCC's, false documents. This is yet a commissariat common (bi-national police station), it will become later a CCPD without any firm date being mentioned. Based of the agreement of Chambéry (1997), the implementation of the PCCC will bring together Gendarmerie, Police and Customs, as well as on Italian side, Polizia di Stato, Carabinieri, Dogana and Guardia di Finanza. The main tasks will relate to all forms of traffic, illegal migration and maintaining law and order and the safeguarding of internal security. Gendarmerie is currently not involved in the bi-national police station.

The number of readmissions is growing since the implementation of the Agreement of Chambéry. There are many more French demands (1208), compared with only 156 Italian requests. French demands for readmissions were accepted for about 70 %. This involvement in readmission will also form a part of the future work of this PCCC in Ventimiglia, which is not the case in Offenburg, the place in Germany which is the seat of the French-German PCCC

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About 5000 vehicles were verified, approx 10 % was found to be stolen. It is an important task to control departures of vehicles in the direction of the Maghreb; SIS recordings are not so fast as FR records, stolen cars soon heading for ES; there is also a task of controlling on Italian vehicles with a new insurance, verification of fraud with insurance

About false documents, more than 2000 verifications took place when there was ground for suspicion. 25 % proved to be counterfeits or forgeries.

Furthermore, French authorities organise common actions with their Italian counterparts.

About controls in the border area:

In fact, France is still performing controls, be it that these controls no longer take place on a geographically fixed border, but in a border zone of about 20 kilometres.

The French officials explained that article 2.3 is relevant and aims at people in a legal situation. The French authorities consider themselves, together with the Italian colleagues, as responsible towards Northern European countries, since the threat of mass influx of illegals through this area onto the Northern part of Europe is a common concern.

Comments by the experts:

On police cooperation:

The police cooperation works now as a pre-PCCC phase. Although the local staff is dedicated to getting the best results of the cooperation, there is some confusion about the possibilities offered by the Schengen Convention and the best use to make of it. Police officers are involved in information exchange about vehicles, individuals, departures. They do so both on the base of national information systems and SIS. It is only when they use Schengen that it implies that they have to report to the central authority of SIS; But, SIS is for them no more than just another instrument additionally to the national database. They use only the central authority in limited cases. Like with the Interpol or Europol channel, police is allowed to use the quickest channel they want to use. SIS info is too slow, for info to be completed, therefore they sometimes prefer to use national database or bilateral contacts. These bilateral contacts seem to work very well, and it can be assumed that due to the well working co-operation and sharing of intelligence information, the percentages of detected stolen vehicles and falsified documents are considerable high.

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Authorities weren't too much aware of the possibility of art 39 and 46. They make a difference between information they develop themselves or information they are involved in as requested party.

On borders:

Experts were told that the controls on the trains heading in the direction of France are systematic. So the question pops up if systematic controls on trains, aimed at detecting illegal immigration, are not police controls but border controls, be it that they are based on the code of criminal procedure. It should be discussed whether these controls are compatible with Schengen Article 2¹. In fact, it is hard to see what changed at this internal border since the controls were officially abolished. The French authorities claimed to be available at the shortest notice for reintroducing border controls, if need be, according to Article 2.2

The Riviera-project

During a session in Menton, the experts were informed about the Riviera project which extends the French Tetrapol system to several regions in Italy. It provides terminals to some Italian police authorities in order to facilitate cooperation between French and Italian police forces from this area with this communication system, under the umbrella of Acropol.

This project covers parts of North West Italy and South East France. French police has gained wider experience with TETRAPOL, in Paris and in the corridor between Lyon and Marseilles. Experts were informed about the objectives of this project, as well as about other systems currently running in France, like the Rubis system with the Gendarmerie. Customs have yet not made a choice for their future communication system.

¹ (F) Les contrôles dans les trains sont très fréquents. Ces contrôles ne sont pas destinés à prononcer des non admissions mais à détecter les étrangers en situation irrégulière sur le territoire français. Ce sont des contrôles de police qui impliquent un contrôle d'identité prévu par l'article 782 alinéa 4 CPP, tels qu'ils sont rendu possibles par l'article 2.3 de la Convention d'application de Schengen.

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Meeting with the leader of the anti-drugs squad in Nice

The police faced in the past only a few requests for observation; hot pursuit did apparently not occur. It should be noted that there were more Italian requests to France than French requests to Italy (11 to 1). France is often serving as a relay for traffics towards Spain. The main topics involved were drugs and mafia on run.

Every request for observation is granted by France as long as there is an authorisation of a French magistrate.

There is an Italian Liaison Officer in Nice, like France has one also in Rome, no technical problems were signalled.

Comments by the experts:

On the question why there are so few requests for cooperation, no reason could be given. It is possible that the cooperation channels are too complicated to be used.

Many people regret the lack of compiled statistics on observation and hot pursuit. This should be a useful tool of management.

The need for improvement of art 40 and 41 is being considered by the EU's Police Cooperation Working Party. Experts stress the importance of having more instruments to obtain better results , as long as these instruments are used. It is more likely that PCCC will frequently be used, since it provides with direct, unchanneled information

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Visit to the BCP of Geneva- Thonex-Vallard, followed by a visit to the Geneva-Cornavin railway station

During their one-day stay in the French border zone around Geneva, the experts had the opportunity to cross the borders in Ferney-Voltaire and in Bardonnex and to perform a intensive visit as it was planned in Thonex-Vallard.

Furthermore, the experts group used the opportunity of being at the railway station of Geneva-Cornavin to scrutinise the entry controls on the TGV to Paris.

Presentation of the Schengen controls in the Customs district of Lemman,

The experts met with responsible officers from Customs, Police and Gendarmerie.¹ Customs had the lead in this presentation since it is in charge of several BCP's in this area.

Customs is part of the Ministry of Economy, Finance, Budget and Industry. The main objectives of Customs are fight against traffics, among which illegal immigration, help to the enterprises and tax perception (15 % of state revenue)

Customs are entitled according to the Code des Douanes, to check the identity, within a defined Customs area. They are also empowered to consult SIS - but only in a restricted way - and to verify entry documents and residence permits.

The French Customs area of Lemman, has as only neighbour a non-Schengen and non-EU state. Some BCP's are controlled by PAF, for example St-Julien-Bardonnex which carries this responsibility in order to have the possibility over readmitting persons. This will change with the PCCC, provisionally located at the airport, and later in 2005 in a definitive premises. Most of the BCP's are controlled by Customs. There is also one BCP at the bank of the lake, in Evian.

¹ At Thonex-Vallard, the experts have been met by a trade unions delegation of the Customs, which distributed a paper containing an opinion about the level of controls

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Person's control at the borders was until 1992 not a task for customs. It was the competence of PAF. It is only in the last years that a growing number of BCP's was transferred from PAF to Customs. Customs are entitled to refuse entry, but if someone is found inland, the handling of this person will be the competence of the police.

Since 1992, a pilot project is going on aiming at complementarity in the Department Haute-Savoie. Training was granted by PAF officers. New competence for "visa de régularisation et sauf-conduit", refusal of exit of minors and acting of definitive exit out of the territory. This project is now implemented since Schengen implementation in 1995.

Comments by the experts

The experts were surprised to see that, in this Customs area, no more than a very small part is performed of the systematic controls, which are compulsory at the outer borders of the Schengen area ¹.

¹ (F) *Observations de la France suite aux remarques formulées par les experts*

Les experts ont été étonnés de la faible part des contrôles systématiques, pourtant obligatoires sur les frontières extérieures de l'Espace Schengen.

Pourtant, l'exercice de contrôles systématiques à la frontière terrestre avec la Suisse (pays non- Schengen) est impraticable et irréaliste pour les motifs suivants :

- 1. La Confédération helvétique est enclavée dans l'espace Schengen, ce qui diminue d'autant, la sensibilité de la pression migratoire par rapport à une frontière tierce classique.*
- 2. La mise en place de contrôles systématiques à la frontière ne manquerait pas de provoquer rapidement un allongement des files de véhicules en attente, voire un blocage de la circulation, qui ne manquerait pas de susciter l'irritation des usagers et l'incompréhension des autorités helvétiques, notamment dans les créneaux horaires des flux de migration frontalière.*

Il convient de tenir compte, en effet, que ce point de passage est emprunté quotidiennement par des travailleurs frontaliers, en majorité. Un contrôle systématique de ce type de voyageurs est inconcevable. Un dispositif optique (disque vert comportant l'insigne douanier) autorise un franchissement accéléré de la frontière pour les personnes l'ayant apposé sur leur véhicule. Seuls les usagers dotés de ce dispositif optique peuvent emprunter la file « frontaliers ». L'octroi du dispositif optique fait l'objet d'une enquête préalable initiée par la douane et la PAF. L'ouverture de cette file à certaines heures fait l'objet d'une décision concertée entre homologues suisses et français.

Les experts ont noté l'existence de nombreuses possibilités de passer la frontière terrestre sans grand risque d'être contrôlé.

Il convient de préciser, néanmoins, que le maintien des accords franco-suisses sur le petit trafic frontalier (accords de 1946 et 1958) autorise les ressortissants suisses à pénétrer dans l'espace Schengen sans emprunter les PPA.

Dans le cadre de leur mission de surveillance générale, les unités de surveillance de ce secteur (St-Julien B.S., Annemasse B.S., Annecy B.S., Douvaine B.S. et Thonon B.C.S.) contribuent également au contrôle des flux migratoires, dans les intervalles, sur la base de 2 vacations/unité/jour en général.

Même si la nature des contrôles de ces unités est avant tout douanière, il est à noter que 51 personnes en situation irrégulière ont été interceptées et remises à la PAF et que 48 refus d'admission ont été prononcés en frontière (sur des

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In fact, the level of border controls does not even comply with the regime for Minor Border traffic, which is in force from 4.30 p.m. to 7 p.m. every day at the dedicated traffic lane for regional workers. Neither at the main entrance points, like Thonex-Vallard, nor at the other ones along the highway (St. Julien Bardonnex) or in the urban area of Moellesullaz, there is enough staff, equipment or specialism to perform along the minimum standards of the Schengen requirements.

points de passage non-gardés, essentiellement).

Les experts ont évoqué ensuite les moyens consacrés à la mission de contrôle des flux migratoires. Leurs observations suscitent les remarques suivantes :

1. L'implantation du terminal SIS à la B.C. de Vallard Thonex date de la fin de l'année 2001. Le transfert de ce terminal, implanté précédemment à la B.C.S. de Collonges/s/Salève, a été décidé suite à la signature du protocole de complémentarité DDPAF/DRDDI du Léman en date du 8 novembre 2001. Ce protocole consacrait l'abandon du PPA de Collonges/s/Salève doté d'un terminal en propre, dont le transfert compensait une demande d'affectation d'un terminal au sein de la B.C. de Vallard qui n'avait pu être satisfaite entretemps.

Pour autant, le système précédemment en vigueur ne pénalisait pas la brigade de Vallard dans la mesure où la consultation du fichier s'effectuait instantanément via le Poste central de transmissions (P.C.T.) et non la PAF.

Afin de permettre aux fonctionnaires des douanes d'exercer pleinement leurs attributions sur les points de passage autorisés dont elle a la responsabilité, la direction des libertés publiques et des affaires juridiques a élaboré un projet de décret modifiant celui du 6 mai 1995 relatif au SIS ainsi qu'un projet modifiant les arrêtés relatifs au Fichier des Personnes Recherchées (FPR) et au Fichier des Véhicules Volés (FVV) afin que les agents des douanes exerçant dans les postes de contrôle aux frontières bénéficient d'une visibilité complète de tous les signalements figurant au SIS, ainsi que de l'accès aux fichiers FPR et FVV dans les mêmes conditions que les fonctionnaires de la police aux frontières.

Les experts ont critiqué enfin l'organisation des contrôles sur le PPA de Vallard Thonex. D'autres alternatives sont cependant, difficilement envisageables :

1. La mise en place de contrôles systématiques n'est pas une solution praticable pour les raisons évoquées supra. L'utilisation de la file « frontaliers » fait cependant l'objet de contrôles ponctuels, les agents s'assurant de la régularité de la déclaration tacite, caractérisée par l'apposition du dispositif optique réservé aux frontaliers connus du service.

Par ailleurs, compte tenu des moyens opérationnels disponibles, des objectifs prioritaires, tels le contrôle des flux migratoires à l'entrée en France dans l'Espace Schengen, ont été définis.

L'expérience professionnelle des agents permet de compenser le caractère non systématique des contrôles. 2. Le terminal a été implanté dans l'aubette centrale en privilégiant l'utilisation par les agents contrôlant les flux à l'entrée, ce qui correspond aux priorités assignées. Il n'est pas allumé en permanence car son utilisation est instantanée.

À proximité du terminal, la documentation sur le contrôle des flux migratoires est disponible. Grâce à ce terminal, les agents peuvent avoir accès sur l'Intranet douanier ALADIN à la documentation informatisée relative à la Convention de Schengen.

3. La délivrance de visas de régularisation n'est pas une tâche prioritaire s'agissant de personnes quittant le territoire donc l'espace Schengen.

4 visas de régularisation ont été délivrés en 2001.

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The experts noted that there are plenty of opportunities to cross the green borders in this area. No law enforcement agency is really paying attention to it. Surveillance is a marginal task for the customs, whose 5 units with cars are essentially involved in "traditional" Customs ; the Gendarmerie is kept busy by the rising criminality in the area. Police is also failing sufficient resources. The fact that there is a good climate of cooperation with CH and that police cooperation is developing well, should not hide that there are hardly any first line and second line controls performed.

It should be said that the immigration movement shows that there is more pressure on the entry into Switzerland than into France. Nevertheless the nationalities of the non-admitted persons proved that there should be concern on French side over international security and illegal immigration via Switzerland to France.

The absence of systematic stamping of travel documents upon entry may also cause trouble to travellers, since the integrity of the Schengen system requires the need to track people both at entrance and upon leaving the territory.

The policy decision adopted by the French authorities, which send back the Borderpolice to just a few BCP's has as a consequence d'affecter à l'administration des douanes de nouvelles responsabilités à l'occasion de l'exercice desquelles elle peut faire appel, en cas de besoin, à des services référents de la PAF. Experts consider that customs simply cannot fulfil these tasks under these conditions: for example, the BCP of Thonex-Vallard did receive its very first SIS terminal not earlier than in December 2001. Before that, no other SIS-checks could be performed than through a telephone call with control transmission office, a special customs unit involved in transmissions, connected with a SIS terminal. The local staff received a training into the functionalities of the SIS lasting no more than one morning.

Before that, no other SIS-checks could be performed than through a telephone call with the PAF, a few kilometres further. Even now, Customs checks on the SIS terminal cover only article 96 of the Schengen Convention. Article 98 is not accessible at all. Art 95 alerts for instance are only marked with as "Call the police ". The experts were told that the call upon police assistance was made no more often than approximately once a month. The same applies for art. 99 alerts, with the absurd effect that what was meant as a discrete surveillance implies to keep the suspect under control, while a phone call is made to the police.

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It was said that this is the result of data protection limitations imposed by CNIL. This might look strange because telephone calls to other police stations are not taking place on data-protected telephone lines. There is a real threat for a Customs official would might be facing a dangerous criminal, alerted as such in the SIS, but whose data would not be accessible to the officer. This affects in an essential way the quality of border controls.

The experts have experienced that at this moment the site of Thonex-Vallard is not structured to perform more than the episodal checks we have been seeing. There is no reason to assume without systematic checks that all passengers of Swiss cars, or French cars, which are waived through the control line, do not contain passengers of other nationalities. This same shortcoming appears in the special line for border workers, which opens at certain hours. It was quite a surprise to note that the Swiss officials are the ones opening the barrier which leads to an uncontrolled access into France.. There is no chance to check whether the driver and the passengers of such cars are beneficiaries of this regime.

The experts were surprised to see that the docubox which is available, and which like the unique and brandnew SIS terminal is not located in the immediate neighbourhood of the places where the controls do take place, was not even plugged in. Obviously there are not many document verifications performed. The experts were told that this BCP has never issued any visa

The experts are satisfied with the different forms of police cooperation which have been put in place with Switzerland, on the base of bilateral agreements; the CCPD which is due to be signed on 28 January 2002 will certainly represent a progress. Although, the fact that there were no concrete cases of hot pursuit or of observation shows that there is room for improvement in this cooperation. It is advisable to consider if the introduction of a sanction for committing an illegal entry outside the authorized points of entry by non EU-EEA and non-Swiss citizen could strengthen the efficiency of border surveillance.

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(F) Commentaires de la France

Dans leur rapport, les experts précisent que le contrôle des personnes n'incombait pas à la douane avant 1992. Cette observation est en partie erronée, car cette administration disposait antérieurement, de prérogatives en matière de contrôle des personnes aux frontières extérieures. Celles-ci se fondent sur les dispositions de l'article 67 du code des douanes et sur le décret n° 82-442 du 27 mai 1982 portant application de l'ordonnance du 2 novembre 1945, relative aux conditions d'entrée et de séjour des étrangers en France. L'article 11 de ce décret habilite les agents des douanes, titulaires du grade de contrôleur ou d'un grade supérieur, à prononcer des refus d'admission à l'encontre des personnes ne remplissant pas les conditions requises.

En fait, la circulaire interministérielle du 6 novembre 1995 a organisé une complémentarité entre les services de la police (DCPAF) et de la douane. Ce texte confie déjà à l'administration des douanes la responsabilité des contrôles transfrontières dans 170 points de passage autorisés (PPA) sur 245.

Puis, prenant en compte l'évolution des flux migratoires, en particulier la faiblesse de ceux-ci sur certains points de passage, et confirmant une volonté de réorientation de l'action de la police vers les missions de sécurité et de proximité, le Conseil de sécurité intérieure (C.S.I.) a décidé le 6 décembre 1999 de confirmer l'importance du rôle de la douane dans l'exercice des contrôles transfrontières.

Ainsi, 18 PPA ont été transférés au cours du second semestre 2000. 20 autres PPA ont été pris en charge par la douane le 25 juin 2001. La douane assure les contrôles transfrontières sur 184 PPA (sur un total de 225) dont 32 PPA terrestres, 86 PPA aériens et 66 PPA maritimes.

Des protocoles départementaux de complémentarité ont été établis par les responsables territoriaux des deux administrations, suivant un protocole-type établi par la DCPAF. Les modalités pratiques de transfert de la mission de contrôle transfrontière ont été gérées au niveau local. Un programme de formation a été conçu et mis en œuvre afin de donner aux agents des douanes les bases théoriques et pratiques nécessaires.

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Le transfert concerne uniquement la mission de contrôle transfrontière (vérification de la situation des personnes). Dans ce cadre, les douaniers (du grade au moins de contrôleur) sont habilités, au même titre que les fonctionnaires de la police aux frontières (au moins du grade de lieutenant) à prononcer une mesure de non-admission à l'encontre des personnes qui ne remplissent pas les conditions d'entrée dans l'espace Schengen.

En revanche, la douane n'est pas juridiquement compétente pour un grand nombre d'aspects liés à l'exécution de la décision de non-admission et pour la prise de certaines mesures qui sont du domaine de la PAF

Il a donc été mis en place un système de service référent de la PAF auquel la douane peut s'adresser en cas de besoin et pour toutes les mesures telles que les placements en zone d'attente ou la gestion des réadmissions qui relèvent de sa compétence exclusive.

Lors de la visite, il a été précisé qu'une expérience de complémentarité entre la douane et la PAF avait été lancée en Haute-Savoie en 1992, prévoyant une extension de compétence par rapport au texte de 1982, pour les services douaniers de ce département. Lors de la mise en application de la convention de Schengen en 1995, ces compétences supplémentaires (délivrance de visas de régularisation et sauf-conduits, refus de sortie des mineurs et signalement des sorties définitives du territoire) ont été confortées.

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Visit to the entry control point at the Geneva-Cornavin railway station.

During this unprepared visit, the experts met with the Customs staff which is in charge of controlling passengers boarding the TGV into France. It is therefore a full fledged BCP, although an unusual one being on Swiss territory. Since it was decided that PAF should concentrate on other geographical areas, Customs is left alone to control this site. Apparently staff in the railway station has not increased.

The controls must take place in a limited lapse of time of approx. 30 minutes before the train leaves. The Customs have two SIS terminals at their disposal, but the use of them is being complicated by the fact that the connection has to be made through a dial-up network via an international phone call. The communication sometimes fails with SIS, which was the case during the experts' visit. Furthermore, an indicative recommendation to use the telephone line for no longer than 15 hours per month for cost reasons, limits the effectiveness of the system.

However, staff seems to have been quite successful, since an average of 300 non-admissions per year were obtained. This figure, which is kept in details in a logbook, seems even more impressive if we take into account the nationalities involved.

Comments by the experts

Experts come therefore to the conclusion that the Geneva area should not be underestimated for its potential illegal immigration and for the risks of cross border criminality. Additionally, the BCP would certainly profit from an online connection or, at the least, upgrading the indicative timelimit of connections to 30 minutes per train connections; considering the high number of trains (not only from Geneva, but also from Lausanne) it is wrong to limit strictly connection times.

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(F) Comments by France

La Douane assure seule le contrôle des flux migratoires sur le site de Genève-Cornavin depuis Juin 2001, et l'effectif opérationnel de 22 agents n'a effectivement pas été augmenté avec ce transfert de compétences.

Sur le site, la brigade de contrôle (B.C.) de Bellegarde dispose de quatre terminaux, deux à la sortie de France, deux à l'entrée en France (ceux évoqués par les experts).

L'implantation du PPA sur le territoire suisse, nécessite, en effet, que les interrogations du SIS par les agents des douanes passent par le réseau téléphonique international Suisse/France.

L'échec de connexion SIS le jour de la visite est à mettre sur le compte d'une indisponibilité du SIS pour réorganisation de la base DF SIS par le centre informatique douanier (C.I.D.), dont les agents n'avaient pas été avisés à leur départ de service de Bellegarde, siège de l'unité.

Les connexions au SIS sont facturées par SWISSCOM, au tarif d'un abonnement par terminal SIS de 25 CHF (15,25 €), montant auquel s'ajoute le coût des communications au tarif international.

C'est l'augmentation considérable des dépenses téléphoniques du point de contrôle de Genève-Cornavin (54 € mensuels en moyenne jusqu'en juin 2001, puis progression constante pour atteindre un maximum 342 € en octobre 2001), qui a conduit les autorités hiérarchiques à un encadrement rigoureux des connexions SIS.

En matière de résultats, le bilan du second semestre 2001 est le suivant :

- 155 non-admissions prononcées avec remise des intéressés à la Police suisse,*
- 49 étrangers en situation irrégulière remis ensuite à la PAF,*
- 4 visas réguliers et 1 sauf-conduit.*

Observations formulées par les experts

Les autorités françaises ont conscience des risques potentiels que présente le secteur de Genève, en termes de criminalité transfrontalière, en revanche, elles tiennent à rappeler aux experts que la pression migratoire sur la frontière franco-helvétique, reste sans commune mesure avec celle exercée sur les frontières avec d'autres États non-Schengen.

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Concernant, les connexions au SIS, l'administration des douanes reconnaît que les observations des experts sont pertinentes mais attire leur attention sur l'incidence non négligeable qu'aurait, en terme de coûts de fonctionnement, une utilisation non maîtrisée des liaisons téléphoniques internationales. Elle s'engage néanmoins à rechercher des solutions permettant une utilisation optimale des différents terminaux SIS opérationnels sur le site.

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Visit to the police cooperation with Spain, in Hendaye.

The experts had the opportunity to hear about the general police tasks in the border area of the Pyrénées-Atlantique. Special attention was paid to the joint operative set of measures in fighting terrorism. Furthermore, discussion went on over hot pursuit and right of observation. A visit was organised to the bi-national police station of Biriattou.

From the Bask coast to the region of Bearn, there are 11 BCP's, among which the one on the main road A 63, where the bi-national police station is located. 80 % of international traffic, including major immigration flows pass through this point of Biriattou. Other border crossing points are in the mountains, only a few of them have substantial traffic. These are not systematically guarded. One new PCCC will be located at the "tunnel du Somport", where significant traffic is expected.

There are no systematic fixed controls on this (Schengen inner) border, but several controls take place in the 20 kilometres zone.

The cooperation in the fight against ETA terrorism is a key factor to understand the security policy in this area. Ministers of France and Spain have decided that there should be a border control network, working in complementarity. 11 points of controls have been determined. Those points are all controlled daily, but not at the same time every day

This border control network, determining the control schedules for the coming weeks is defined in a coordinated way between France and Spain. These plans involve all law enforcement agencies, except the Customs. CRS and mobile gendarmerie squadrons (complementary national police forces), are included in the control schedule, Customs have their own surveillance programmes. Those controls have lead among others to catch a lorry with 1 tons of explosives. Policy making and evaluating meetings between FR and ES take place every semester.

The controls are performed by mobile units, which have access to the data files for wanted persons, and to car registers, since ETA is often using "double" cars (cars which look alike, use same plates and same papers). Assistance for inquiries are obtained from the binational police station and, if need be, from the UCLAT, (unité de coordination antiterroriste), where Spanish anti-terrorism authorities are represented. Exchange of information is possible by radio or by mobile phone.

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Many thousands were controlled in the recent past, the authorities found in one year 500 persons looked for ETA involvement, in Spain even 1500 persons were arrested.

Despite the abovementioned coordination, there are no joint patrols. Only when article 2.2 of the Schengen Convention is reintroduced, these joint patrols are organised, for instance during the European Summit in Biarritz.

Hot pursuit: not one single case, neither on French nor in Spanish side, except one illegal hot pursuit of the regional Bask police. The Bask police has been condemned for this. Bask police is not mentioned in the cooperation agreement with France.

Antenne judiciaire de la PJ de Bayonne, Drugs, starting from Bordeaux

A representative from the Drugsbrigade has presented the police cooperation on drugs, terrorism, and money laundering.

The cooperation concerns mainly requests for observation based on article 40. The procedure is the following: a form is sent to Sirene France, which sends it to the Spanish authorities. Then an observation may start, for one month maximum. The Spanish authorities are informed in real time; car plates and mobile numbers are communicated. The criminal police unit of the National Police in San Sebastian is the partner. A report is written afterwards and sent to Sirene FR.

Since 1999 two drugs-networks were dismantled. There were no emergency observations, nor hot pursuit, even in terrorism cases.

About 20 cases of normal observation over the borders have been performed. The French and Spanish authorities do not share car plates.

In the hypothetical case that an urgent request would be submitted, police officers would use their mobile phones. Gendarmerie would use the operational centre. There is no common radio system, no exchange neither.

Gendarmerie says that there is direct radio link with the Commanders of the Guardia Civil in Spain. Communication takes place at commanders level

There was only one experience with placing a French radio in a Spanish car.

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There have been no cases either of crossing the borders with arms for police. Gendarmerie is always armed with only carrying weapons.

The experts visited the bi-national police station of Bariatou and were met by motivated staff from both the French and the Spanish police. The police of both countries is represented there, not the Gendarmerie (nor the Guardia Civil); Customs is working in the immediate neighbourhood of the police station. The FR and ES share room and equipment in a very close way, by assisting each other. Equipment worked satisfactory, with permanent on-line SIS connections, and a docu-phone which is able to send pictures of documents to Madrid, including several tests on it.

Comments by the experts

The experts noticed that FR and ES are undertaking many valuable efforts to improve police cooperation which is already at a high level. Still, there is room for improvement, in particular by authorising more cross-border activities, mixed teams, observations, pursuits, carrying weapons, etc. It is regrettable that the FR parliament has not yet ratified the agreement between Spain and France.

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Visit to the Ministry of the Interior in Nanterre (SCCOPOL)

Presentation

The experts had the opportunity to meet with the authorities in charge of the central contact point for international cooperation (UCCPI) and for operational police cooperation (SCCOPOL). The national bureaus for Interpol, Europol and Schengen (SIS, Sirene, international police cooperation) are the three participants into this central point of entry. SCCOPOL is therefore the platform for human and technical assistance. About 130.000 messages are exchanged every year with other countries. SCCOPOL is receiving messages and requests for assistance from investigators and magistrates and dispatches those demands to the appropriate channel (Interpol, Schengen, Europol). SCCOPOL is available 24 hours a day and 7 days a week to ensure all operational contacts. Police and Gendarmerie are represented on a permanent base, this appears not to be the case for Judiciary, which is available on-call.

The results of the cooperation are as follows: during the year 2000, 205 criminals have been arrested in France on behalf of the Schengen partners, where 188 wanted persons were arrested abroad following a French request. More than 3.000 stolen cars were found and returned to their owner, thanks to this system. The number of demands for operational information approximates 1.500 units, but the number of observations and pursuits was much lower (about 170) in both directions. There are no statistics about hot pursuit, despite the fact that those statistics should be collected according to the Handbook on Police Cooperation.

Comments by the experts

The experts were of the opinion that the French structure of coordination and dissemination of information functions quite well. The entry point ensuring one unique partner for all foreign agencies is probably the best system to avoid duplication of information or losses.

The figures on observation and hot pursuit remain quite low, which shows that the law enforcement agencies are not always aware of the possibilities offered by the Schengen Convention, or, that these rules are considered too complicated to apply.

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The multi-agency approach, which was suggested in the management summary would most certainly improve the use of statistics as a management tool. One magistrate explained that the fact that only suspects themselves may be the subjects of observation and not their relatives or friends weakens the investigative potential of article 40. This might be a recommendation for improving the Schengen acquis on police cooperation in future. As such, it is a recommendation for Council in general and not only a recommendation to France.

Experts learned from several meetings in the course of the week that police and gendarmerie may make use of either SCCOPOL or PCCC's for obtaining information. France should rethink the distribution of information, the responsibility over it and the coordination between SCCOPOL on the one hand and the PCCC's on the other hand. Since there are PCCC's, planned or yet installed, at most of the French borders, independently whether these are Schengen inner-borders or outer borders, the French authorities should consider if there is no loss of effectiveness due to this duality between the decentralised PCCC's and the central office in Nanterre. It would certainly be an important tool of evaluation if a report was systematically drafted after every observation. Generally speaking, it would be interesting to exchange reports between the central level and the PCCC's. The experts question also the issue of Customs not being represented directly in SCCOPOL. Since Customs are in charge of so many BCP's, an involvement at central level seems to be a logical consequence. As it stands now, the central level is lacking information about the results of surveillance and pursuit as well as about the direct exchange of information in which Customs are involved.

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¹ (F) La France a mis en place une organisation complémentaire des instruments de coopération policière avec:

- the articles 39 and following of the Schengen Convention on the one hand
- the bilateral agreements between contracting parties with a common border (article 39-5 of the Schengen Convention) on the other hand:

- * direct exchanges of information between operational units located in a border area

- * creation of police and customs cooperation center PCCC.

Les CCPD, qui n'intervienne que dans le cadre de la coopération policière directe, ne joue qu'un rôle d'intermédiaire pour faciliter les échanges d'informations entre les unités situées dans le bande frontalière.

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B. AIR BORDERS

1. Introduction

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 Def) and the programme of evaluations adopted by the Council (8881/01 SCH-EVAL 17 COMIX 371), expert teams have been sent to France.

From 4 to 7 February, experts from the EU Member States, Norway, Iceland, the Commission and the Council Secretariat were able to scrutinise the checks performed at the external air-borders in France.

The following sites were visited:

- Paris - Roissy-Charles de Gaulle airport (04-02-2002)
- Paris - Orly airport (05-02-2002)
- Nice - Côte d'Azur airport (06-02-2002)

The experts are grateful to the French authorities for having allowed the experts to collect a wide insight in the activities of PAF (French Border Police).

General comment

As indicated in the answers to the questionnaire, the responsibility for border controls is divided in France between the Border Police and Customs. A transfer of duties has been organised by the inter-ministerial circular of 6 November 1995, and stipulates which bodies (customs or PAF) are in charge of border control at the authorised crossing points.

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From what has been seen during the visit, the Committee concludes that it would have been very useful to also include an airport under the responsibility of Customs in order to see the means put by the French authorities at the disposal of the Customs, as Customs are now responsible for 86 airports among the 106 which are authorised border crossing points. Indeed, the transfer of border control duties to Customs was not accompanied by an increase of the staff.

The Committee regrets that, although the mandate stipulates that relevant data must be delivered at least one month in advance, in order to be translated in the working language agreed by the SCH-EVAL working group, this has not been the case. At Paris-Roissy-Charles de Gaulle, statistics have been delivered in French to the Committee after the visit.

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2. PARIS-ROISSY-CHARLES DE GAULLE

a) General overview

Paris-Roissy-Charles de Gaulle Airport is located 23 km north-east of Paris. It is the largest of Paris' airports, and handles the majority of the capital's international traffic (31. 8 million passengers/year in 1996; 38.6 million passengers/year in 1998; 50 million passengers in 2001). There was no information about the amount of passengers crossing the border.

Paris-Roissy-Charles de Gaulle Airport has three terminals. Terminal 1 handles both extra and intra Schengen flights (excluding Air France), Terminal 2 extra and intra Schengen flights, including domestic flights (Air France and other airlines) and Terminal T 9 handles charter flights exclusively.

The airport is operated by Aéroports de Paris (ADP).

- **Terminal 1**

Circular Terminal 1 is divided into seven floors, the departure and arrival levels linked by escalators in the centre. This terminal handles intra-Schengen and extra-Schengen flights. It has 7 satellites, 2 of them being Schengen areas.

- **Terminal 2**

Terminal 2, originally dedicated to Air France only, now also handles other airlines. It has currently five separate halls. A sixth hall is under construction and its completion is foreseen for 2003. Four of the halls (halls 2A, 2B, 2C and 2D) handle both Departures and Arrivals on the same level. The check-in area is located in the centre of each hall with Arrivals at the end. Hall 2F has two levels, with the check-in area and Departures on the upper level separated from the Arrivals on the lower level.

Halls 2A, 2 B and 2 C are non-Schengen areas. Hall 2D is for intra Schengen flights. Hall 2F is divided into a Schengen and a non-Schengen area.

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- **Terminal T 9**

This Terminal is where many seasonal charter flights operate from (Air Transat, Istanbul Airlines, and some other charter airlines). It is housed in a converted hangar and has limited facilities.

b) Realisation of the separation of flows

The passengers can move freely between the non-Schengen areas in the two Terminals by way of a regular bus service.

In Terminal 1, from the non-Schengen area one can look down in the area open to the public. This non-Schengen area has a glass balustrade of about 170 cm high, which does not prevent the passing of documents/goods from one area to the other.

In Hall 2F of Terminal 2 a corridor is used for transfer passengers between pier F 1 (Schengen area) and pier F 2 (non-Schengen area). Passport control booths, which are usable both ways, are present in this corridor. When closed (from 23.00 to 5.00), the glass doors between the passport control booths and the glass wall on the side do not provide an adequate separation between the 2 areas. The Committee noticed that there was no monitoring (such as CCTV) and it was told that surveillance patrols are not organised in a systematic way.

In the same Hall 2F, next to the passport control booth at the arrival level (for extra-Schengen flights), the glass wall does not prevent from passing through documents between the elements or over it from the non Schengen to the area located behind the passport control booths (Schengen area) or vice versa.

The Committee did not visit terminal 9.

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c) Control level

- **Competent national authority**

The **Border Police Division** of Roissy-Charles de Gaulle is in charge of cross-border controls on persons but has also to carry out other tasks such as general police duties (e.g. traffic offences in the airport area), some security tasks and the management of the so called “waiting zones”, criminal investigation duties, processing applications for political asylum, issuing badges for entry to the restricted area of the airport, etc...

Customs is present at this airport but is only involved in control of goods.

As in all other French international airports, the **Air Transport Gendarmerie** is in charge of security in the reserved zone (airport infrastructure not open to the public).

A private company, which is sub-contracted by the company operating the Paris airports and is under the supervision of the Border Police, executes the monitoring passenger security and checks on baggage.

- **Human resources and training**

The Border Police division at Paris-Roissy-Charles de Gaulle airport comprises 1.340 officials (compared to 1.709 mentioned in the answer n° 3 from France to the questionnaire). This staff has to carry out all the tasks linked with border control and immigration problems, including other general police duties described above in point III a). Among these, **only 792 border police officers are involved in passport control tasks**. The Committee was told that this staff was in practice not enough to perform all the checks in accordance with the Schengen regulations, and it was confirmed that the management had to decide on priorities. For example, priority is given to the control of entries over exit controls (in some cases leading to the total absence of these controls), and even then, without requesting a high standard.

RESTREINT UE

Despite the increasing amount of passengers, there was no increase of the staff of the Border Police during recent years. There is no increase of staff during the high season but, as in other airports, there are restrictions of holidays during those periods (only 20 % of the Border Police's staff can be on holiday).

With the upcoming opening (2003) of the new sixth hall in Terminal 2, the personnel destined to man this hall will already start arriving in the period to come. Although this might offer some relieve for the existing lack of personnel in the short run (until the opening of this hall), it does not offer a structural solution.

As a consequence of the high turn over among the staff, few Border Police officers have the appropriate experience.

- **Working positions**

There are about 150 working positions at the airport. Although the majority of passport control booths are passenger facing, the Committee observed that at least in Hall 2A and 2B at departure all passport control booths are side facing. The Committee is of the opinion that, although queuing passengers can be seen, a proper profiling is not possible.

The present passport control booths offer the passengers an unobstructed view into the passport control booth from the side and the back.

It was noted that neither in Terminal 1 nor in Terminal 2 from the PAF supportive offices, where the second line of control is located, the passport control booths could be seen.

RESTREINT UE

- **Equipment and technical resources**

Each working position is equipped with a computer-terminal and, except in Terminal 1, a UV-lamp. The magnifying glasses were transferred from the departure control booths to the arrival control booths because priority is given to the entry controls over the exit controls.

SIS is integrated in a national system (FPR – “*fichier des personnes à rechercher*”). The Committee noticed that very few staff is aware of the fact that they are also consulting the SIS when performing checks within the national system. Some FPR/SIS terminals were not used for checks during the visit, and others did not function. According to the border control staff, even the functioning terminals were not doing so properly: quite often, the time needed to obtain an answer varies between 20 and 30 seconds. For this reason, obligatory SIS checks for non-EU nationals are not performed. The Committee observed that CHEOPS architecture (see general reply from France) had not yet been introduced.

The positioning of the computer-terminals and the keyboards make them difficult and uncomfortable to use (entering data and looking at the screens). Although the control booths are not higher than the passengers, passengers are not able to have a sight on the terminal screens.

The second line of control is not located close to the first line control. It disposes of the same equipment as the first line, with the addition of a white lamp (Flashlight to see the watermark) and a retroviewer. A collection of alerts was available but no collection of genuine documents (such as SINDBAD). The Committee was told that SINDBAD was available at the local HQ, i.e. in the Directors building and in the local PAF training centre”.

Although not mentioned in the replies to the questionnaire, one photophone (not functioning at the time of the visit) is situated at the GASAI (Groupe d’analyse et de suivi des affaires d’immigration).

RESTREINT UE

- **Execution of border control**

Regular flows of passengers

Nationals of Switzerland are treated in the same way as EU nationals and not checked in the SIS database, which does not meet the Schengen standards. The reason given to the Committee is that a special convention exists between France and Switzerland "*in order to decrease the severity of the check of their nationals (like EU members)*".

During the visit on site the Committee noticed that only few passports were stamped; on one hand, the Committee saw that not all passports of nationals submitted to visa requirement received an entry stamp, and on the other hand it was surprised noting that during its visit to Terminal 1 passengers holding passports of the UK received entry-stamps in their passports whereas passengers holding passports of the US only did so upon request. When this question was raised, the French authorities indicated that - due to the huge workload and the lack of staff - normally only entry-stamps are placed in passports of non-EU nationals that are subjected to the visa requirement and that this was only done at their demand. These practices are in breach with the Schengen regulation.

The Committee found it positive that the number of controls at the aircraft door with a view to more effective immigration controls were increased substantially.

It was told to the Committee that the French authorities require for nationals of certain states (non-EU states only) that they fill out a disembarkation and an embarkation card for the entry and exit control. These cards go to a central unit of the PAF. However, it remained unclear with which purpose this information was collected.

RESTREINT UE

Crew-members

Crew-members of all airline companies on extra-Schengen flights pass through the special crew entry and exit lanes inside the Terminals, where airline companies ID (and not always crew member certificate) is visually checked. Crewmembers of Air France can leave the airport premises via the normal entry and exit gates in the separation between airside and landside that are used by airport personnel (this may be outside the terminal buildings). Normally, they are not submitted to any control by the PAF.

Passengers on Cargo-flights

As far as passengers travelling on Air France extra-Schengen cargo flights are concerned, they are previously announced by Air France to the PAF. Those passengers are met by officers of the PAF on arrival of the aircraft.

d) Visa issuance at the border

General remarks and issuing-procedures

Visa at the border at the airports visited are issued by the Border Police (PAF).
The following categories are issued:

Upon entry:

- **Schengen-Visa:**

EU-Visa-sticker; Cat.B, C and collective visa; maximum 15 days; filled in by hand; handwritten record in a "main-courante" (necessary data; reference to the specific situation for issuing); obvious security-problems in storage and delivery; fees: B 20 €; C: 50 € (no difference according to the number of entries).

RESTREINT UE

- **Visa d'Escale:**

Circulaire Nr. 363. August 5th, 1960; Rubber-stamp; issued for up to 72 hours in cases, where a foreigner, although arriving without a visa, needs to leave the area of the airport for a certain amount of time (more than six but less than 72 hours; applied to airports and airfields; examples given were for example accommodation near the airport, necessity to change airports etc.); the citizens of the Peoples Republic of China, the Peoples Republic of Vietnam and North Korea are excluded and cannot obtain a visa d'escale; fees: issued free of charge.

- **Sauf-Conduit:**

Circulaire Nr. 363. August 5th, 1960; extra piece of paper; max. 8 days; delivered to diplomats, non-admitted people, who need to regularise their problems at embassies and asylum-seekers, for which the administrative judge (TGI) has decided to give them the opportunity to introduce an application for asylum according to the French law; fees: issued free of charge.

Upon exit:

- **Visa de regularisation:**

rubber-stamp; filled in by hand; hand-written record in a special book; issued in case a person showing up at the border is found to have overstayed (exceeded the validity of his visa); fees: overstay 1-30 days: 50 €, 31 – 90 days: 60 €, more than 90 days: 200 €.

Being questioned about the conditions under which the visas are issued, the Committee was informed, that the travel-document, the return-ticket, the amount of money available and the motives for the trip were investigated and the person was also checked in the registers.

The number of visas issued at Paris-Roissy-Charles de Gaulle airport for the last 2 years was as follows:

RESTREINT UE

| Airport Charles de Gaulle | Visas de regularisations | Visa d'escale | Sauf-conduits |
|---------------------------|--------------------------|---------------|---------------|
| January – October 2000 | 3.017 | 6.008 | 4.037 |
| January – October 2001 | 3.160 | 4.562 | 3.847 |

The issuance of visa at Paris-Roissy-Charles de Gaulle is done in seven locations in the different terminals of the airport.

The Committee was quite surprised to see the high figures of visa de regularisation, visa d'escale and sauf-conduits issued at Paris-Roissy-Charles de Gaulle airport. Being questioned the French authorities were not in the position to provide greater detail on the figures and the categories. In addition specific data on the issuance of visa to seamen were not available.

The Committee also found out that – due to the lack of a volunteer among the Police officers to collect the visa-fees - all visa are currently issued free of charge.

e) Application of article 26 of the Schengen Convention

Concerning the application of Art. 26 of the Schengen Implementing Convention the Committee was informed that Article 20a of the Order of November 2nd, 1945, imposes administrative fines on sea, air and road carriers that allow aliens to disembark if they are not in the possession of the documents required for entry into France.

The French authorities indicated that a lot of administrative fines were imposed but relatively few were actually paid. A new procedure is under development that should take away the existing execution problems.

RESTREINT UE

The Committee found out that the French authorities also impose fines on carriers for the absence of airport transit visa (A-visa), in case such a visa is required. In such cases, the passenger is refused entry and send back to the place where he or she started the journey.

The amount of administrative fines imposed on carriers at Paris-Charles de Gaulle airport were as follows:

| | |
|------------------------|-------|
| January – October 2000 | 4.936 |
| January – October 2001 | 5.384 |

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3. PARIS-ORLY

a) General overview

Paris-Orly airport is located south of Paris (15 kilometres) near the town of Orly. It is the second largest airport in France, with two terminals referred to as Orly-Sud (Orly South) and Orly-Ouest (Orly West).

In 1995, 26.5 million passengers travelled via Orly airport, 27.7 million in 1996, 25.3 million in 2000 and 22.8 million in 2001. Out of the 22.8 million passengers in 2001, 5.8 million (26 %) crossed the external border.

After the September 11th attacks on the WTC-buildings in New York the number of passengers at Terminal Orly-Sud dropped by 30% in October 2001.

Both Terminals handle intra-Schengen and extra-Schengen flights.

The airport is operated by Aéroports de Paris (ADP) and is closed during night-time (from 24:00 till 5:00).

- **Terminal Orly-South**

Most foreign airline companies are serving Terminal Orly-South. The destinations served from this terminal are mainly located in Northern-Africa, the Middle- and the Far-East and Central-America. Departures and Arrivals both take place at the same level.

- **Terminal Orly-West**

Terminal Orly-West is served by Air France, Corsair, Iberia and TAP Air Portugal. Although the majority of flights from this terminal are intra-Schengen flights, destinations also include the D.O.M., America and Africa.

RESTREINT UE

b) Realisation of the separation flows

Glass walls and flexible doors are used to guarantee the separation of flows.

However, in Terminal Orly-South, at the upper level, a glass wall is used for separating the non-Schengen area from the area open to the public. The doors in this glass wall, although being locked, do not prevent from passing through documents from one area to the other.

The non-Schengen area is closed to passengers during night time, and patrols make sure there is no passenger left. This practice prevents passengers from leaving the non-Schengen area illegally by passing underneath or over the glass doors between the passport control booths.

As already noticed by the Visiting Committee in 1996, the signs separating EU and non-EU passenger flows do not comply with the Executive Committee decision of 22 December 1994 (SCH/Com-ex (94) 17, rev. 4). It was observed that one line was reserved for “French – EU – EEA- Swiss passports”. These signs must be adapted to be in line with the decision of the Executive Committee.

In Terminal Orly-West, the corridor for non Schengen transfer passengers is separated from the area open to the public (check-in area) by glass walls of 2.5 meters high partly out of sight of the border control officers. These walls do not prevent the passing over of documents/goods from one area to the other.

One of the piers of Terminal Orly-West can be used for both intra-Schengen arrivals and departures, or for extra- Schengen arrivals. Although the doors are operated by “Aéroports de Paris”, border police can verify their correct position from the arrival area.

The passengers can move freely between the non-Schengen areas of both Terminals by way of a regular bus service.

c) Control level

- **Competent national authority**

The Border Police (PAF) is in charge of cross-border controls on persons but has also to carry out other general police duties as already described under point III a) of Chapter I, Paris-Charles de Gaulle.

As far as the role of Customs and the air transport gendarmerie at Paris-Orly airport is concerned, reference is made to the same point of the report on Paris-Charles de Gaulle.

A civilian company, which is sub-contracted by the company operating the Paris airports and is under the supervision of the Border Police, is in charge of monitoring passenger safety and checks on baggage.

- **Human resources and training**

The Border Police comprises of 450 officers, 190 of which being directly involved in passport control tasks.

Since 1997 the amount of officers of the PAF working at Paris-Orly airport has gradually decreased. As the number of passengers travelling via this airport also has gone down in this same period, the French authorities indicated that they did not experience any special problems as a consequence of this development.

However, the Committee was informed that priority is given to entry controls over exit controls. During the visit the Committee observed that this even was the case in between peak hours.

There is no seasonal increase of staff, but only 20 % of the staff can be on holiday at the same time during but the summer holidays.

RESTREINT UE

- **Working positions**

There are 34 working positions at the airport, which are located as follows:

18 in Orly-South of which 8 are for exit controls and 10 for entry;

16 in Orly-West of which 6 are for exit controls and 10 for entry.

The Committee found it positive that the control booths are visible from PAF supportive office, where the second line of control is located.

Apart from the passport control booths at the exit controls in Orly-South, it was possible for the passengers to look into the booth from the side and the back.

- **Equipment and technical resources deployed**

Each working position is equipped with a FPR/SIS computer-terminal, a UV-lamp and a white lamp (Flashlight to see the watermark) and a magnifying glass.

The SIS is integrated into into the national system (FPR). The Committee noted the same problems as in Paris-Charles de Gaulle airport concerning the use of the SIS (few SIS checks as the system does not operate properly). Again, the Committee observed that CHEOPS architecture had not yet been introduced.

The positioning of the computer-terminals and the keyboard makes them difficult and very uncomfortable to use (entering data and looking at the screens).

It was indicated to the Committee that performing obligatory SIS checks for non-EU Nationals in these conditions would lead to very long queues of passengers.

RESTREINT UE

Each Terminal disposes of a second line of control, that is operated by the BMI (Brigade Mobile d'Immigration). The second line of control comprises of the same equipment as the first line, with the addition of a retroviewer, a docubox (ITEIMA VDM64 WALDMAN) and SINDBAD, and at Terminal Orly-South only, of a microscope and an ink comparer (ACO QDX630).

13 officers are working for the BMI (3 shifts). The BMI disposes of documentation on each country (sorted by country). The “Manuel des documents authentiques” (and specimen) and “fraud bulletin” is integrated in this documentation. There were specimen obtained from embassies. Other relevant documents were available (Chicago convention). The Common manual of Schengen was available at the “officier de quart”, who is next to the BMI office.

- **Execution of border control**

Nationals of Switzerland are treated in the same way as EU nationals and not checked in the SIS database, which does not meet the Schengen standards. The reason given to the Committee is that a special convention exists between France and Switzerland "in order to decrease the severity of the check of their nationals (like EU members)".

French authorities require for nationals of certain states (non-EU states only) that they fill out a de-embarkation and an embarkation card for the Entry and Exit control.

The Committee found it positive that controls are held at the aircraft door with a view to more effective immigration controls. These controls are executed by the BMI.

RESTREINT UE

d) Visa issuance at the border

General remarks and issuing-procedures: see airport Paris-Charles de Gaulle

Number of visas issued:

| Airport Orly | Visa d'escale | Sauf-conduits |
|-------------------------|---------------|---------------|
| January – December 2001 | 150 | 120 |

The issuance of visa is done in two centralised offices in Orly-West and Orly-South, where the stickers and the registers are kept locked up in a safe (only one person having knowledge of the relevant code). The necessary checks (document and registers) are obviously being performed (the document-checks being done very professional and with the proper equipment for the first and second line of control; the checks in the registers are not done because of difficulties with the IT-system).

Specific data on the issuance of visa to seamen were not available.

The chosen solution for air-crews and diplomats – the issuance of sauf-conduits – gave rise for certain concern, since the Committee is of the opinion that, if the French authorities decide to submit certain nationalities to visa-obligation it – in every case – has to be a Schengen-visa and has to be reported in accordance with the Acquis and the agreed rules.

Although the figures are different (the airport having only half of the passengers compared to Roissy-Charles de Gaulle; figures declining every year) the committee considered that the measures taken by the French authorities as well as the management in place show that there is an effective implementation of the necessary security-system (in visa-matters, concerning document-checks and in general security-issues) as prescribed in the Acquis.

RESTREINT UE

Concern only has to be expressed again as regards the implementation of the categories

- Visa de regularisation
- Visa d'escale and
- Sauf-conduits.

The contents of categories, the way of issuance and the explanations given seemed to be quite different from what has been heard at Roissy-Charles de Gaulle and all three did not seem to be fully compatible with what is prescribed in the Schengen-Acquis.

e) Application of article 26 of the Schengen Convention

The French authorities indicated that in 2001 in 200 cases a fine was imposed on a carrier. 25% of these cases related to just one carrier.

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4. NICE Côte d'Azur Airport

a) General overview

The International Nice Côte d'Azur Airport, is the largest airport outside of Paris. It handled 6,6 million passengers in 1996, 9.4 million in 2000, and 9 million in 2001. The extra-Schengen traffic amounted to 2.327.300 passengers in 2001 (45 % of the International traffic).

The current expansion programme in Terminal 2 will bring its capacity to 12 million passengers by the year 2006.

Connections

- Over 30 daily flights to and from Paris
- 59 international flights (including 9 daily Nice-London)
- 33 domestic connections
- Nice – Geneva: 28 flights per week
- Nice – Dubai: 3 flights per week
- New York: daily (non-stop during the summer season)

All day regular helicopter services exist from Terminal 1 & 2 to Monaco (twice an hour or more), to Cannes (several flights per day), to Sophia-Antipolis (charter only) and other destinations on demand.

The airport is operated by the Chamber of Commerce and Industry Nice Côte d'Azur.

- **Terminal 1**

Terminal 1 is used by domestic, intra-Schengen and extra-Schengen flights. Departures and Arrivals take place at the same level.

RESTREINT UE

- **Terminal 2**

Terminal 2 is at the moment only used for intra-Schengen, including domestic flights. Due to time restraints, the Committee did not visit Terminal 2.

At the time of the visit mayor construction works were going on at Terminal 2. It was told to the Committee that these premises will be extended and will, after completion of the construction works, accommodate intra-Schengen and extra-Schengen flights.

b) Realisation of the separation flows

At the moment only Terminal 1 has a Schengen and a non-Schengen area.

The Committee noted a lack of separation of arrival flows: arriving extra-Schengen passengers could circumvent entry control by introducing themselves into the intra-Schengen arrival area due to the absence of a door (according to members of the PAF, a door separated these flows had been removed and had not been replaced at the time of the visit).

There are no signs present overhead the passport control booths at Departures to distinguish between EU and non-EU passengers flows.

For transfer passengers Terminal 1 disposes of a small transfer area where extra-Schengen transfer passengers as well as transfer passengers from intra-Schengen flights to extra-Schengen flights and vice versa flow together. According to the French authorities there are very few transfer passengers (on average less than 3 per month).

RESTREINT UE

In this transfer area a border control booth is located that is not permanently manned by PAF (it was said that staff fulfilling tasks regarding Civil Aviation Security is permanently present and that this personnel would call PAF when needed). Officers of the PAF will only go to this area in case a transfer passenger from an intra-Schengen to an extra-Schengen flight or vice versa presents him- or herself.

The transfer area is open till 20.00h. After this time passengers have to go through the regular entry and exit control.

During the visit on site, the Committee noticed that the arrows/signals that should lead the passengers to the Schengen area or the non-Schengen area, were confusing; in fact, the indications mentioned, on one hand, “Schengen flights” (including Geneva) and, on the other hand, “non-Schengen and international flights”. The Committee is of the opinion that it would be advisable to delete “international flights”.

c) Control level

- **Competent national authority**

The Border Police (PAF) in the “Les Alpes-Maritimes” region is in charge of border controls and of other general police duties. The PAF Des Alpes-Maritimes is also responsible for the border zone with Italy, and around 60 km of sea border.

The Committee was told that most of the staff of the visited unit is entrusted with the surveillance of the inner border region between France and Italy, this while it was openly said that PAF didn't have enough man-power to fulfil the minimum foreseen procedures. Indeed, the Committee was informed that around 30 % of the traffic leaving Schengen in Nice was not checked at all due to the fact that staff was lacking since involved in other missions, such as traffic survey.

RESTREINT UE

- **Human resources and training**

The Border Police at Nice Côte d'Azur airport has a staff of 104 persons. This includes normal police officers (CMA) and ADS (adjoints de sécurité), which do not have all the competences of police officers.

There are 2 teams, each of them working on 3 shifts (1 nightshift and 2 dayshifts) with a maximum of the staff active in the middle of the day, when there are more passengers.

The restrictions concerning vacations during the high season applicable in other airports also apply to this airport. Some general police duties are performed during the summer by the CRS with a view to allow the Border Police to face the increase of passengers.

The Committee observed that due to a lack of staff, several ADS (adjoints de sécurité) were in charge of passport controls at the time of the visit, although they have no access to the FPR/SIS databases. The Committee was told that this situation will change soon as a result of a law recently adopted.

The Committee was informed that priority is on the entry controls over exit controls. Apart from this priority at times deployment of personnel is required for other tasks with high priority.

The priorities of the Border Police were described as follows:

1. border control on extra-Schengen arrivals;
2. security;
3. all other police missions;
4. border control on extra-Schengen departures (when sufficient staff present).

RESTREINT UE

The Border Police gave the following figures to the Committee:

1.059.386 passengers checked on extra-Schengen entries;

906.297 passengers checked on extra-Schengen exits;

The total amount of extra-Schengen passengers checked at border crossings amounts, according to these numbers to 1.9 million. These figures differ from those given by the airport operator which mentioned an amount of 2.327.300 extra-Schengen passengers.

The reason given by the French authorities for this difference is that, due to a lack of staff, about 30 % of all extra-Schengen passengers on departure are not submitted to any border checks, and that the extra-Schengen passengers in transfer do not pass a border control. This deficiency is apparently accepted in the general planning and organisation of the PAF at Nice Côte d'Azur airport. The argument given is that the extra-Schengen departure border control is ranking behind other missions and that the number of police staff is insufficient. However, the committee was informed that exit controls are always performed on so-called "sensitive" flights.

The Committee observed that the Border Police authorities in Nice were paying special attention to training, although there is still room for improvement concerning the knowledge of the Common Manual and the related procedures. This especially applies to the ADS.

- **Working positions**

There are 13 working positions. 2 control booths were new and not yet fully equipped. All control booths are well designed (higher working position, facing passengers), apart from the fact that the computer terminal screens are visible to the passengers from the side and the back of the booths.

RESTREINT UE

- **Equipment and technical resources deployed**

In general the working positions were adequately equipped (UV-lamp, computer terminal with CHEOPS architecture allowing quick answer time and good availability of the system).

The second line of control is operated by the BMI (Brigade Mobile d'Immigration), in an office next to border control booths at arrivals which also serves as a training room. False documents, genuine documents, microscope linked to a computer, a so-called ink comparer QDX430 (infrared), an ordinary image scanner, Sindbad, manual of authentic documents and Fraud bulletins are available. Taking into consideration the required needs, the space available in this room is rather limited.

- **Execution of border control**

As widespread use is made of the ADS, that are not police officers, problems do arise with consultation of the FPR/SIS computer terminals (see earlier remark). As the ADS lack the authority to consult FPR/SIS database, a police officer always has to be present to make the consultation in case required. The Committee got the impression that because of this complicated procedure few times the FPR/SIS database really was consulted.

Personnel of the airport and crew members, use a passage alongside the passport control booths at departure. The Committee noted that the check of the airport pass and/or crew member certificate at times is done quite in a superficial way or superficially.

RESTREINT UE

d) Issuance of visas

General remarks and issuing-procedures: see airport Paris-Roissy-Charles de Gaulle

Number of visas issued:

| Airport Nice | Schengen-Visa | Visa de regularisation | Visa d'escale | Sauf-conduits |
|-------------------------|---------------|------------------------|---------------|---------------|
| January – December 2001 | 16 | 13 | 10 | 20 |

The issuance of visa is done in one centralised office close to the non-Schengen arrival area, where again the stickers and the registers are kept locked up in a safe (only one person having knowledge of the relevant code). The necessary checks (document and registers) are obviously being performed (the document-checks being done very professional and with the proper equipment for first- and second-line-control; the checks in the registers – due to an already ongoing introduction of CHEOPS-system – also being performed in a proper way).

As concerns visa for seamen the French authorities informed the Committee that they issue sauf-conduits.

Taking into account the fact that the airport of Nice is considered being a low-risk-airport and also taking into account the low figures, the Committee considered the measures taken by the French authorities as well as the management in place to be quite effective. The only major concern relates again to the categories "Visa de regularisation", "Visa d'escale" and "Sauf-conduits".

In the opinion of the Committee those categories would have to be reviewed in the light of the prescribed Acquis and the agreed goal of a Schengen-wide harmonised visa-system.

RESTREINT UE

e) Application of article 26 of the Schengen Convention

| | |
|-------------------------|----|
| January – December 2001 | 18 |
|-------------------------|----|

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5. GENERAL FINDINGS

a) Separation of flows

It is of the utmost importance to **remedy the gaps mentioned in the separation of flows and the possibilities to pass through documents and/or goods between Schengen and non-Schengen areas and vice versa.**

b) Signalisation

The signs separating EU and non-EU passenger flows at the passport control booths must be modified in order to comply with the Executive Committee decision of 22 December 1994 (SCH/Com-ex (94) 17, rev. 4). This includes the reference made to nationals of Switzerland.

c) Working positions

Deficiencies regarding the working positions at Paris–Roissy-Charles de Gaulle airport and Paris-Orly airport should be resolved.

Commentaires de la France sur les points I, II et III:

"En matière de séparation des flux, de signalisation des files de passagers UE et non-UE, de disposition et de caractéristiques techniques des aubettes, les services de la police aux frontières sont dépendants des gestionnaires d'aéroports, la société ADP et la chambre de commerce et d'industrie de Nice. Des courriers leur seront prochainement adressés afin de mettre les infrastructures aux normes Schengen".

RESTREINT UE

d) Equipment

The Committee recommends considerable improvement, both in the first line and in the second line of control. Each working position should be equipped with an UV lamp, a magnifying glass, a white light, a back light and a retroviewer. Adequate measures should also be taken in order to guarantee the decent functioning of the SIS. In addition, it would be advisable to have passport readers (scanners) in order to allow the SIS checks to be carried out as required. For the second line, which should be located close to the first line of control, an ink comparer, a Docucenter 3000 or similar, a microscope with video camera would be advisable. A collection of genuine and forged documents, such as SINDBAD, and the Common Manual should also be present in the 2nd line of control.

Commentaires de la France :

- *Sur le fonctionnement du SIS : "La mise en place des réseaux CHEOPS sur les deux aéroports parisiens devrait intervenir dans les prochains mois".*

- *Sur le matériel: " Des instructions seront données aux services afin que la documentation nécessaire à l'exercice des contrôles transfrontières soit disponible dans les locaux de seconde ligne".*

e) Execution of border controls

As regards the **exit and entry checks of nationals of Switzerland** the Committee is of the opinion that these **should be carried out in the way they are prescribed for third country nationals** in the Schengen acquis (e.g. including SIS checks).

During the visit on site, the Committee noted that, due to the huge workload and the lack of staff, only few **passports were stamped**.

RESTREINT UE

The Committee was informed that at all airports visited, “due to a lack of staff”, priority is given to entry controls over exit controls. During the visit, this was even the case in between peak hours.

The Committee is of the opinion that reducing the severity of controls can only be the case under very exceptional circumstances.

f) Staff

The Committee observed that the number of the border control personnel is insufficient, and has not always the appropriate knowledge and experience.

In order to have more personnel available for border control, **border control personnel should not been in charge of other general police duties, at least until the number of personnel is sufficient.**

The Committee recommends that **the border control be always performed by officials with a specialised training in border control.**

g) Training

Although it appears from the general answers of France that training is organised for the Border Police, however, the Committee noted that the border control personnel was not sufficiently familiar with the Schengen border control procedures.

There should be sufficient personnel to allow an appropriate training.

Taking into consideration the cruel lack of staff, **it should also be considered to use training on the job** as concerns the Schengen border check regulation (control procedures, travel documents, VISA regulations, SIS applications, ...). *Des efforts doivent être faits pour respecter d'une manière plus rigoureuse les dispositions de Schengen dans le but de parvenir à une meilleure qualité de contrôles aux frontières extérieures.*

RESTREINT UE

Commentaires de la France sur les points VI et VII :

"L'effectif de la PAF de Roissy-Charles de Gaulle a suivi l'évolution du trafic passagers ; il est en effet passé de 978 au 1er janvier 1997 à 1342 au 1er janvier 2002.

Les fonctionnaires nouvellement affectés à la police aux frontières suivent une formation spécifique, notamment en matière de fraude documentaire et de réglementation transfrontière.

Sur Nice, la durée de cette formation initiale est de 2 semaines pour les agents du corps de maîtrise et d'application (ACMA) et les adjoints de sécurité (ADS) et de 3 semaines pour les officiers. Une formation continue est également dispensée à l'ensemble du personnel.

Sur Roissy, elle est de 2 semaines pour les ADS, 3 semaines pour les ACMA et 6 semaines pour les officiers. Le " turn over " important sur ce site peut expliquer en grande partie le manque d'expérience de nombreux fonctionnaires".

h) Visas

- On the basis of the information obtained from the French authorities and on the basis of the answers given during the visit at different posts, the Committee is of the opinion that the **existing system of issuance of visa at the border is not in compliance with the specific rules of the CCI** (no Visa-categories such as the Visa d'escala, the sauf-conduit or the Visa de regularisation are explicitly foreseen in the Acquis; no information on consultations of other authorities before especially issuing visa to specific nationalities were given; there also seems to be a difference as regards the fees between what is prescribed by the Acquis and what is currently practised in France). The herefore mentioned issuance of visa at the border should be brought in line with the Schengen acquis. This includes the limitation of the issuance of such visa to exceptional cases (as described in the CCI), and the consequent use of the EU-Visa sticker.

RESTREINT UE

Commentaires de la France sur:

- la délivrance des visas à la frontière:

" Le terme de visa de régularisation peut prêter à confusion. Il ne s'agit plus d'un visa délivré à l'entrée de l'espace Schengen. Ce terme est antérieur à la mise en œuvre de Schengen et la procédure actuelle, adaptée de celle prévue dans une circulaire du ministère de l'intérieur du 5 août 1960, consiste à appliquer la perception d'un double droit aux passagers qui sortent du territoire français avec un visa périmé ou qui ont séjourné en France sans le visa requis.

La délivrance de visa d'escale aérienne se fonde sur l'obligation de respect d'une disposition de l'annexe 9 de la convention de Chicago.

La délivrance de sauf-conduits, notamment pour les titulaires de passeports diplomatiques qui sollicitent un visa à la frontière, est prévue par une circulaire du 28 novembre 1966. Pour les demandeurs d'asile dont la demande n'est pas jugée manifestement infondée, ou les personnes non-admises mais qui, quelle qu'en soit la raison, doivent être laissées libres d'entrer sur le territoire français à l'issue de leur maintien en zone d'attente, la PAF, sur les instructions de la DLPAJ, délivre des sauf-conduits valables huit jours.

La direction des libertés publiques et des affaires juridiques a été saisie aux fins d'une éventuelle adaptation des pratiques françaises".

- le compostage des passeports:

" Des instructions sont fréquemment rappelées aux services extérieurs. La gestion de l'effectif impose cependant de faire des choix entre les missions (police générale ou contrôle transfrontière, contrôles entrée ou contrôles sortie)".

- la perception des droits de chancellerie:

"Jusqu'au mois de juillet 2001, l'aéroport de Roissy disposait d'une régie d'avances et percevait donc les droits de chancellerie lors de la délivrance des visas à la frontière. A la suite du départ du régisseur, cette structure a été fermée. Une nouvelle régie doit être réouverte prochainement".

RESTREINT UE

- The **contents of the Circulaire Nr. 363. August 5th, 1960, should be reviewed and adapted** to what is today considered common visa-policy and –practice between the Schengen countries.
- The IT-system, especially at the Paris airports, must be improved considerably as the existing one suffers from serious problems which hamper the application of a correct visa-issuance procedure (access to the SIS only working in rare occasions; several computer terminals out of order at the time of the visits; the situation in Nice being relatively better due to the ongoing switch over to the CHEOPS-system).
- Although the French authorities finally did provide the Committee with a reasonable **collection of statistical data**, the Committee - in the process of evaluating the given information – noted that there is a obvious difference in terminology not only between the airports but also between the French system and the systems used in other Schengen states. It is therefore recommended to **improve the collection-system and take appropriate measures to have comparable data (collected according to the agreed standards) available at agreed intervals.**

i) Application of article 26 of the Schengen Convention

The Committee was finally informed that the French authorities considered the recovery-rate of the penalties (less than 50 %) being very low and that – on the basis of this fact – the implementation of this provision also in their opinion seems to be not effective enough. They did announce their intention to **review the existing system and adapt it to the recent developments of the Acquis** (Directive 2001/51/EC of June 28th, 2000).

The Committee is of the opinion that the review the existing system and its adaptation to the recent developments of the Acquis should be carried out without delays and should be followed by an evaluation of its effectiveness.

Commentaire de la France sur la responsabilité des transporteurs:

"Le contentieux en la matière est très important. Des réunions avec la DLPAJ sont organisées afin d'améliorer le dispositif en vigueur".

RESTREINT UE

PARTICIPANTS

| | |
|--------------|----------------------------------|
| E Presidency | D. Antonio Pablo Gomez Vazquez |
| | D. Antonio Diaz Ramos |
| B | Marc Van den Broeck |
| D | Alexander Fritsch |
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| SGC | Bernard Philippart |
| COM | Daphni Gogou |

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C. SEABORDERS

1. VISIT SCHEDULE – SUB-COMMITTEE’S LIST OF EXPERTS

The inspection was scheduled as shown below:

France:

- Sea border (ports): Calais (18-19 February 2002)
- Marseille (20 -21 February 2002)

Sub-commissions’ list of experts

| | |
|--------------|---|
| E Presidency | Antonio Pablo Gomez Vazquez, Chairman Antonio Diaz Ramos |
| DK | Birgitte Buch |
| D | Thomas Przybyla |
| I | Enrico Aragona |
| NL | Noor Vergeer |
| NO | Knut Jensen |
| P | Fátima Grilo |
| FIN | Jukka Savolainen |
| SE | Leif Ahlbo Henry Nilsson |
| COM | Monika Mosshammer |
| SGC | Erwin Buysens |

RESTREINT UE

2. CALAIS PORT

Date : 18-19 February 2002

a) Presentation

- **Location**

The port of Calais is the largest passenger port in continental Europe with approximately 15 million passengers per year. It is classified as a sensitive point in terms of illegal immigration by the French authorities. The port has different terminals: a car ferry terminal, a catamaran terminal ("Hoverspeed terminal"), a freight terminal, a marina and a small fishing boat harbour.

On the Pas-de-Calais coast, only the port of Calais has ferry links with the United Kingdom (Dover) and therefore faces the problem of dealing with persons trying to enter the UK illegally. These ferry links are operated by three shipping companies: P&O Stena Lines, Seafrance and Hoverspeed. Each day about 68 car ferries, hovercrafts and "Fast ferries" depart Calais for Dover. These ferries call in both day and night as the port operates on a 24-hour basis.

The average number of passengers per day is about 40 000 (*18 900/day in January 2000, 59 500 in August 2000*). Between 1 500 and 3 000 lorries arrive and depart daily in Calais.

Only four cruise ships called in the port of Calais in 2001. These ships depart for Norway and come back to Calais without going to an extra-Schengen port.

The port of Calais is the fourth French commercial port. In 2001, 800 cargo ships called in. The number of freight traffic carryings totalled 1,4 million units in 2001. Construction works on the basis of a 14.7 million euro project are being carried out to improve the freight traffic facilities. Part of the project includes a new road into and out of the freight terminal, a new freight terminal building as well as improving check-in facilities and security controls.

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15 fishing vessels are based in the port of Calais.

In the marina, up to 300 pleasure crafts can call in. The actual number of pleasure crafts arriving was not given to the Committee. The Committee was told that almost all arrivals are from the UK.

- **Competent authorities**

Border control in the port of Calais is carried out by the "Police aux Frontières" (PAF), the Border Police. The port of Calais comes under the Departmental Direction of the Border Police of Pas-de-Calais (DDPAF 62). This Direction has different services:

- Service de la Police aux Frontières de Calais port et de Boulogne-sur-Mer (SPAF)
- Service de Police aux Frontières du Lien Fixe Transmanche (the Eurotunnel). This service also contains two units: a unit at Cheriton and a unit at Coquelles - Frethun

In addition, County Mobile Search Squads (BMRD) exist and their main task is the fight against illegal immigration, illegal immigration networks and the employment of illegals.

The Customs, in the field of immigration, act complementary with the border police services. Irregularities are being reported to the border police.

The Maritime Gendarmerie is autonomously responsible for the surveillance of the blue borders. It is a maritime law enforcement authority and has jurisdiction to control all types of illegal activities at sea, including customs and immigration control.

By "arrêt interministériel" of 27 December 1975 the Chamber of Commerce and Industry became the concessionaire of the port responsible for the exploitation, security and equipment of the port.

In addition to the controls carried out by the border police, the Chamber of Commerce created a new internal department called the "SPS", Security, Prevention and Safety department ("Sûreté Prévention Sécurité) on 1 July 2000. This Service consists of 55 agents who carry out security controls in the port i.a. by using CO2 gauges to control lorries.

RESTREINT UE

- **Type of control:**

- **control of ferries**

No exit controls are carried out by the border police. Controls upon entry are occasionally carried out. The French authorities informed the Committee that due to a lack of human resources only 30% of all incoming ferries are controlled.

In principle, the border police carry out a two-line control upon entry. In case of suspicion at the first line control, the suspect is brought to another room (second line) where a more intensified control is carried out.

The SPS carries out security controls on lorries leaving the port. The Committee was told that drivers receive upon control a certificate indicating that they were submitted to a control in Calais.

Upon exit the shipping companies verify whether all persons are in the possession of a valid ticket. These commercial agents do not, however, have police powers to support the PAF in their border control. According to French legislation, private security companies are authorised in specific security areas to make searches in vehicles and luggage as well as to check the identity of a person. Any findings these commercial agents make are forwarded to the PAF for further police investigations.

- **control of cruisers:**

The Committee has not received information on the control of cruise ships. However, cruise ships that called at the port of Calais in 2001, departed for or came from Norway without calling at ports outside the Schengen territory.

- **control of cargo ships:**

The French authorities informed the Committee that administrative controls are carried out on cargo ships upon arrival as only at that time the passenger and crew lists are received. Physical controls are only carried out if the outcome of the administrative control indicates that there is a need for it.

RESTREINT UE

- control of pleasure boats

The Committee was told that pleasure boat captains have to report to the harbour master. There is, however, no systematic reporting from the harbour master to the border police and as a consequence, no control is carried out by the border police.

- control of fishing vessels

The Committee was told that there are only 15 local fishing vessels and that therefore no controls are needed.

- control of the blue border

The Maritime Gendarmerie carries out the surveillance of the blue border between Mont St Michel and the French-Belgian border. This area is covered by a surveillance system consisting of several radar stations. The system is managed by a special maritime agency ("Service Affaires Maritimes") under the auspices of the maritime prefect. This system detects and identifies all vessel movements in the Channel area. Whether this information is referred to border-police-related intelligence in a sense of tactical risk analysis, remains unclear.

b) Observations for this site

• Infrastructure :

The Committee considers that, in general, the existing infrastructure in the port of Calais allows to carry out border controls on passenger cars and coaches in accordance with the Schengen standards as the number of booths for these controls is sufficient. However, the number of booths for the control of lorries should be increased (only one small booth exists). Work is in progress to improve the existing facilities for the lorry traffic.

In the car ferry terminal the booths for the control of pedestrians (two for entry and two for exit) are wrongly positioned as the controlling officer should face the lane of passengers waiting to be controlled. The passengers being controlled are able to see the information displayed on the screen of the SIS computer. There was only one single policeman, so the possibilities of appropriate reacting in case of necessity are limited.

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The Committee considers that the waiting area for apprehended persons and the detention rooms could be improved.

No signs were used in the car ferry terminal to make a distinction between EU countries and non-EU countries. Outside the terminal signs exist for cars and coaches, indicating "CEE" and "Non CEE". Ferry passengers travelling by coach are considered as foot passengers and should alight from the coach for these controls, as foreseen in the Common Manual. A special booth is built for these controls. However, at the moment of the visit 7 coaches were able to drive through the checkpoint without being controlled.

The car ferry terminal is completely fenced in. A part of this fence is secured by an intelligence system sends an electronic signal to the authorities when touched.

A camera surveillance system will be installed for the entire car ferry terminal. This system will become operational in the course of 2002. At the time of the visit, only two cameras were used to control the parking area and the departure room.

The "Hoverspeed" terminal has one booth for exit and one for entry control in the building. Passengers can pass through this control via one lane without being separated into EU and non-EU nationals. Vehicles (cars, lorries and coaches) are controlled at a central booth with two lanes both on entry and exit. These booths were not locked and one computer was switched on without staff being present. The Committee was told by a representative of the shipping company that personnel of the border police are never present, which was supported by the fact that there was no sign of frequent use of the booths.

The booth for exit control for pedestrians was wrongly positioned as the officer could not face the passengers departing.

The terminal is not completely fenced in and many migrants enter into this area via the beaches and the dunes. The Chamber of Commerce is considering building fences on the beach to remediate this situation.

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There is no camera surveillance system in, or outside the terminal.

A parking area exists for lorries waiting for embarkation. This area is not completely fenced in. The shipping companies try to guarantee the security of this area via mobile units which patrol with dogs.

Outside the harbour area, there is a "hotel de Police", a police station with a detention capacity of 37. An additional detention centre is being built which will have a capacity for about 60 persons.

- **Equipment**

Not all control booths are equipped with a SIS computer or a copy of the Common Manual. The Committee even noted that the control booth for lorries at both entry and exit was not equipped at all. The equipment to detect forged documents is very limited and in some booths not even present e.g. in some booths of the Hoverspeed terminal.

Schengen stamps are not at the disposal of the officers in the booths¹. At the first line control there is, at best, only one UV lamp. This lamp was out of order at the time of the visit in the control booth for coach passenger and the officer did not seem to be familiar either with the use of the UV lamp or with the SIS. More profound checks are carried out in the second line.

At this second line, a small room exists for more detailed checks. In this room there are magnifying glasses, a docubox VDM-64 and a computer with the SINDBAD software for the recognition of documents. The system is not updated as it could not recognise the new model of the Italian or Portuguese service passports.

¹ **F: Schengen stamps are at the disposal of the officers. However, this material when not being used, is not left in the booths but is kept locked in a safe.**

RESTREINT UE

The Border Police have no equipment, such as CO₂ gauges and endoscopes, to control lorries. Only the agents of the SPS Department carry out controls with CO₂ gauges.

Visa stickers were stored in an unlocked closet in an office which the Committee was told was manned during the day. At night they are stored in a safe. The Committee recommends also storing the stickers in a safe also during the day.

- **Human resources and training:**

The overall number of SPAF officers at Calais is 326, of those 66 are attributed to the port of Calais. The number of officers in the port of Calais has hardly increased since 1994, although the problem of illegals trying to enter the United Kingdom from Calais has increased considerable during that period of time.

In addition, increased traffic during the summer season is not followed by a corresponding increase of personnel. During the night (from 00.00 until 06.00) only five officers are on duty in the port of Calais. The Committee was told that for the last two weeks, extra personnel (1 officer and 2 "adjoint de sécurité"(ADS)) have been added, on a temporary basis, to the existing 5 officers on duty.

From the observation made at the site, it is obvious, that the number of personnel is not nearly enough in order to apply the Schengen regulations. This was particularly clear from the fact that due to lack of resources, no officers were present at the Hoverspeed Terminal.

At the time of the visit, a majority of the officers were engaged in other functions, which resulted in only a few of the vehicles travelling from the United Kingdom to France being submitted to entry controls.

All personnel of the Calais Border police attend a two weeks training course on border control and Schengen regulations organised by the national authorities.

RESTREINT UE

Local training is provided on an ad-hoc basis. Language training has just been started.

From the observations made on the site, it was clear that the personnel performing the control had little knowledge of the Schengen regulations, e.g. one officer did not know the term SIS, but only knew the "FPR" (Fichier des Personnes Recherchées)¹.

- **Border control procedures:**

With regard to cargo ships, no passenger or crew lists are received before arrival. Therefore, no SIS checks are carried out before arrival. Fishing vessels and pleasure boats are not submitted to checks at all.

The Committee noted that an officer controlling a number of persons with Chilean passports did not consult the SIS upon entry nor stamp their passports.

Illegals found in the port are brought to the office by the finder (usually the security company). The police verify only the existence of any identity documents and take further decisions based on this fact.

Non removable persons or persons without documents are not submitted to further investigations and are not detained. Neither fingerprints or photos are taken. No information on these individuals is stored in any database.

When persons have false documents, or they commit other punishable actions, they are detained. For detainees, there are two cells in the office located in the car ferry terminal.

In general, the shipping companies selling the tickets carry out controls on persons and their travel documents. If they suspect any kind of irregularity, they contact the PAF. About 20 cases of suspected forgeries or falsifications are reported to the PAF daily.

The company has a department that trains their own personnel based on the knowledge they receive from the Immigration Service of the UK. This seems to be effective; the UK was said to have reported only two cases of forged documents detected in UK.

¹ **F: The consultation of the FPR automatically includes a consultation of the SIS.**

RESTREINT UE

- **Cooperation between the different forces and services:**

The Committee was informed that the PAF, the Customs authorities, the Chamber of Commerce and the shipping companies are cooperating in the harbour. The latter are, in fact, performing controls which should be carried out by the PAF.

- **Blue border surveillance:**

The surveillance system (as it was presented) provides good grounds for sufficient situational awareness at sea and possibly also a sufficient potential reaction capability. Whether these elements are really used to control illegal immigration and other sorts of illegal border crossings remained unclear. The Committee was, however, not able to countercheck the information given on the control of the blue border.

- **Eisics (European Information System on Immigration Control in Seaports)**

The Committee was told that France does not use the EISICS system. This system proved to be useful in the beginning but recently lost its value according to the French authorities¹.

c) Conclusions and recommendations for this site

The port of Calais is confronted with high migratory pressure which is special in Europe, as it concerns an outgoing pressure towards the United Kingdom. In 2001, 82 317 illegals have been apprehended upon exit in the Pas-de-Calais region, of which more than 16 000 in the port of Calais while only 645 persons were apprehended upon entry coming from the United Kingdom. It should be noted that as a large number of migrants have been apprehended more than once, this figure does not give an accurate number of actual migrants.

¹ F: EISICS is still being used in the port of Calais as in other French ports.

RESTREINT UE

The number of personnel of the PAF is, however, significantly insufficient to deal with these migratory flows. Due to a lack of personnel, both entry and exit controls are not systematically carried out. Officials control only 30% of the incoming traffic, leading to a security gap as the entry conditions of 70% of the passengers are not verified at all. In addition all outgoing traffic is not controlled by the border police. The overall majority of migrants in the port were apprehended by the shipping companies. The Committee was surprised to see that shipping companies play the most important role in combating illegal immigration in the port of Calais¹.

Furthermore, there seems to be no concept of control with regard to specific maritime traffic such as fishing vessels and pleasure boats.

The available personnel had limited level of knowledge of the Schengen provisions and the use of the equipment (SIS and the equipment to detect false or falsified documents).

Equipment was not available in all control booths. Moreover, the available equipment does not seem to be sufficient to support the border checks in a port the size of Calais.

The Committee therefore noted that border control in the port of Calais does not meet the Schengen standards.

The Committee thus recommends the following:

- significant increase of personnel followed by giving priority to border control tasks. This increase should make an end to the leading role of the shipping companies in the fight against illegal border crossings. As an immediate but non-exhaustive measure resources should be directed so that at least the number of SIS checks is increased both on entry and exit.

¹ *F: La situation des flux migratoires dans la région de Calais est une des préoccupations principales de la PAF. L'action des services doit être appréciée d'une façon générale dans tous les sites concernés de cette région. L'engagement des forces de sécurité pris à cet égard est très important. Il s'exerce au profit de tous nos partenaires Schengen et du Royaume Uni. La France tient à rappeler à cet égard qu'elle a procédé à l'interpellation de 82 317 étrangers.*

RESTREINT UE

- specific training for personnel of the Schengen rules, including the use of the equipment
- equipping the control booths to perform adequate 1st line controls and positioning them in such a way that the officer can face the passengers.
- updating the 2nd line equipment.
- as the level of coordination between the PAF and Maritime Gendarmerie with regard to blue border surveillance remained unclear, the Committee recommends to organise information exchange and coordination of duties between the authority responsible of controlling illegal migration and the specific authority responsible of surveillance at the blue border.

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3. MARSEILLES SEAPORT

Date : 20-21 February 2002

a) Presentation

- **Location**

The port of Marseilles, which is the main port of France and the Mediterranean, is divided into two parts:

1. the Western harbour area ("Bassins Ouest"), including the docks of Port St Louis du Rhône, Fos, Port-de-Bouc, Caronte and Lavera which covers a surface area of 10 000 hectares
2. the Eastern harbour area ("Bassins Est") which covers a surface area of 300 hectares. This area stretches across various terminals i.a. 3 terminals for Mediterranean cruises (J4 city centre quay, Cap Janet quay and Léon Gourret quay), a container terminal and 1 passenger terminal. The passenger terminal is under reconstruction.

The Western harbour area, located 40 kilometres from Marseilles, is specialised in goods traffic e.g. oil, gas, chemical products and general cargo whereas the Eastern harbour area is dedicated to passenger traffic. About 1.5 million passengers were recorded in 2000, of which 505 486 came from the Maghreb countries (Algeria and Tunisia).

The ferry connections are operated by SNCM ("Société Nationale Corse Méditerranéenne"). Two ferry lines connect Marseilles with Algeria and Tunisia, one line exists with Corsica. At the time of the visit, 8 to 10 ferry connections per week between Marseilles and Algeria (representing 75% of the traffic) and Tunisia were being operated. At peak times, the number increases to up to 9 movements (both arrivals and departures) per day. Tunisia then becomes the major country of destination and arrival.

In 2001, 363 759 Algerians and 204 155 Tunisians arrived and/or departed in Marseilles.

RESTREINT UE

- Competent authorities

Border control in the Port of Marseilles is carried out by the Service de la Police Aux Frontières (SPAF), which is in charge of border control on all kinds of maritime traffic except pleasure boats. SPAF Marseilles Port is part of the DIRPAF Zone Sud. The control tasks of the SPAF Marseilles Port are carried out in three different zones of the Eastern harbour area, namely:

- the international zone for ferry traffic to Algeria and Tunisia
- the cargo traffic zone
- the cruise traffic zone.

The control of pleasure boats arriving and departing in the port of Marseilles is carried out by the Customs.

The "Sécurité Publique", which is a part of the National Police, is in charge of law and order within the harbour area. In practice the internal security of the harbour area is carried out by a security safety branch within the Port Autonome de Marseilles (PAM), called "Service Sécurité et Sûreté du Port Autonome".

After the implementation of the VIGIPIRATE plan in 1995 the military are present and assist the PAF in patrolling and canalising the passenger flows in connection with ferries coming from, and departing to, Algeria as a preventive measure towards terrorism.

Since 25 June 2001 the Customs have been responsible for the border control of the port of Bouc.

The overall responsible for State's action on sea on regional level is the maritime prefect, who represents directly the Prime Minister and other ministers. He coordinates all of the government's operations at sea, and if the need arises, assumes coordination of high sea and coastal units, and if necessary, resorts to the use of force.

To implement this cooperation, the different services (Navy, Maritime Gendarmerie and Customs) are represented by a liaison officer in the Cabinet of the maritime prefect. Navy and Customs operate their own command centre.

RESTREINT UE

- **Type of control:**

Due to heavy weather conditions, no ferries called in or left the port at the time of the visit so the Committee was unable to verify in practice the information given on procedures and practices of border control.

- **control of ferries**

The Committee was told that there is a 100% border-control of all ferries arriving and departing from the port of Marseilles. The authorities do not receive lists of the crew and passengers before the arrival of the ferries. Whether the passenger lists and passports are stamped at arrival and departure remained unclear.

- **control of cruisers**

The Committee was told that about 80% of the cruise ships are coming from Schengen countries (Italy and Spain). These vessels are not controlled. The other cruisers are controlled by checking the passenger and crew lists on board by the PAF. The PAF receive the lists about 2 days before the arrival of the ship.

- **control of cargo ships**

The Committee was informed that not all cargo ships are controlled because of a lack of personnel.

Administrative controls (i.e. control of the crew list in the SIS) are being carried out when the crew list is received prior to, or upon arrival of a ship coming from an extra Schengen country. The crew lists of cargo ships coming from a Schengen port are not controlled. If the crew-list is not transmitted to the PAF, a face to face control will be carried out upon arrival. A search of the ship can only take place with the captain's permission or after a judicial decision. In case a seaman who is submitted to a visa requirement, wants to embark or disembark the ship, a SIS check will be carried out together with a face to face control.

RESTREINT UE

Stowaways on board cargo ships are refused entry and are treated as if they are non-admissible. **In accordance with French legislation**, they will be disembarked and placed in a **waiting area**, which falls under the responsibility of the central PAF services in Marseilles.

- **control of pleasure boats**

The Customs are in charge of controls on pleasure boats. The Committee was informed that these controls are not systematically carried out. When a pleasure boat calls at the port of Marseilles, the captain has to contact the Harbour Master. If the boat comes from a non-Schengen country, the harbour master alerts the Customs who then perform the border control procedures.

- **control of the blue border**

Responding to the Committee's request to see the installations surveying the maritime area, a small group of experts was invited to visit CROSSMED, which is situated in Toulon. It is a civil administration that falls under the responsibility of the Ministry of Equipment and Transport. CROSSMED's main task is search and rescue. In addition, it is responsible for navigational surveys, the protection of the environment and of the fishing resources. However, all those assignments can only result in an appropriate reporting the competent authorities.

CROSSMED does not have a special role in relation to external border control. However, if it receives information on suspected illegal immigration, it forwards this information to the competent authorities and to the maritime prefect.

CROSSMED is equipped with extensive equipment for radio contact. This equipment is supported by computer software. CROSSMED does not have access to radar surveillance system. The Committee was told that only the Navy has a radar system, to which Customs can have access on request.

Customs have 4 Cessna planes which they use to carry out the surveillance of the Mediterranean area. One of these planes is specially equipped to detect environmental offences.

RESTREINT UE

The Maritime Gendarmerie has 8 stations equipped with patrol boats. It has the judicial power of general law enforcement at sea. In 2001, the Maritime Gendarmerie carried out 4001 checks on different kind of vessels, of which 7 lead to further investigations and/or sanctions.

The Navy maintains radar surveillance of the area and have the main offshore capacities.

A countrywide intelligence is distributed by the maritime prefect to all concerned authorities. The experts noticed a list sent to CROSSMED and other competent authorities which contained more than 10 special targets, ships, which are suspected of carrying illegal immigrants on board.

The Customs informed the group that they actively use their aeroplanes for long distance patrols to target boats coming from third countries. Information about these boats is sent to all French Mediterranean ports and used as grounds for submitting them to further checks.

b) Observations for this site

- **Infrastructure:**

As the passenger terminal is under reconstruction, it could be that some observations of the Committee become obsolete. At the time of the visit, the infrastructure in the ferry terminal still needed considerable improvement. The Committee was told that the new terminal would be operational in 2004. The present terminal for the control of pedestrians (J1) has 12 workstations which work both for entry and exit control. The JO terminal, which is used for the exit control of vehicles, counts 8 booths with 7 workstations. 6 booths exist for the entry control of vehicles in the J2 terminal. After disembarkation, these vehicles have to follow a very complex route in order to reach the control booths which are situated on the upper level of an old warehouse.

In addition due to the ongoing construction works the route often changes. The Committee was told that the placement of the booths is decided by the "Port Autonome Marseilles" (PAM). It is the impression of the Committee that this route could create a security risk as it is very difficult to keep it under surveillance even though the area is under camera surveillance. These cameras are operated by the PAM, which has 160 cameras covering the eastern harbour area.

RESTREINT UE

The international zone of the harbour is fenced in. This fence is, however, at least in some places easy to climb and is constructed in such a way that there is a possibility of going around the fence as it does not reach the waterfront. This makes it possible for arriving passengers to leave the harbour area without being checked. However, the Committee was told that according to French legislation, building the fence on this part of the docks is not allowed.

- **Equipment**

The booths in the JO terminal (exit control) are sufficiently equipped according to Schengen standards. All booths are equipped with a SIS computer and the PAF officers have a personal set to detect false or falsified documents. These sets include an UV lamp and a magnifying glass.

The booths for entry control of vehicles (J2 terminal) were still not equipped as was stated in the report of the last visit. These booths have no equipment to detect false documents or an SIS computer. The SIS can only be consulted via the telephone which could cause difficulties in case of dense traffic.

The booths for pedestrians in the J1 terminal are wrongly positioned and should face the passengers arriving or departing. There are not enough signs to help separate the passenger flows. The signs indicate "Union européenne" and "passeports étrangers". The booths cannot be locked and the computers are positioned in such a way that passengers can read the computer screen. Due to technical problems, the computers had been temporarily removed from four workstations.

In the J1 terminal investigation rooms are situated next to the workstations. One of the rooms has a 2 way mirror window overlooking 8 of the workstations. However, there was no equipment for a second line control of documents. Such controls are made at the PAF headquarters where a SINDBAD computer and a FORENPIX system (able to make digital comparisons of documents) are installed.

RESTREINT UE

The two bodies involved in border control, PAF and Customs, do not have the same access to the SIS. The consultation of the Customs is limited to the Art. 96 data. The Committee was told that the Customs have direct access to the SIS, however, taking into account the answers to the questionnaire (question No 30), it was not clear to the Committee whether this direct access means an online connection or a direct access to a copy of the data base.

- **Human resources and training**

The overall number of SPAF in Marseilles port is 75 including 14 ADS. Border control is carried out in three shifts with at least 12 officers on each shift.

The number of personnel has not increased since the visit of the Schengen evaluation Committee in 1996 although it was strongly recommended at that time. In addition, increased traffic during the summer season is not followed by a corresponding increase of personnel.

The Committee was told that the interregional director has the discretionary power to redistribute the personnel of the region according to the needs and priorities. In 2001 this was occasionally done during the peak season. In addition CRS officers can be put at the disposal of the border police. This might be an ad-hoc solution in special circumstances, however, it can only be seen as temporary solution to avoid shortcomings.

The French authorities informed the Committee that this lack of resources was also compensated by the purchase of new equipment, better training of the officers, the ongoing improvement of the infrastructure and the transfer of border control competence in the port of Bouc to the Customs officers. 12 officers are performing the border control and received theoretical and practical training from SPAF.

RESTREINT UE

Newly appointed staff of the SPAF undergo special training before being posted to specific units. This training is performed by a senior officer and includes two stages:

- Regulation and documents
- Practical know-how.

Furthermore, the staff is continuously trained on specific items.

The Committee was told that the staff of SPAF Marseilles Port primarily consists of senior officers with extensive experience.

The Customs did not appear to have a sound understanding with regard to the issuing of visas to seamen in transit in case a seaman's nationality is listed by another Member States for prior consultation.

- **Border control procedures:**

Cargo ships going from one Schengen port to another are not submitted to any control, this is not in accordance to the provisions of the Common Manual.

The Committee was informed that stowaways are disembarked and **placed in a waiting area**. This procedure is, however, not clear to the Committee.

The Committee noted that the number of non admissions (88 in 2001) is rather low compared to the total number of passengers, in particular from third countries (567 914 Algerian and Moroccan passengers). The French authorities explained that this was due to the checks carried out in the countries of origin and by the fact that persons travelling from those countries are in the possession of French residence permits.

The Committee was informed that 4 011 pleasure boats and fishing vessels were controlled in 2001.

RESTREINT UE

- **Blue border surveillance**

CROSSMED does not play an active role in the command chain and lacks access to the surveillance system. Although CROSSMED has an important part to play in reporting movements, the Committee is of the opinion that it is not the best place to verify the surveillance of maritime borders.

The blue border surveillance could benefit from putting a complete picture of movements of vessels at the disposal of all competent border control authorities continuously.

- **Intelligence and threat analysis**

With regard to intelligence and threat analysis, the Committee was informed that the only threat scenario, which exists, is the arrival of large ships with large numbers of illegal migrants. Human smuggling in small vessels is not expected.

c) **Conclusions and recommendations for this site**

It was difficult for the Committee to get a clear picture of the border control practices at the port of Marseilles due to the fact that no ferries could call at the port at the time of the visit. Therefore some information could not be counterchecked. In addition, as a new terminal is being built some observations might become obsolete.

Since the previous visit of the Committee in 1996, the number of personnel has not changed but as a temporary solution, the interregional Director can redistribute the personnel of the region on an ad hoc basis. In terms of equipment and infrastructure no considerable changes were recorded. The J2-terminal, with cars arriving from Algeria and Morocco, is considered to be a weak point in the Marseilles border control.

RESTREINT UE

It is not clear to the Committee why, in terms of equipment, priority is given to exit control of vehicles instead of entry control. On the long term this situation will be solved with the construction of a new terminal, which is expected to be ready in 2004. However measures have to be taken to solve the situation in the short term.

Based on the statistics given to the Committee, the number of searches made on board fishing vessels and pleasure boats is considered as satisfactory. It is also credible, that sufficient situational awareness is maintained by the Navy and other authorities. The amount and type of mobile units, claimed by the Customs and Gendarmerie, suggests that there is a basis for satisfactory near-coast-reaction capability. To make practical observations on these kind of issues, it would be necessary to visit the relevant parts of administration. An integrated real time (VTMIS-like) sea surveillance system shared by different authorities would enhance the effectiveness and efficiency of border control.

Taking into account the known *modi operandi*, the generally prevailing high pressure of illegal migration and the high criminal profits linked to this phenomenon, the Committee considers that the risk of human smuggling in small vessels cannot be excluded. A reasonable level of control and systematic intelligence should be used to control such crime and to assess its level. These controls and analysis should be coordinated by one single authority.

Based on the information given to the Committee and the observations made at the port of Marseilles, the Committee recommends the following;

- increasing the number of personnel,
- the purchase of SIS-computers as well as UV-lamps which should be installed as soon as possible in the control booths in the J2 terminal. This material should be of such a type that it could also be used in the new terminal,
- an integrated real time sea surveillance system shared by different authorities.

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II. VISAS

VISITS SCHEDULE

Visit to the French Consulate in Casablanca: 4-6 March 2002

Visit to the French Consulate in Geneva: 6-8 March 2002

LIST OF PARTICIPANTS

| | | |
|------------|---|---|
| B | Jean-Marc GILLARD | Ministère des Affaires étrangères |
| DK | Anni KRISTENSEN | The Danish Immigration Service |
| D | Susanne FRIES-GAIER Ralf NITZ | Auswärtiges Amt Auswärtiges Amt |
| E | Gil GONZALEZ GARCIA D. Mariano BORRERO HIDALGO | Chairman |
| F | Odile BOUCHARD | Ministère des Affaires étrangères Adjointe au sous-directeur de la circulation des étrangers |
| EL | Ioannis RAPTAKIS Konstantinos PIPERIGOS | Consul général de Grèce à Bucarest Ministry of Foreign Affairs |
| NL | Cora WITKAMP | Ministry of Foreign Affairs |
| N | Inger BRUSELL | Head of Division The Ministry of Foreign Affairs |
| A | Karl-August LUX | Bundesministerium für auswärtige Angelegenheiten |
| P | Catarina ROCHA Teresa ANDRADE | Head of Division Head of Division Ministry of Internal Affairs – Immigration Service |
| S | Anna Sofia SUNDELL ANDERSSON | Ministry of Foreign Affairs |
| I | Matilde CARMONA | Ministère des Affaires étrangères Centre des visas |
| FIN | Juhani NIEMELÄ | Ministry of Foreign Affairs |
| SGC | Anne-Marie SØRENSEN | |
| COM | Gérard BEAUDU Silvia KOLLIGS | |

RESTREINT UE

PRESENTATION OF THE FRENCH VISA HANDLING SYSTEM

"RESEAU MONDIAL DE VISA" - RMV 1 et 2

| What RMV 1 ensures | What RMV 2 ensures |
|---|--|
| IMPLEMENTATION OF PROCEDURES | |
| <ul style="list-style-type: none">. Implementation of the procedures from the 1989 General Instructions on Visas. The software was subsequently adapted at minimum cost to the new instructions (1993, 1995) to comply with the time limits and avoid the need for new training tools. | <ul style="list-style-type: none">. Conformity of applications with the Common Consular Instructions, the 1995 General Instruction on Visas and the Technical Specifications of the Schengen Consultation Network |
| TIME NEEDED FOR PROCESSING APPLICATIONS | |
| <ul style="list-style-type: none">. An average time lapse for the consular post , between the sending of the application and receipt of the Department's decision, of between 15 and 18days.. This time lapse is partly due to the communication mechanisms: limited number of communications per day and per post; only one exchange daily with the Ministry of the Interior. | <ul style="list-style-type: none">. This time lapse could be reduced to 10 days in almost all cases by use of more flexible communication mechanisms (X400 e-mail). |
| REJECTION CHECKS | |
| <ul style="list-style-type: none">. Management of individual rejection and warning records.. Checks geared to records of French origin with low occurrence of homonyms.. Storage of a maximum of 200 000 records at local level. | <ul style="list-style-type: none">. Management of files: main civil status + alias.. Research taking into account the transcription of names and linguistic equivalences.. Number of records which can be stored limited only by computer capacity. |
| STATISTICS | |
| <ul style="list-style-type: none">. Publication of documents required by the 1993 General Instructions on Visas: monthly statistics and annual statistics required by the Department. | <ul style="list-style-type: none">. "Info centre" module available from the beginning of April 2002. All consular posts will be able to interrogate the database through the Internet.. Breakdown between uniform visas and LTVs.. Better centralisation of posts' statistics.. Interrogation "on request" of information stored in the central database. |

RESTREINT UE

A. CASABLANCA

1. CONSULATE: LAYOUT, PREMISES, GENERAL SECURITY

The consulate in Casablanca is one of six French consulates in Morocco. The others are situated in Fez, Agadir, Tanger, Rabat and Marrakesh. The consulate in Casablanca is responsible for "OMI" applications¹ for all of Morocco.

The consulate is situated in the centre of the city. In 2001 considerable investments were undertaken to improve facilities both for applicants and staff. The visa section is separated from the rest of the consulate's offices.

- * The visa section is open every working day: 8.00-18.00 (September-May), 8.00-20.00 (June-August).
- * Security staff are placed at each entrance and local police officers are posted outside the building.
- * About 250 people can wait inside the premises.
- * All counters are equipped with security glass and grills.

Comments:

It must be acknowledged that the best option has been chosen to guarantee applicants simple and secure access to the visa section. The inspection took place on a relatively calm day where no problems were noted in dealing with applicants.

¹ OMI cases (family reunification and bringing in workers) are handled by staff of the French Ministry of Employment and Solidarity seconded to Casablanca whose remit covers the whole of Morocco.

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2. STAFF

• Composition

The visa section has:

1. Four external career officials (expatriates), of whom one is the head of section. A fifth official is due to join the staff soon.
2. Twelve local staff of French nationality and one of Belgian nationality.
3. Furthermore, extra staff can be employed temporarily for a total of 4-8 months a year.

• Training

Staff follow compulsory training courses to learn how to handle visa applications either in Paris or locally. These training seminars consist of modules lasting one or two weeks.

The "IFAC" (Institut de Formation à l'Administration Consulaire), based in Nantes and answerable to the Ministry of Foreign Affairs, also organises courses.

3. OPERATION OF THE VISA SECTION

a) Submission of visa applications

Information for applicants

Detailed information in French is available on boards outside the building (efforts are currently being made to offer versions in Arabic as well). The information is also available on the Internet. As a matter of principle, no information is given by telephone.

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□ Applications must be submitted in person

An applicant must submit his/her visa application in person. There are the following exceptions to this general principle:

- for the staff of certain big companies (for instance Royal Air Maroc) who are allowed to submit applications by courier
- for companies that are members of the Chamber of Commerce.

□ Nationality of applicants

Almost all applicants are Moroccan, i.e. 98%.

There are low, roughly equal, numbers of Algerian, Tunisian and Congolese applicants.

Persons with dual nationality (French-Moroccan) are granted visas to enable them to transfer money abroad.

Comments:

The Evaluation Committee questioned this practice, as it is considered a violation of the Schengen Convention, Articles 1 and 5, and of the TEU, Articles 7 and 18.¹

□ Types of visa issued

It was observed that multi-entry visas are issued to every applicant. Although it is not necessarily against the rules, this seems strange and it is certainly contrary to ordinary practice.²

¹ France indicates that another member state follows the same procedure in another third country and thinks that this is a question of defending the interests of EU citizens.

² France indicates that multi-entry visas are not issued to every applicant but only to those whose file after examination is considered acceptable and likely to give access to this type of visa.

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As, for technical reasons, the system does not offer the possibility of issuing visas of type D+C, this type of visa is not issued.

Only an insignificant number of LTVs are issued.

□ Statistics

In 2001, the French Consulate in Casablanca received 72 151 visa applications. A total of 55 273 visas were issued. 16 878 visa applications were refused . (23,39%). It is noted that 20% of the visas are issued to students. See breakdown of figures in the Annex I.

Statistics are compiled centrally via the on-line system by the main office in Nantes. The present software system has been used since June 2001. At the end of each month the consulate receives statistics from France. These can also be obtained upon request, in which case the transmission takes 2-3 days.

Figures concerning LTVs are not included, as the figures are very insignificant (for instance only 2 visas of this type were issued in 2001).

b) Processing of visa applications

□ Average time between submitting the application and issue/refusal of the visa

Visas are issued in 24 hours if no consultation is necessary.

It seems that, where there is consultation, the maximum deadline according to the CCI (Chapter V, part 2.3, d), e)) is not observed.

The deadline of 7 days with the addition of 2 days for the transmission (Casa ↘ France/France ↘ Casa), is correctly respected in urgent cases or if the date of departure of the applicant requires this. However, in order to avoid that the applicant has to return to the consulate in vain if the period of information has to be prolonged, the consulate prefers to fix an appointment with the applicant two weeks after the submission of the application.

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□ Supporting documents

Return tickets are not required as supporting documents. The Evaluation Committee was informed that the reason for this was that, for obvious reasons, persons applying for a visa do not buy their ticket before they know whether they have been granted a visa. Health insurance is not required in all cases either. However, a statement of assumption of financial responsibility ("attestation d'accueil – prise en charge"), certification of employment/unemployment, pay slips, bank statements and documents stating that the applicant does not intend to apply for a residence permit must be produced.

Comments:

The Evaluation Committee noted that original documents are returned to the applicant right away and only copies are kept for further examination. This means that the original documents are only examined at the counter, which, especially during the busy summer season, is problematic.

In case of doubt, the member of staff working at the counter submits the original file to his/her superior for verification.

□ Data bases and archiving:

French consulates use the same visa handling system, RMV2. The consulate in Casablanca was the first one to use the latest (second) version of this system, which was installed in 2001 and provides for an on-line connection to the SIS.

Documents relating to visa applications, whether granted (two years) or refused (ten years), are archived in the consulate.

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□ Consultation of the SIS

There is an on-line connection to the SIS (see above) which means that the information is constantly up-dated. After a file has been created, consultation of the SIS can be launched via the system.

□ Consultation of the Schengen Partners under Annex 5B

Consultation takes place automatically; the actual consultation between central authorities is done via the main office in Nantes. The system automatically indicates if a given person figures on the selective list. At this stage, the officer at the counter is obliged by the system to consult the responsible visa officer who then decides whether consultation is necessary. However, only the four expatriate officials for the Ministry for Foreign Affairs can carry out the consultation.

A test using a random selection of names from a list (selection based on the person's identity) of 2000 names of CIS nationals requiring special consultation (of Finland) did not seem to work. During the test only persons holding diplomatic passports appeared on the screen because France requires consultation on all CIS nationals holding diplomatic passports and service passports. Investigations undertaken during the evaluation showed that information concerning the selective consultation of CIS nationals is communicated by the Finnish authorities through transfer of diskettes. Procedures have been established by the parties to ensure compatibility of computer systems. It was agreed that this problem would be solved bilaterally.

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Use of stamps

Stamps are used correctly according to the provisions of the CCI when a visa has been applied for. The applicant's passport is not stamped when the applicant is directed to submit the application to another "Schengen" representation.

It is common practice that expired visas are stamped: "périmé"

Fees for the issue of a visa

Visa C1 (one entry): (€ 25)

Visa C2 (one entry): (€ 30)

Visa C3 (1 year): (€ 50)

Visa A (one entry): (€ 10)

The applicant must pay the fee when collecting the visa. In the case of refusal no fee is paid.

Refusal of a visa

In 2001 23.39% of the visa applications were refused.

If an applicant fails to react to requests from the visa issuing authorities to produce further information within a period of two months, the application is considered refused ("refus implicite"). French consular posts can refuse to issue a visa without consulting the central authorities. The refusal must only be justified for certain categories of applicants: family members of EU nationals, students, veterans, foreigners who are in possession of an employment contract covered by the French Ministry of Labour. Refusal of persons appearing in the SIS must also be justified. As a general rule, the justifications are transmitted by the central authorities. A pilot project has recently been set up according to which the consulate in Casablanca drafts and transmits the justifications for refusals.

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Applicants who have received an unjustified refusal may make a complaint in one of four ways:

- to the head of the consulate ("recours gracieux": internal appeal)
- to the Ministry of Foreign Affairs ("recours hiérarchique": appeal to a higher administrative authority)
- to the "Commission de recours" (Appeals Board: collegiate administrative body), which constitutes a compulsory "recours hiérarchique" before any appeal to a court)
- to the "Conseil d'Etat" (the highest French administrative court which rules at first and last instance on decisions taken by French authorities abroad and by collegiate bodies with national jurisdiction).

c) Storage and handling of blank documents, stamps and other documents used in the context of the visa procedure

Visa stickers are transported to Casablanca by "valise accompagnée".

All visa stickers are kept in two safes and only one person has access to them. Only four boxes of stickers are kept in the visa section at a time. The numbers of the stickers are introduced into RMV by a special system.

d) Technical equipment for detecting false and falsified documents

General situation – checking of travel documents

The French consulate in Casablanca handles mainly Moroccan passports and thus it is relatively easy for the staff to become familiar with them. The main problem is that supporting documents are often falsified (i.e. hotel reservations, bank and employment statements). Five officials deal with checking this. Whereas an excellent collaboration has been established with the local banks, it is harder to obtain information from public administrations. In the case of doubt about travel documents, the French police officer posted in Rabat is consulted. The consulate contacts the local police if false travel documents are detected.

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Verification equipment and measures

The consulate has sophisticated equipment (a "three-in-one" device containing UV lamp, magnifier and a retroviewer) and a manual of false and falsified travel documents is available. However, due to the large turnover of visa applications it seems that the device is rarely used.

4. CONSULAR COOPERATION

Two meetings are organised per year at the level of heads of post¹. The Evaluation Committee was not able to attend a consular cooperation meeting.

5. GENERAL CONCLUSIONS/OVERALL ASSESSMENT

At the end of its mission, the Evaluation Committee feels able to conclude, on the basis of the checks carried out and the information gathered, that the French Consulate in Casablanca is an extremely well functioning consulate considering the number of applications dealt with. However, the Evaluation Committee wishes to comment on a few points which, in its view, merit special attention by the French authorities:

1. It is a matter of fact, which is underlined by the statistics, that the immigration pressure from Morocco towards the "Schengen" area in general, and towards France in particular is very high. It should be noted that all "Schengen" consulates in Casablanca have over the last three years experienced a rather dramatic increase in the number of applications. (Out of a total figure of 150 000 "Schengen" visas issued on a yearly basis, approximately 60 000 (i.e 40%) are issued by the French consulate). Therefore the work of the French Consulate in Casablanca must be assessed in this context.

¹ Belgium, Spain, Greece, Italy and France have consular representations in Casablanca.

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- * Is it possible to maintain the **level of quality of handling** during the busy months? During the Evaluation Committee's visit, 128 files were dealt with which is not much when compared to the total number of applications handled during the year.¹
- * The **division of tasks** seems to work well and to ensure a high level of security, but it was noted that the division of tasks might be counter-productive and render the handling inefficient.
- * The **short issuing time** – 24 hours – makes it practically impossible to verify the supporting documents in depth and it was noted that the applications are only handled technically. This not only creates problems for the other "Schengen" consulates but also for the French consulate, which falls victim to its own efficiency and "visa shopping". This problem could be solved by a harmonisation of visa issuing time for all "Schengen" consular posts.²

¹ Comments from France: The consulate in Casablanca serves two types of "clients", the "special ones" and the "classical ones". The first category covers all well-know personalities from the city, executives from private or public companies as well as from the public Moroccan administration, business men/women and spouses of EU citizens. These files do not cause any problems.

The second category requires more attention, at least as far as first applications are concerned.(if a visa is concerns a renewal, there is no reason for the consulate to create an atmosphere of distrust of the applicant). Thus, the necessary human resources are deployed for this. During the summer period, several persons (minimum two) are employed temporarily in order to assist the permanent staff and "decision-makers" in the preliminary examination of the files. Two members of staff checked the authenticity of the supporting documents.

The division of tasks is not counter-productive as a certain level of specialisation allows for a more certain approach to applications. The example of a team only dealing with applications for visas for study purposes seems very pertinent. If some members of staff would only treat one type of applications, unnecessary waiting time could be avoided. In that way the approximation would also be totally removed.

² Comments from France:

If the sufficient amount of human and material resources is employed, it should be possible to establish an effective and reliable system which makes it possible to handle visa applications within 24 hours. It is not a question of a systematic approach as the consulate at the same time takes the necessary time to examine "sensitive" files (groups of musicians, excursions of schoolchildren, athletes etc...) It is mainly a question of "knowhow", an organisation based on the staff's thorough knowledge of the subject matter.

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* Members of staff stated that there are more **refusals** in the "high" season than in the "low" season. Because of the high pressure of work in the summer season, an application is more easily refused in case of doubt as less time is spent on verification, whereas during less busy periods there is time to verify whether the doubt is founded or not. The Evaluation Committee stresses that measures must be taken to ensure that the same criteria are followed all year round. ¹

2. The Evaluation Committee noted that D+C visas are not issued although the central authorities in a circular to consular posts in August 2001 gave instructions on the issue of this type of visa introduced by Regulation No 1091/2001 of 28.5.2001.

The Evaluation Committee was informed that the reason for this was partly technical and strongly recommends that the necessary measures be taken as soon as possible to change the configuration of the visa handling system to enable French consulates to follow the correct handling procedures for visas of this type and to issue them.

3. It should be noted that the Common Consular Instructions were not immediately to hand in the visa section of the consulate.

4. Consular cooperation should be improved. In particular, there is an obvious lack of harmonisation of procedures concerning the required supporting documents. It would be useful to hold more frequent meetings at all levels during the "low " season and to exchange staff during these periods.

¹ Comments from France:

The Evaluation Committee has noted that in case of doubt, the consulate prefers to refuse an application, especially during the summer period. On that background it seems surprising that the Committee still worries about possible lacks of watchfulness on the part of the consulate.

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B. GENEVA

1. CONSULATE: LAYOUT, PREMISES, GENERAL SECURITY

The jurisdiction of the French consulate in Geneva covers three cantons: Vau, Valais and Geneva. The consulate is situated in the centre of the city. The visa section is separate from the rest of the consulate but the archives are located in the main building.

The building offers good reception facilities for visa applicants and good working conditions for officials who deal with visa matters:

- * The visa section is open every working day: 8.30-14.00.
- * Cameras and alarms are placed outside. The consulate does not have its own security staff but a direct telephone line has been established to the local police to be used in emergency situations. Before entering the building, applicants must pass through a metal detector.
- * The size of the waiting room, which can hold 60-70 people, seems to be adequate.
- * The room has ten counters which are all equipped with security glass and grills.
- * There is no separation between the waiting room and the counters.

Comments:

It must be acknowledged that the best option has been chosen to guarantee applicants simple and secure access to the visa section. The inspection took place on a relatively busy day. However, no problems were noted in dealing with applicants.

2. STAFF

Composition

The visa section has:

1. Five external career officials (expatriates), of whom one is the head of section. A sixth official is due to join the staff soon.

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2. Seven local staff of French nationality.

3. Furthermore one person can be employed temporarily for 7 months a year.

In the near future, a rota system will be set up so that each member of staff of the consulate will carry out different tasks in the visa section in turn.

Training

See comments concerning the consulate in Casablanca, page 90.

3. OPERATION OF THE VISA SECTION

a) Submission of visa applications

Information for applicants

Written information, solely in French, is only given upon written request. Persons whose applications will require a relatively long handling time and applicants who live far away can submit applications by mail. Thorough information is available on the Internet in French. External telephone calls are dealt with by the staff manning the counters if the request concerns an application under examination. Application forms are available in English and French. Other requests for information are dealt with at the entrance.

Applications must be submitted in person

An applicant must hand in his/her visa application in person. There are exceptions to this general principle:

- for collective applications from UN organisations (attestation required)¹
- for holders of diplomatic passports (certification required)

¹ France indicates that for both categories an official certification is required ("*une note verbale au sens diplomatique du terme*")

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- for husbands or wives who can apply on behalf of their spouses and family members (parents and children)
- for applicants who live far away (written applications are accepted).

The consulate does not accept visa applications submitted by travel agency representatives.

□ Nationality of applicants

In 2001 approx. 25% of the visa applicants were nationals from former Yugoslavia. About 6% of the applicants were Russian nationals. See breakdown of figures in Annex II.

□ Types of visa applications

Most persons give private reasons (shopping, tourism, family visits) for applying for a visa.

□ Types of issued visa

It seems that 90 days multi-entry visas are issued systematically.¹

Type D+C visas are not issued. See comments and recommendation on page 99.

The issued "LTV" visas are not counted correctly, as the definition in the French instructions for this type of visa (which states that this type of visa is only valid for entry into ONE Schengen state) does not correspond to the definition in the CCI, which states that this type of visa is valid for one or several Schengen states.

Comments:

It appears that the rule of main destination is not applicable because of Geneva's geographical situation. However, even if the applicant declares, and is backed up by the supporting documents, that his/her first destination is a country other than France, a visa is issued. As there is practically no control of the (external EU-) border between Switzerland and France, it is impossible to control the use made of visas issued.²

¹ *Comments from France: 90 days multi-entry visas are never issued in the case of a first application. This type of visa is only issued to applicants already known to the consulate."*

² *Comments from France: the consulate issues a visa because the applicant at the counter has stated that he/she also*

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□ Statistics

In 2001, the French Consulate in Geneva received 64 634 visa applications. A total of 61 397 visas were issued. 3 237 visa applications were refused (approx. 5%). See breakdown of figures in Annex II.

b) Processing of visa applications

□ Average time between submitting the application and issue/refusal of the visa

A substantial number of visas are issued immediately.

Access to SIS consultation concerning 120 countries is available on-line. For the remaining countries, consultation via the central administration is necessary and the handling time is then 48 hours. These remaining countries will be integrated into RMV 2.

If the central authority has to be consulted - for nationalities listed in Annexe 5 A and 5B of the CCI - the consultation period may be up to two weeks.

In the case of applicants not residing in Switzerland, the consulate consults the French consulate in the applicant's country of residence.

wishes to go to France for shopping purposes

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Supporting documents

Applicants residing in Switzerland are generally regarded as "bona fide" and thus the main supporting document produced is the Swiss residence permit.

An applicant not residing in Switzerland must produce a Swiss visa, a return ticket to his/her country of residence, an invitation to France or a written guarantee from the person providing him/her with accommodation in Switzerland. Furthermore, documentation concerning financial means is required: certification of employment, attestation of unemployment benefit, pay slips and copies of bank statements must be produced. In the case of a first application for a "Schengen" visa, the consular post of France in the country of residence is consulted.

Comments:

The high turnover of cases dealt with raises the problem of satisfactory verification of the individual applicants, as interviews are very short. It should be noted that the main objective is to detect whether illegal immigrants enter the Schengen area from Switzerland and it would be unlikely that these would be persons residing in Switzerland. Thus it is recommended that more thorough interviews be conducted with first-time applicants and persons in transit.

Databases and archiving:

All French consulates use the same visa handling system. The new version of this system will be installed at the end of 2002.

Documents relating to visa applications, whether granted (two years) or refused (ten years) are archived in the consulate.

Consultation of the SIS

There is an on-line connection to the SIS (see above) which means that the information is constantly up-dated.

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Consultation of the Schengen Partners under Annex 5B

The procedure for consultation is carried out automatically; the actual consultation between central authorities is via the main office in Nantes. The system automatically indicates if a given person figures in the SIS. At this stage, the officer at the counter is obliged by the system to consult the responsible visa officer who then decides whether consultation is necessary.

A special arrangement has been set up concerning applications from nationals from Congo-Kinshasa, Burundi and Rwanda: these are checked locally in their respective countries of origin and a second check is carried out via the RMV.

The same comment was made on selective consultation of Finland for specific CIS nationals as for the consulate in Casablanca, page 94.

Use of a stamps

The stamp "périmé" is placed on previous visa stickers in the passport before a new visa sticker is issued.

According to the CCI , the consular post with whom an application is lodged, shall affix a stamp to each applicant's passport stipulating: "visa applied for on ... at ...". The spaces following "on" shall be filled with various data, among them the code for the requested visa. It was noted that the stamp used by the consulate in Geneva affixes a code indicating the reason for refusal agreed upon within the framework of local consular cooperation.

Fees for the issue of a visa

Fees:

Visas (30 days-3 months): 25 €

Visas (90 days-6 months): 35 €

Visas (90 days-1 year): 50 €

Transit visa: 10 €

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The applicant must pay the fee when collecting the visa. In the case of refusal, no fee is paid. Russian nationals below 25 years of age do not pay any fee. It should be noted that this practice is against the provisions of the CCI.¹

Refusal of a visa

See description of procedures for refusal on page 95.

c) Storage and handling of blank documents, stamps and other documents used in the context of the visa procedure

All blank visa stickers are kept in a safe in the main part of the consulate. No special security measures are taken for transport (once a month) between the central store and the visa section. Only a limited number of blank documents are stored in the visa section. The Evaluation Committee observed that the safe in the visa section was left open when checked on the day of the inspection.

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¹ Comments from France: these free visas are decided upon on a case by case basis and the approach is the result of the cultural policy of France.

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d) Technical equipment for detecting false and falsified documents

(a) General situation – checking of travel documents

Firstly, it should be pointed out that, as the French consulate in Geneva handles passports from all over the world, it is very difficult for the staff to be familiar with all of them. Thus, there is a great need for equipment to detect false and falsified documents.

b) Verification equipment and measures

The consulate has sophisticated equipment (a "three-in-one" device containing UV lamp, magnifier and a retroviewer) and a manual of false and falsified travel documents is available. However, due to the large turnover of visa applications, it seems that the device is used only rarely.

Comments:

It would seem useful for a consulate dealing with such a variety of passports to have an electronic system installed to facilitate the detection of false documents.

4. CONSULAR COOPERATION

The external career officials of the French consulate in Geneva take part in consular cooperation meetings. Hitherto, one meeting has been organised every 6 months. Local staff do not attend these meetings. However, consular staff are in regular contact by telephone on individual cases. Statistics on issued visas are circulated among representations every month. The Evaluation Committee was not able to attend a consular cooperation meeting.

RESTREINT UE

5. GENERAL CONCLUSIONS/OVERALL ASSESSMENT

At the end of its mission, the Evaluation Committee feels able to conclude, on the basis of the checks carried out and the information gathered, that the French consulate in Geneva functions extremely well.

However, the Evaluation Committee wishes to comment on a few points which, in its view, merit special attention by the French authorities:

1. There is a lack of distinction between the handling and issuing of visas because of the rapid treatment of applications. The handling is purely technical as the examination of the supporting documents is superficial and mainly based on the Swiss residence permit, which is a document that can easily be falsified. This creates not only a potential risk of illegal immigration (although it should be noted that the risk of illegal immigration from Switzerland is fairly low) but also explains the discrepancy between the number of visas issued by the different consulates in Geneva.¹

¹ Comments from France:

No distinction is made between the control operations and the issuance of visas: the person who examines the application at the counter is not the same as the one that issues the visa. This second operation is carried out by the "cashier" who carries out a second control before the visa is issued. .

Rewording of pt. 1 as suggested by France::

"The handling is purely technical as the examination of the supporting documents is mainly based on the Swiss residence permit, which is a document that according to some members of the Evaluation Commission is a document that can easily be falsified.. This could_theoretically create a risk of illegal immigration. This partly explains the discrepancy between the number of visas issued by the different consulates in Geneva.

Other reasons for this difference are the geographical situation of Geneva in relation to France as well as the lack of means and will on the part of the other "Schengen" consulates in Geneva."

RESTREINT UE

2. Concerning D+C visas, see comments on page 99.

3. Although Chapter VIII, 2. of the CCI, allows for agreement on using different indications in the stamp within the framework of local consular cooperation, some members of the Evaluation Committee questioned whether the practice of stating at the time of the application for a visa, the possible reasons for refusal is compatible with the provisions of the CCI.¹ Other members of the Evaluation Committee, on the contrary, found that this was an excellent example of local consular cooperation specific to local circumstances.

4. Any officer can consult the SIS and it is not necessary to create a file in order to check names in the SIS. According to the Evaluation Commission this practice must be changed.

5. Consular cooperation with other Schengen States' representations: Although these meetings are highly regarded and judged very positively by consular staff, it seems that contacts could be intensified and extended to all categories of staff. An obvious lack of harmonisation of procedures was noted, for instance concerning the required supporting documents.

FINAL REMARKS

We must conclude this report by emphasising the flawless cooperation of all staff of the French consulates in Casablanca and in Geneva. The Evaluation Committee was not prevented at any time or in any way from carrying out its work. In particular, the Evaluation Committee highly appreciated the background information prepared in advance by the consulate in Geneva. All questions asked, often very specific ones, received detailed replies and all inspection requirements of the Committee members were met, so that the Commission was able to carry out its task under the best possible conditions.

¹ It is also recalled that the Council in May 2001 approved recommendations indicating five areas in which "there could be uniform implementation, within the framework of local cooperation, in order to increase transparency vis-à-vis applicants and avoid visa shopping", among which figures: "stamp of the type prescribed in the CCI".

RESTREINT UE

III. SIS

This document is the report of the SIS evaluation visit in France on 29 – 31 January 2002. It includes the conclusions of the drafting meetings of 5 and 13 February 2002 as well as the comments of the French authorities, which participated in the second drafting meeting.

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1. THE FRENCH N.SIS

1.1 Organisation

N-SIS France consists of an applications division, a project division and an operations centre.

- The applications division is responsible for planning and determines the functional requirements for users of the SIS.
- The project division studies the technical implementation of those technical requirements. It establishes the procedures for implementation and carries out the necessary tests to validate them.
- The operations centre is responsible for the operational implementation of the procedures established by the project divisions and validated by the applications division.

These departments come under different directorates of the Ministry of the Interior. Thus N-SIS does not constitute an administrative structure as such, but rather a functional association. This structure uses the same procedures and operating methods as are used for the administration of the national applications.

The operations centre has the following missions:

- exploitation of the national applications:
 - police: N.SIS, stolen objects, fingerprints, wanted persons, vehicles, specialised police information, transborder cards;
 - administrative: identity card, passport, driving licences, car certificates, foreigners cards;
 - other: election results, municipalities, human resources, budget;
- support level 1 for the exploitation team and level 2 for the end users;
- hosting for other administration.

Both police and civilian personnel (civil servants as well as contractual engineers) work at the operations centre. Staff members are screened upon entry and afterwards every 5 years.

RESTREINT UE

Legislative and regulatory provisions adopted to set up the N.SIS.

Numerous texts have been adopted to ensure French implementation of the Schengen Convention.

Four directly concern the N-SIS:

- an order of 6 August 1993 authorising the creation of a database intended for the installation of the SIS;
- Decree No 93-315 of 23 March 1995 on the creation and tasks of the national bureau responsible for the operational management of the national part of the SIS, known as SIRENE;
- Decree No 95-577 of 6 May 1995 on the national computer system known as N-SIS;
- Circular of 12 May 1995 on the consultation of SIRENE-France for application of the Schengen Convention (case of foreigners entered in SIS for the purpose of non-admission).

1.2 Installation

There are 3 sites: the main centre is located in the premises of the Ministry of the Interior, Centre d'Exploitation Informatique National, Place Beauveau, in the centre of Paris, the two others are located in suburbs of Paris (Lognes and Val Maubu ). The 3 centres are operated 24h/day, operators, working in shifts of 5 teams of about 5 persons, can call engineer support at all times when exploitation problems occur that they cannot solve themselves.

A diagram of the SIS architecture and a presentation of the computer architecture of national police systems which are connected to the SIS are included in the annexes.

The French global framework for the SIS includes the CHEOPS application (cf. chapter 1.3), the national applications and the N.SIS application.

It was decided that the Ministry of the Interior would be responsible for the N.SIS database and that its files would be the reference database for introduction of alerts into the SIS.

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The national wanted persons files (FPR) and stolen vehicles files (FVV) of the Ministry of the Interior are updated by the National Police and the Gendarmerie before sending the data to the N.SIS. For the objects, the criminal information processing system (STIC for the Police or JUDEX for the Gendarmerie) feed directly and continuously into N-SIS.

In any case, the files of both police forces are kept identical by a continuous exchange system. The data in the national systems are centrally synchronised with those entered in the N.SIS.

Only the **SIRENE** bureau operators consult and access the SIS database directly, otherwise the link between law enforcement departments and the N.SIS is provided by a coupled consultation mechanism.

The main functions of the N.SIS are:

- checks on the receiving and the transmitting streams, notably for Article 95 alerts as imposed by the Convention but also checks aimed at enforcing the data quality;
- transliteration and
- phonetic treatment of identities.

The measures to check that data conform to the requirements of the Schengen Convention correspond to the controls applied to alerts coming from national applications, namely:

- Detection of the risk of duplication
- Detection of anomalies, in terms of invalid information (unknown nationality, forbidden character, ...)
- Filtering of alerts entered on the basis of Article 95
- Filtering of alerts entered on the basis of Article 99(3)

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The French national application is able to make phonetic searches which include:

- deletion and/or merge of some particles
- phonetic equivalences, deletion of double letters, end of word equivalences
- surname codification
- creation of different combinations with parts of the name and the surname (this allows the end user to introduce the complete name in the family name field when he is not sure what the different components of the name are).

The main difficulties in updating the N.SIS are due to the fact that the N.SIS environment is based on index files and Cobol instead of using a relational environment such as Oracle. The French authorities have begun to study the corresponding evolution but consider it better now to wait for the definition of the SIS II requirements.

For several years, the French test N.SIS had been performing poorly and had to be replaced by a simulator in different test campaigns. The French authorities explained that the new N.SIS project management thinks they have identified the problem, which seems to be a problem in a network link.¹ There is good hope that the problem will be solved before the next test campaign.

The network used by both the police and other services of the Ministry is operated by the Ministry itself, using two protocols (IP and X.25) and encryption on some parts.

The Gendarmerie has a complete technical copy of the N.SIS database, which is located in Rosny-sous-Bois.

Similarly, the Customs Service has a copy of this database but this does not include the Article 98 alerts. However, in the light of a recent agreement to allow the Customs Service to operate police checks at the land border with Switzerland, the decision on whether to provide a complete copy to this service will be reviewed.

Another copy, including only the Article 96 alerts is located at the Ministry of Foreign Affairs.

¹ On the basis of new information, the French authorities informed the survey group on 13 February that there was also a performance problem in the test computer.

RESTREINT UE

There are regular database comparisons to ensure that the copies of the Gendarmerie, the Customs and the Ministry of Foreign Affairs are correct and complete.

1.3 Security

Access to the operations centre of the Ministry of the Interior is monitored by the Ministry's central security services, who also controls the alarms on all doors.

Specific security measures for access to the operations centre are:

- special access cards and double doors; different access rights are given for the ground floor where the support and administrative teams are located and for the computer room, which is located underground;
- monitoring of the entrance by closed circuit television.

In the event of a security incident on the premises, a report is made to the responsible security services, which take the necessary actions according to the agreed procedures.

Fire and heat detection systems are installed, as well as sprinkler or halon extinguishing systems.

The halon systems will be replaced before 2006 when their use will become illegal.

Air-conditioning is available and the power supply has back-ups (UPS and generators)

Back-ups of the data are done weekly, for which a log system is kept. As a special security measure, the whole database is saved every five weeks.

The weekly back-ups are stored on site. The special back-ups are stored in an external and secured Ministry location, to which access is organised with the special access cards.

It has been agreed with the hardware company that the Ministry can keep obsolete or broken disks, so that the Ministry can destroy them themselves.

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As mentioned above, the operational N.SIS has one computer in Beauveau and a back-up in Lognes; the front ends are also redundant and have back-ups.

The test N.SIS consist of a central computer located at the third site and a communication screen.

The switch between the operational and back-up sites is regularly checked and during maintenance at the operations centre, the operational activities are run from the back-up site. The switch between the sites entails an unavailability for the end users of about 5 to 10 minutes.

In case of a major disaster that would disable all systems, the National Police would have to consult the databases via the Gendarmerie.

The CHEOPS application provides the access to all national applications via a communication server and with a unique identification phase. The access rights are attached to a user and not to a workstation, meaning that each user can access a national application from any workstation of the police network.

The CHEOPS application provides also an access right management which is based on the hierarchy of the police services. This access right management is ensured by a rather complex and dispatched application at a local, intermediate and central (or national) level.

The CHEOPS application also provides an access server, which checks the administrative number (which is individual to each officer) - password couple. Three consecutive errors lock the administrative number. The access server also forbids the double connection. No smart cards or other access methods are used.

Furthermore, CHEOPS provides a communication server which is an access screen to the national applications. Its main functions are:

- the connection of a workstation to a national application and disconnection on request or after a time out;
- exploitation features such as suspending the access to a workstation or (partly or globally) to a national application and
- elaboration of log files, tracks and statistics: logging the session (login and logout), the application which was used and what function of the application was used (archive, deletion, etc).

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Queries by the police officers are logged (although not through the CHEOPS application) and the audit trails are kept for about 5 years and can be used to investigate any abuses. All access requests to the national systems are logged and 10% of the SIS queries are logged.

The CHEOPS application has 17 700 workstations and has 65 000 authorized users. These figures only concern the National Police.

Access for new users is authorized by the access manager responsible within their service for CHEOPS.

Officials from the National Police who need access to police data in national files which feed into the SIS also have access to the corresponding SIS data.

The same applies to the Gendarmerie within its own organisation.

1.4 User interfaces

Each force consults its copy of the SIS database according to the principle of dual consultation. The user therefore does not have to carry out a separate action in order to consult the SIS. The workstation sends a consultation request to the central databases via the specific communication networks used by each force. The relevant national database and N-SIS database are consulted at the same time. The response is returned by the same means to the workstation making the request, with the results being joined to those from the national applications. However, if a hit is found in the French national systems and there is also a positive answer from the SIS, the SIS information is not shown immediately: only a flag is shown and must be clicked on to get the full information on the SIS alert, e.g. that the person is armed or violent.

There is no technical provision for a query on a wanted person to automatically check the alerts on issued documents.

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The average response time for N.SIS consultation by the National Police is 3 to 5 seconds, which seems to be generally accepted, but may be exceeded depending on how busy systems and networks might be.

A consultation by the Gendarmerie takes on average 15 seconds (cf. chapter 4.7).

The French authorities explained after the visit that the average of 15 seconds is true in case of a hit; in case of a negative answer, the result is shown after about 10 seconds.

2. THE FRENCH SIRENE BUREAU

2.1 Organisation and structure

2.2 Security and data protection at the SIRENE bureau

2.3 Installation

2.4 Recruiting and training of SIRENE officers

2.5 Tasks of the SIRENE bureau

As the French SIRENE bureau has very recently (17 September 2001) been the subject of an evaluation by the Schengen Evaluation committee, the visit of the current survey group did not include a part concerning the SIRENE bureau.

The Head of the French SIRENE bureau confirmed that the findings of the report of the September visit were still valid.

No changes have been done as a follow-up of the evaluation report. However, in general the Head of the French SIRENE bureau is satisfied with the way of working of his bureau and therefore no major modifications are expected.

RESTREINT UE

3. ALERTS AND HITS

3.1 Workflow and responsibilities for entry and deletion of records

Alerts are introduced either by the National Police or the Gendarmerie.

The National Police and the Gendarmerie have and exercise the same powers and while traditionally the Police covered the urban areas and the Gendarmerie the rural areas, this geographical separation is gradually changing.

All French alerts are entered into the SIS through the national applications. In general, the basic rule is that, by default, data entered in the national applications are also entered in the SIS. There is, however, no technical means to oblige an officer to introduce alerts in the SIS but next to the introduction rule, officers are instructed to limit the cases where no SIS alert is issued and must be able to justify such cases.

Alerts are entered depending on the needs of judicial inquiries or police investigations; there is no plan to establish national criteria governing the number of alerts entered per category.

Entry of alerts by the National Police

Introduction of alerts on wanted persons at the request of local police forces is done at regional level by the Regional Crime Investigation Department, which operates around the clock.

Alerts pursuant to articles 95, 96 and 98 at the request of the Justice, the Préfectures or Central services are introduced at central level by the Central Service of Criminal Documentation located in a suburb of Lyon, which also operates 24h/day.

Stolen vehicles can be introduced at local level, vehicles under surveillance are introduced at regional level, updates are done on the basis of a pre-formatted grid to ensure that data are introduced on a uniform basis.

Alerts on objects can be introduced directly at the local police station but generally the introduction is made at regional level by the Regional Crime Investigation Department. For alerts at the request of the Central services, the introduction is done centrally by the Central Service of Criminal Documentation.

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Entry of alerts by the Gendarmerie

Introduction of wanted persons alerts by the Gendarmerie is done at national level by a division of the Technical Service of Judicial Research and Documentation of the Gendarmerie, specialising in such alerts. The division is permanently available and during the night its functions are taken over by personnel of the department to which it belongs.

The staff of this division is security cleared and its systems and premises are subject to specific security measures.

80% of the requests to enter alerts come in through the SAPHIR network, the rest by fax or regular mail.

Upon a request for an alert, the department checks the completeness and correctness of the data and ensures that an SIS alert is requested when the alert is Schengen relevant. The files are sent to the Criminal Research departments and notably those of the place of birth, the local brigade who requested the alert and the responsible magistrate, who all have a possibility to request corrections before the alert is introduced in the SIS.

The Gendarmerie introduces stolen vehicles through the regional Criminal Research Departments, following an operational message through the RUBIS digital radio network from the local brigade. This means of communication is used to ensure that the time between the complaint and the introduction of the alert is as short as possible.

Moreover, the legal department daily checks the information on stolen vehicles (and other alerts) introduced the day before to ensure the coherence, correctness and quality of the alerts.

An alert for a vehicle under surveillance follows the same technical way but needs the approval of the Technical Service of Judicial Research and Documentation of the Gendarmerie, who makes preliminary checks and also decides on the Schengen relevance of the alert.

One of the tasks of the justice mission at SIRENE France is to examine every new alert introduced into the SIS under Article 95 of the Convention implementing the Schengen Agreement, so as to determine what action might be taken on it on French territory. The justice mission is competent to decide whether a permanent or temporary flag should be added to it. It therefore guarantees the existence of the factors laid down in Article 95 in support of a request for a search with a view to extradition. The SIRENE bureau sends the A-form in parallel with the Article 95 alert. It is being considered to set up an automatic link between such an alert and the A-form for the future system.

RESTREINT UE

In a circular dated 27 September 1993 and addressed to all French judicial authorities, the Ministry of Justice stressed that alerts circulated via SIS had priority over Interpol alerts.

As a supplement to the circular of 27 September 1993, the Directorate for Criminal Affairs and Pardons distributed to the judicial authorities a technical information sheet listing the tasks of the justice mission at SIRENE France.

The justice mission at SIRENE France and the office for international mutual assistance in criminal matters which is responsible for it run many training and information activities for the entire judiciary, so that the greatest possible number of enforcement orders which might usefully be distributed under Article 95 of the Convention implementing the Schengen Agreement are entered in SIS.

The circular of 27 September 1993 will shortly be updated and recast, to present judicial authorities with the results of the first years of implementation of the Convention implementing the Schengen Agreement, and to remind them of the procedure to be used for international searches.

Issuing the alerts referred to in Article 96 for purposes of refusing entry is done by:

- the judicial authorities, when refusal of entry to the territory is a main or an ancillary sentence handed down at the same time as a conviction.
- the administrative authorities, when expulsion is on public order grounds and is the subject of a prefectoral order.

It is the SIRENE bureau which liaises with the Schengen partners for purposes of sending and receiving of requests for consultation under Article 25 of the Convention

Deletion of alerts

When the SIRENE bureau is told of the discovery of an alert by one of its partners, it advises the police force which entered the alert, which will ask the department responsible for entering alerts to delete the alert in question. The deletion of the alert in the national application causes the deletion of the corresponding alert in the SIS database.

An automatic procedure checks this deletion, without manual intervention.

RESTREINT UE

An alert in the SIS is deleted once the national application has been updated, i.e. when a request for deletion is made by the authority which asked for the alert to be entered, or by the detaining agency (depending on the type of file). For Article 95 alerts this is done once the person has actually been extradited. The deletion is done via the same procedure as the way they were introduced (locally, regionally or centrally).

For an alert on missing minors, the Gendarmerie checks every two months with the local brigade whether it is necessary to maintain the alert.

Preventing the data files from becoming clogged with data (non-deletion of alerts after a hit) is done by means of the revalidation procedure described above, and by internal procedures concerning the duration of the validity of alerts, which lead to the deletion of data on a cut-off date. To this end, the SIRENE bureau regularly receives a list of alerts that reach the end of their SIS validity to check whether they have to be revalidated when they are still valid according to French law. The SIRENE equally compares the list of deletions with the list of hits to check that the alerts concerned have in fact been deleted.

3.2 Follow-up of hits

Both hits following a French alert discovered abroad and hits achieved in France are recorded manually on a computer system.

The results of an investigation are kept at SIRENE until the alert is deleted. The results of a judicial enquiry will be kept by the local judicial authorities and also in the archives of the agency in charge.

If a person who is sought by France is discovered abroad, the justice mission at SIRENE France informs the international mutual assistance office responsible for following up extradition cases, and the French court or courts likely to request the extradition of the person in question.

If persons entered in SIS at the request of other States are discovered in France, the person is automatically detained pending extradition, unless a reason rendering extradition impossible is discovered following the arrest (for example, discovery that the person concerned has French nationality).

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In case the addition of a permanent flag was requested by the justice mission at SIRENE France, the alternative procedure is initiated and the address of the person concerned is communicated to the country requesting his extradition.

3.3 Statistics on alerts and hits

Number of alerts loaded per category (Articles 95 to 100), per ultimo 1999 and 2000:

| | 31.12.1999 | 31.12.2000 | 31.12.2001 |
|---------------------|------------|------------|------------|
| BK | 544.845 | 359.219 | 328.297 |
| DB | 7.505 | 22.671 | 27.429 |
| FA | 62.335 | 67.264 | 71.946 |
| ID | 2.014.071 | 2.204.739 | 2.291.354 |
| VE | 233.070 | 238.521 | 256.830 |
| WP 95 | 2.285 | 2.235 | 2.335 |
| WP 96 | 63.406 | 57.316 | 53.823 |
| WP 97 Adult | 4.760 | 4.735 | 4.819 |
| WP 97 Under age | 4.414 | 7.638 | 8.270 |
| WP 98 | 21.601 | 20.965 | 19.741 |
| WP 99.2 Observation | 5.621 | 5.555 | 5.353 |
| WP 99.2 Check | 3.203 | 3.451 | 4.393 |
| WP 99.3 Observation | 0 | 0 | 0 |
| WP 99.3 Check | 0 | 0 | 0 |

For the moment, the French authorities do not use the statistics on the number of alerts for operational purposes but it is intended to do so in the future.

No lists kept of alerts entered per region or per authority.

No statistics on national/international arrest warrants are available.

The Ministry of the Interior does not keep statistics on queries. The SIS is consulted as often as national applications, i.e. 30 000 000 consultations per year.

There are no plans to introduce methods for collating statistics on queries as no need for this has been felt.

RESTREINT UE

The Gendarmerie registers about 15 000 daily queries on wanted persons, 20 000 on stolen vehicles and 14 000 on objects, totalling 17 000 000 per year.

Number of hits recorded in France:

1997: 9 029
1998: 11 139
1999: 9 485
2000: 8 823
2001: 8 675

4. END-USERS

4.1 General

The services listed in 5002/2/00 REV 2 SIS 2 COMIX 2 have access to SIS data as indicated¹.

The National Police, border control authorities and the authorities responsible for aliens come under the Ministry of the Interior and have in total 17 700 terminals which can search the SIS.

The National Gendarmerie has 15 000 terminals (7 000 fixed and 8 000 mobile).

The Customs Service has 167 terminals to consult the SIS.

The Ministry of Foreign Affairs has 830 terminals (130 in the central administration in France and 700 in diplomatic posts abroad).

To allow police officers on the ground access to end-user terminals, the following are used: direct access using fixed terminals, access by radio or telephone, or mobile terminals, depending what technical possibilities are available to the service involved:

The National Police is only just developing solutions to provide mobile terminals. Officers on the ground mostly make checks via radio.

The Gendarmerie has both fixed and mobile terminals; its radio communications are encrypted.

¹ National police, National gendarmerie, Customs, Judges or magistrates of the *Ordre judiciaire*, Ministry of Foreign Affairs and its departments, Directorate for civil liberties and legal affairs, Prefectures

RESTREINT UE

The consular posts access the SIS by means of the copy of the database available at the Ministry of Foreign Affairs. Updates of this database are transmitted daily by the Ministry of Interior.

The Ministry of Foreign Affairs is responsible for distributing the SIS data to their missions. Consular posts have on-line access and the alerts are immediately available via the internal network of the Ministry of Foreign Affairs (a second version of which is being developed). Updates are carried out either continuously (delay of a maximum of 30 minutes) for those posts equipped with the RMV 2 system, or by a periodic database transfer (once or twice a day) for posts equipped with the RMV1 software.

Off-line access does not exist anymore. The only CD roms exchanged are those for the software evolutions. Updates and deletions are made on-line but cannot be done from the diplomatic post.

Since Monaco is an independent state, the Monaco police does not have access to SIS data recorded in the French N-SIS. Operational police contacts with the Principality of Monaco take place either at local level for local cases or events or through the Interpol cooperation framework for more important cases.

4.2 Training

For the National Police Force, as for the National Gendarmerie and the Customs, modules are incorporated into initial training at each level. There are also specific modules in the framework of continuing training.

Thanks to the dual consultation mechanism, consultation of SIS data is for French police forces as automatic as that of national applications. The French authorities therefore find that information available to end users about the working of the SIS is good.

The various components of the French SIRENE bureau each carry out training and awareness activities for the administration from which they come.

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National Police

The initial training for persons joining the National police or changing to a superior level, includes a detailed presentation of the tools of international police cooperation. The role of the SIS and of the SIRENE office is sufficiently covered there.

In particular, the training consists of:

- 10 hours for constable level,
- 12 hours in total for inspectors' level (6 hours of supervised work on each national application, 3 hours conference on police cooperation in Europe and 3 hours conference on Schengen and Europol) and
- the basic training plus 4 hours conference on Schengen and Europol for superintendents.

The continuous training consists of 3 programs:

- a 3 days' course: "Europe and its institutions"
- a 2 days' course: "Leading the police officer to a better knowledge of the European institutions"
- a 1 day course: "The Police and the Schengen Agreement"

Continuous training is offered to inspectors and superintendents, according to a yearly plan set up by the central Directorate. Staff members can apply to participate in these courses.

To ensure the level of competence of new users, the knowledge about SIS is a criterion in the overall assessment of professional performance of staff, drawn up each year by managers.

Gendarmerie

Training on SIS is included in the basic training of the Gendarmerie, specialised training (some in the form of seminars) is given to the technicians working with the SIS, legal department staff and to staff members affected to the SIRENE bureau.

Continuous training is provided at local level, based on the texts and information material sent by the responsible central department. It is a responsibility of the local officer in charge to ensure the continuous training of his staff.

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Diplomatic representations

For diplomatic representations, courses organised by the sub-directorate for movement of foreigners in France include a presentation of the SIS. These courses either take place in France or in diplomatic and consular representations.

Judicial authorities

When the Schengen Convention came into force, the Ministry of Justice distributed a number of circulars to the French judicial authorities presenting the mechanisms for judicial and police cooperation created by that treaty.

Every year, in the framework of initial and continuing training for magistrates, the office for international mutual assistance runs sessions presenting these mechanisms and their special features in relation to other tools for international cooperation in criminal matters. Since the beginning of 2000, decentralised training activities have taken place regularly at the appeal courts. The French National Magistrates College, in partnership with academics, is constantly developing training modules on mutual judicial assistance and particularly on cooperation in the framework of the Schengen Convention. The Intranet site of the Directorate for criminal matters and pardons, under the heading "*entraide pénale*" (mutual assistance on criminal matters) provides all the necessary documentation to make use of the resources offered by the Schengen Convention.

4.3 Visit to the National Police station at the 8th arrondissement

Following the visit to the French N.SIS, the opportunity was taken to include an impromptu visit to the police station of the National Police in the 8th arrondissement in Paris.

On arrival, members of the survey group were welcomed by Commissaire Stéphane MELOT, Commissaire Central Adjoint of the 8th Arrondissement and Commandant Tania TIJARDOVIC accompanied the members during their visit and explained how this police station was dealing with the SIS. There are 3 terminals available in this police station that give access to the SIS and the national applications. One terminal is used by the operator in the control room to execute checks for officers on the street requesting information via radio.

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The other terminals were used by desk officers to verify whether requests for alerts that had been sent to the regional input centre, had indeed been introduced (correctly).

It was explained that, thanks to the dual query function, searching the SIS was considered to be easy. In this arrondissement, very few SIS hits had been found and it was therefore difficult to comment on the co-operation with the SIRENE bureau.

Response times were found to be good and hits were achieved on the searches requested by the members of the survey group. It was noted that the phonetic search function works very well.

4.4 Visit to Orly Airport

At Orly Airport, the survey group was welcomed by the Commissaire Divisionnaire Armand HUBY, head of the Border Police at Orly Airport, who gave a brief presentation about the airport and the National Police organisation and tasks there.

Orly is the second largest airport of Paris and has 2 terminals. The western terminal serves 4 airlines, amongst which Air France, the other 12 companies use the southern terminal.

Most flights arriving at and departing from Orly are intra-Schengen flights or to/from non-Schengen mediterranean countries.

Over the last ten years, passenger numbers varied between 23 and 26 million; after the events of 11 September 2001, the traffic decreased by about 10%, totalling 23 million in 2001.

The National Police has between 450 - 500 staff members working at Orly airport, fulfilling classic policing tasks such as ensuring public order, traffic control and the fight against crime and more specific tasks such as border controls, airport security, VIP security and repatriation of illegal immigrants.

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Orly Airport has in total 31 police booths for arrival and departure checks, all equipped with terminals having access to the SIS. Checks are made randomly or systematically, depending on the flight traffic or the sensitivity of the origin of the flights.

In 2001, a total of 1888 hits were achieved, 103 of which on SIS alerts.

In 2001, about 1000 persons were refused entry at this airport, notably for carrying false documents or because they did not have any or the right documents.

The survey group assisted at the checks on arrival. Response times were found to be good, although staff on site would wish it to be improved, especially when several officers are controlling at the same time.

Officers cannot query the wanted persons database and the stolen objects database at the same time: 3 operations are necessary to switch from one application to another. It was expected that the implementation of CHEOPS should improve this, although it would still not allow a simultaneous check.

No optical document readers are available.

At Orly, the Customs Service has no access to the SIS: this was not considered necessary since the National Police is already carrying out checks against the SIS.

When checking an alert related to misused identity, it was noted that the screen visible to the end user gives no indications about the fact that the person being checked might be the victim of a misused identity. In the subsequent contacts with the SIRENE bureau, no satisfactory information seems to be given about how to deal with this kind of alerts and ensure that the possible victim is not unduly being held up.

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4.5 Visit to the Departmental Directorate of Public Security of Yvelines in Viroflay

The Deputy Director of the Departmental Direction of Public Security, Mr. Philippe THEVENARD, briefly presented the organisation of the National Police in the department of Yvelines and explained that the department has about 1 350 000 inhabitants, 80% of which are living in the area covered by National Police.

The Public Security has 2 300 staff members in this department, divided over 4 police districts police, which are themselves divided into 18 police stations, and the directorate. The police directorate has a special responsibility for the general organisation, budget, command and certain operational problems such as public order.

Most of the searches against the databases are made at the request of officers in the street, which communicate with their police station by radio. Each police station has one terminal that gives access to the national system and the SIS. About 500 searches are made per day and Mr. Thevenard considered that this number could be improved, especially when the analogue radio system will be replaced in the future by a digital one. This would allow the officers on the street to communicate directly with the directorate, where all searches would be concentrated and be treated by people who would be specialised in searches, contacts with the SIRENE bureau, etc.

Searches can already now be made on the two terminals available at the small operations room at the directorate, which is mainly used for searches requested during the night.

The directorate and the local police stations can only consult the SIS and not introduce alerts. The decision to enter an alert is taken by the judicial police but when necessary, the local police can give indications to the judicial police about the introduction of the alert, e.g. requesting explicitly to include the alert in the SIS or special urgency. The judicial police usually follows these indications.

Alerts to be introduced in the national systems and the SIS are sent to the regional centre of the judicial police via courier once a day. It is being considered to change this way of communication but important security aspects need to be solved first. For the moment, it can therefore take up to two days for an alert to be introduced in the system, e.g. for a stolen vehicle.

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However, the urgency with which the requests are treated also depends on the nature of the alert, i.e. missing children, risks for e.g. parental abduction etc.

Checks made during the visit to the operations room of the directorate showed that wanted persons (in this case a missing person) are not always introduced in the SIS over and above the national alert, even though there was no objective reason not to have an SIS alert.

The visit showed that there seems to be a lack of awareness about the SIS and its possibilities and therefore the SIS may not be used to its full potential as a tool for international police cooperation.

4.6 Visit to Gendarmerie Technical Centre at Rosny-sous-Bois

The N.SIS copy of the Gendarmerie is located at the Technical Centre at Rosny-sous-Bois, where the usual security measures for Gendarmerie sites are applicable.

The main concerns of the IT systems of the Gendarmerie is reliability of the information and security of the access to this information. The Gendarmerie has a performant encrypted digital telecommunications network (RUBIS), which is available to its 4 000 units on the field.

The SAPHIR network is a wired frame-relay network, using both the X.25 and IP protocols. It is a meshed network up to the legion's level, a star network to the groupement's level and a cellular radio network to the lower levels. During the presentation, it was stated that checks through these networks take only a few seconds.

Queries can be traced back to the terminals from which they were made and with another system it can be traced which unit has used a terminal at what time.

For certain applications (at department level) it is possible to trace via Intranet from which logical address the queries have been made. In both cases, it is therefore not possible to trace which individual user made the queries. A system is being developed to be able to trace which user has made the queries.

Audit trails are kept for 6 months but it is considered to keep them for longer in future.

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4.7 Visit to Gendarmerie units in Essonne (Evry)

The Chef d'Escadron PIERRE briefly presented the organisation of the Groupement of Evry and explained that the department has about 1 332 000 inhabitants, one third of which lives on the two thirds of the territory that is covered by the Gendarmerie.

The Groupement in charge of Evry is sub-divided into 3 "compagnies", next to certain units which depend directly on the groupement. One of these is the Criminal Police Research Department, which gathers all information and does all the searches.

There are 32 terminals, one per brigade and in addition, all vehicles are equipped with terminals that can consult the SIS. In case the connection between the groupement and the centre at Rosny fails, the groupement would have to consult the databases via the National Police. However, this has never happened because of the quality of the meshed network and the fact that technical personnel are available on site to solve any problem.

During checks made on the terminals at the Groupement, it was found that response times could exceed 15 seconds and a demonstration on a mobile terminal was not possible because of a connection problem to the RUBIS digital radio network due to environmental conditions.

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5. REMARKS AND CONCLUSION

The evaluation has shown that the SIS is well incorporated in the working methods of the French police forces.

It was found that the technical implementation of the N.SIS, as set up by the National Police, fulfils the necessary security requirements, notably in respect of redundancy, (remote) back-ups and disaster recovery measures. Having a secure and reliable digital radio network such as the Gendarmerie RUBIS network and the ACROPOLIS network currently being developed by the National Police, is considered a major advantage. The combination of a secured and performant radio network and a high number of mobile terminals allows the Gendarmerie units to have an easier and more flexible access to the SIS.

Automated processes and standard procedures lead to a satisfactory number of SIS alerts and consultations. The quality of the responses on consultations is notably due to the performant phonetic search function of the National Police and the Gendarmerie.

The survey group would, however, make the following suggestions:

- the introduction of Schengen relevant alerts could be more automated still and at least modern technology should be used to quickly transmit the information from the officer-on-the-spot receiving the complaint to the entity entering the alert: the time currently necessary for the National Police to introduce alerts is considered too long;
- the full result of the SIS query should be immediately displayed next to the result of the national query to avoid the end user having to make an additional, albeit minor, effort to receive all information;
- the training of the National Police could stress (more) the aim of the SIS to make users aware of its possibilities;
- the planned developments of the Gendarmerie to enable tracing of queries back to the individual users are encouraged;
- alerts concerning a misused identity should display clearer information to draw the attention of the end user to the fact that the person being checked could be either the author or the victim of a misused identity and that establishing the identity is very important to determine the correct action to be taken; moreover, the SIRENE bureau should be able to provide correct and clear information to the end user on this special kind of alert and the action to be taken;

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- to improve police checks and notably border controls, it would be useful to ensure that with one query both the wanted persons database and the database on issued documents are searched.

The evaluation group is of the opinion that common Schengen rules should be set up to address the last two suggestions.

The survey group hopes that, despite the fact that the French authorities are in general satisfied with the working of the SIRENE bureau, the recommendations of the SIRENE evaluation will be carefully examined and implemented as much and quickly as possible.

N.B. The survey group did not check any implementation of the Ministry of Foreign Affairs or the Customs Service. It should therefore be noted that information on these services was provided by the French authorities but not checked by this survey group.

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List of participants of the survey group

Chairman: César GONZALEZ

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Henrik BAY (Denmark)

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Dag Egil ADAMSEN (Norway)

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Observer from the Council Secretariat

Nathalie PENSAERT

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IV. DATA PROTECTION

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 Def) and the programme of evaluations adopted by the Council (8881/01 SCH-EVAL 17 COMIX 371), expert teams have been sent to France.

A team of experts was received at the premises of the Commission Nationale de l'Informatique et des Libertés (National Data-processing and Liberties Commission), CNIL on 12 March 2002.

The Survey group wants to thank the CNIL for the willingness of its different speakers to give insight into the current state of affairs in France and to answer all questions.

The members of CNIL and the Schengen experts addressed the following issues during the meeting:

1. the right of access of individuals to their files
2. the supervisory role of the CNIL over the French N.SIS
3. the rules on logs
4. the cooperation with other Data Protection Authorities
5. the handling of visa applications
6. other remarks concerning the functioning of the Schengen system

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1. The right of access of citizens to their files.

Except for the provisions of article 97 and article 100, for which direct access of persons recorded in the SIS is granted under French law, it is through the National Data-processing and Liberties Commission (CNIL) that the right of access is exercised in France. The Commission then designates one of its members, a magistrate or former magistrate, a current or former member of the Council of State, the Court of Appeal or the Court of Auditors, to conduct the appropriate investigations and have the necessary amendments made.

Members of the CNIL responsible for exercising the right of indirect access to the SIS proceed to the Bureau of Criminal Investigation of the Ministry of the Interior i.e. the French SIRENE Bureau almost every week . There they consult the N-SIS directly and, if it is a French alert, the data file of the person is traced extending the search to the national data files. For each request, the data on the screen is printed out. The checks made relate to the existence of the alert, its legal basis and the country behind the alert. If the alert was issued by a State other than France, the procedure for cooperation with the supervisory authority of the country behind the alert, provided for in Article 114(2) of the Convention, is initiated.

The amount of requests is quite high. Some 1200 requests for right of access were made since 1995. From those requests, 660 persons were actually alerts, out of which 260 had to be deleted. The CNIL is also verifying afterwards that the data have actually been deleted by carrying out a further check in the N-SIS at the French Ministry of the Interior before informing the party concerned of the outcome.

The need to correct data did not only concern data introduced by France, since even more of the contested data originate from Germany. Germany has introduced many alerts on asylum seekers whose application has been turned down, where the alert itself could not be sufficiently legally based according to the French law.

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Since 1995, 897 requests for access to the SIS have been received by CNIL (out of which 397 during the year 2002). From these 897 requests, 514 persons were found alerted. These alerts had been introduced by Germany for 47,8% and by France for 38,7%. Following the intervention by CNIL, 183 alerts were deleted (out of which 152 introduced by Germany and 20 by France).

Source: CNIL, 21^è rapport d'activité 2000, page 12-13.

Generally speaking, it appears to the CNIL that a harmonisation of the criteria for entering persons under article 96 would avoid these disparities between Schengen states.

It should be stated that if the applicant has been refused a visa but the refusal is not the subject of an alert in the SIS, the CNIL asks the French Ministry of Foreign Affairs whether the refusal is due to that person's being entered in a "rejection" or "warning" index kept centrally by the Ministry or locally by consulates or embassy consular sections. If that is the case, the CNIL extends its investigations to those national and/or local files and checks the date and the reasons why the applicant is entered in the index.

2. The supervisory role of the CNIL over the French N.SIS

The CNIL has been designated as the French authority as meant under article 114 of the Schengen Implementing Convention. It has therefore performed a general supervisory inspection upon the system at the time of the putting into force of the Convention in 1995. Since then, such a global inspection was repeated in 1997 and never again since then.

The experts note that it might be considered useful to define a common period for renewing this type of global inspections or in the local files.

Beside this global inspection, the CNIL is performing frequent controls and checks (performed at the Bureau of Criminal Investigation of the Ministry of the Interior – 101 rue des trois Fontanot, 92 Nanterre, i.e. the French SIRENE Bureau). Ten percent of the 70 persons working for CNIL are technically competent to perform the controls.

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The CNIL considers that the frequent accesses (queries) to the N-SIS database by its magistrates responsible for exercising the right of indirect access are sufficient until now.

The concentration of competences in Nanterre over several bureaus competent for Schengen, or for Europol, Interpol is not considered to be problematic as long as priorities and rights of access are clearly defined.

3. The rules on logs

Article 103 of the Convention provides that, on average, every tenth transmission of personal data must be recorded in the N-SIS for six months for the purpose of checking whether the search is admissible.

The search made in the N-SIS and the response found – whether positive or negative – is recorded for all the recipients of the data, whichever ministry they belong to, thus enabling the persons who consulted the SIS to be precisely identified.

The information exchanged by the French SIRENE Bureau with its counterparts in the Member States of the "Schengen area", which feeds the SIS files prepared as a back-up for alerts, is archived in a specific application known as "GED" (electronic management of documents).

The time during which data recorded in the "GED" application are stored is that for alerts recorded in the SIS. As the information is recorded on videodiscs, the access path to the data is deleted at the same time as the alert is deleted from the SIS.

The quality of the alerts is generally considered to be satisfactory. The CNIL is able to scrutinise into every element of a dossier, be it from Police or other (intelligence) services. Nevertheless some errors are still possible, due to misspelling of names or, even more frequent, to misuse of identity. The CNIL is very concerned with the problem of the misuse of identity, and has given an opinion in which the need to protect the victim of the misuse of identity is emphasised.

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4. The cooperation with other Data Protection Authorities

If an alert was issued by a State other than France, the procedure for cooperation with the supervisory authority of the country behind the alert, provided for in Article 114(2) of the Convention, is initiated. The French authority sends its request to the country behind the alert in the French language.

The relation with the German authority, country that introduces most of the records detected by the CNIL during its checks, was considered to be satisfactory. Despite the federal character of the data protection structure in Germany, a reply by the German authorities is obtained within a period of 2 to 6 months. If need be, the necessary corrections or deletions to files are made. In the relation with Spain also, an estimated time of 3 months is needed to obtain the necessary information and allowing thus the French authority to respond to the request which was made to them. It appears from the recent experience of the CNIL that the delays of response from Italian authority were very long (one year) and that sometimes there was no response at all. In those cases, the CNIL has to inform the requesting person that no information could be obtained yet, due to the lack of information received from the authority of the country behind the alert.

5. Visa

It appears that many requests for information, correction or deletion of an alert in the SIS originate from a visa application. The French authorities inform the applicant that he/she is alerted in the SIS, by which country and that the person is entitled to address a request to the CNIL. When the applicant has been refused a visa but is not mentioned in the SIS, the CNIL will investigate the file which is sent to them by diplomatic courier, but CNIL will not inform the applicant by more than just saying that "all necessary verifications have been performed". If the alert is deleted, the requesting person will be informed accordingly. He/She may also be informed of the possibility to reintroduce a visa application.

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No inquiry to the SIS may be made apart from a formal visa application. The CNIL has been consulted on the security measures of the most recent version of the "Réseau Mondial Visa", The worldwide visa network

6. Other remarks concerning the functioning of the Schengen system

CNIL is expecting much from the possibilities of improvement in SIS II. Those improvements should avoid future errors on abuse of identity, misspelled names, people with the same names. CNIL does not exclude a priori that the car registration offices might be given access to SIS in future.

CNIL does not exclude neither that files might be kept for a longer period than what is foreseen now under article 113 Schengen Convention. There are in France other examples of files which are kept for a longer period with the approval of the CNIL, i.e. the files on fiscal affairs.

Experts mentioned the findings of the border evaluation visit to France, where it appeared that Customs, performing the same border control tasks as the ones the Border police is doing at other border crossing points, had not the same access to SIS. CNIL had not been involved in limiting the right of access of customs officials but they state that the customs police has not the right to arrest people (even not to stop them for a little while).

7. CONCLUSION

The experts made a positive assessment of the way the data protection rules are taken care of by the French data protection authority. The CNIL has shown a great interest in caring for the rights of the individuals. The well established contacts between the CNIL and the SIRENE office authorize a diligent exercise of these rights, by the means of the indirect access. However, the last inspection of the French N.SIS took place in 1997, a fact that the group found to be remarkable.

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ANNEX I

CASABLANCA STATISTICS 2000/2001

| | 2000 | 2001 | Observations |
|---|--------|--------|--|
| Total number of visas issued | 54 183 | 55 273 | + 1,23% in comparison to 2000 |
| Circulation visas | 12 809 | 12 059 | for 2001, 21,81% of total visas issued |
| Visas for study purposes | 2 458 | 2 973 | + 21% in comparison to 2000 |
| "OMI" visas (family reunification and seasonal workers) | 8 835 | 10 621 | + 20,21% in comparison to 2000 |

Types of visa issued from January 2001 to May 2001

| Types of visa | A | B | C | | | D | TOTAL |
|---------------|----------|-----------|--------------|--------------|-----------|--------------|---------------|
| | | | Short stay | Circulation | DOM/TOM | | |
| January | | 15 | 1 733 | 832 | 2 | 757 | 3 339 |
| February | 2 | 9 | 1 525 | 938 | 15 | 664 | 3 153 |
| March | | 18 | 1 986 | 1 125 | 1 | 1 054 | 4 184 |
| April | | 34 | 1 984 | 1 192 | 1 | 1 439 | 4 650 |
| May | | 9 | 2 525 | 1 414 | 3 | 1 162 | 5 113 |
| Total | 2 | 85 | 9 753 | 5 501 | 22 | 5 076 | 20 439 |

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ANNEX II

GENEVA

STATISTICS - 1.1-31.12.2001:

Visa applications: 64 634

Visas issued: 61 397

Refusals: 3 237

| Country of origin | Number |
|--------------------|--------|
| Former Yugoslavia | 16 080 |
| Russia | 4 187 |
| Bosnia-Herzegovina | 3 515 |
| Morocco | 2 398 |
| China | 2 381 |
| Turkey | 2 094 |
| Refugees | 1 976 |
| Philippines | 1 952 |
| India | 1 797 |
| Tunisia | 1 336 |

| | 1999 | 2000 | 2001 |
|--|--------|--------|--------|
| Total number of issued visas | 57 138 | 61 107 | 61 397 |
| Transit visas (B) | | 918 | 881 |
| Short stay visas (C) | | 52 670 | 51 525 |
| Circulation visas | | 7 274 | 8 746 |
| Family members of French nationals | | 571 | 532 |
| Family members of EU nationals | | 1 587 | 1 480 |
| Visas for holders of diplomatic passport and service passports | | 3 402 | 3 602 |
| Refusals | | 3 591 | 3 237 |
| Transmission to other consulates | | 250 | 300 |
| Long stay visas | | 245 | 245 |
| LTV visas | | 132 | 57 |

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"SCHENGEN" CONSULATES IN GENEVA

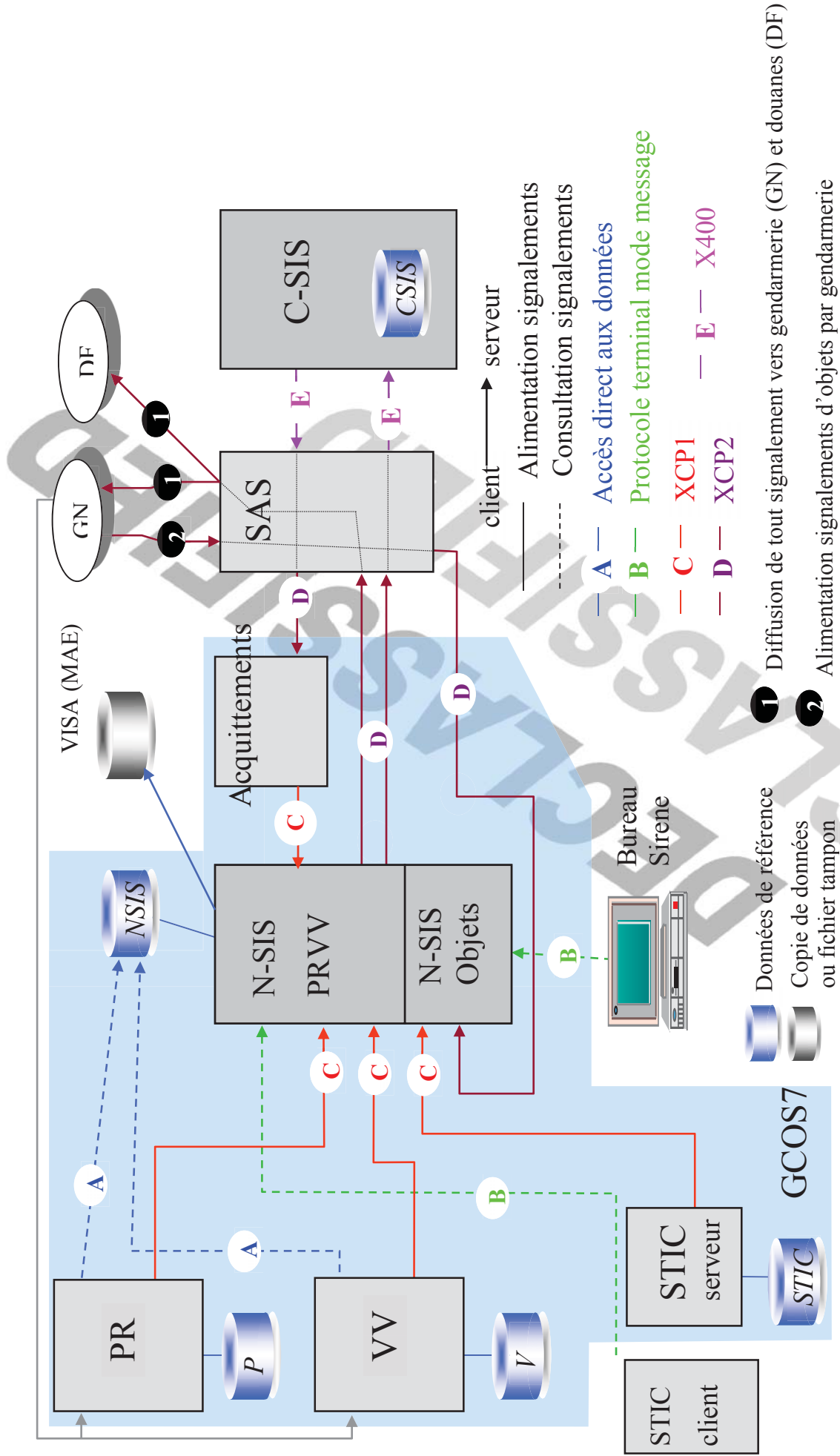
(October-December 2001)

| Types of visa/ Consulate | A | B | of which LTV | C | of which LTV |
|-----------------------------|----|-----|-----------------|--------|--------------------|
| Germany | 33 | 18 | | 593 | 12 |
| Belgium | 11 | 2 | | 55 | 5 |
| Spain | | | | 215 | 19 |
| France | 2 | 246 | 1 | 14 784 | 5 |
| Greece | 2 | 8 | | 31 | 5 |
| Italy | 2 | 23 | 10 | 187 | 35 |
| Portugal | 5 | 46 | 2 | 7 | |

ISSUED LTV - FRANCE

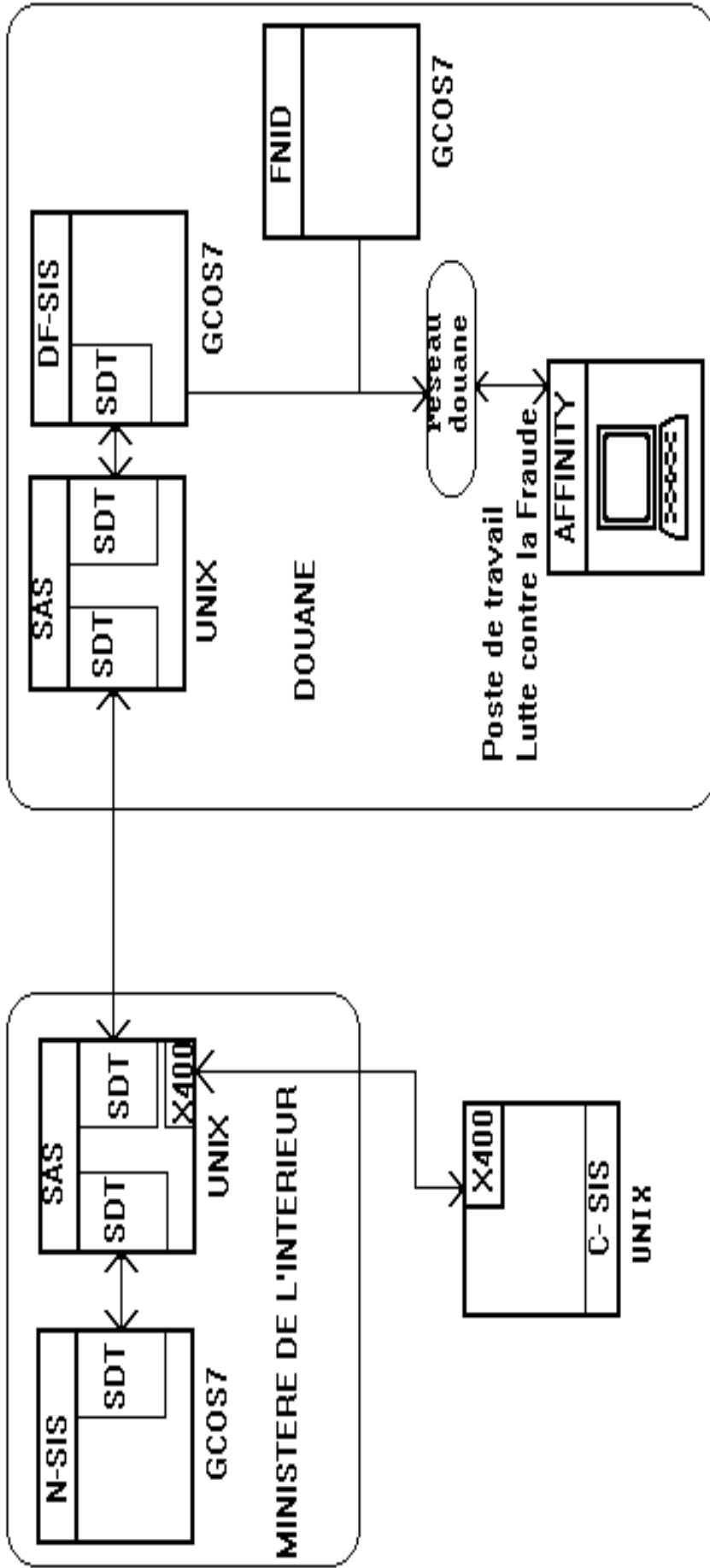
| | LTV=B | LTV=C | TOTAL |
|------|-------|-------|-------|
| 2000 | 42 | 90 | 132 |
| 2001 | 21 | 36 | 57 |

RESTREINT UE L'ARCHITECTURE GÉNÉRALE SIS

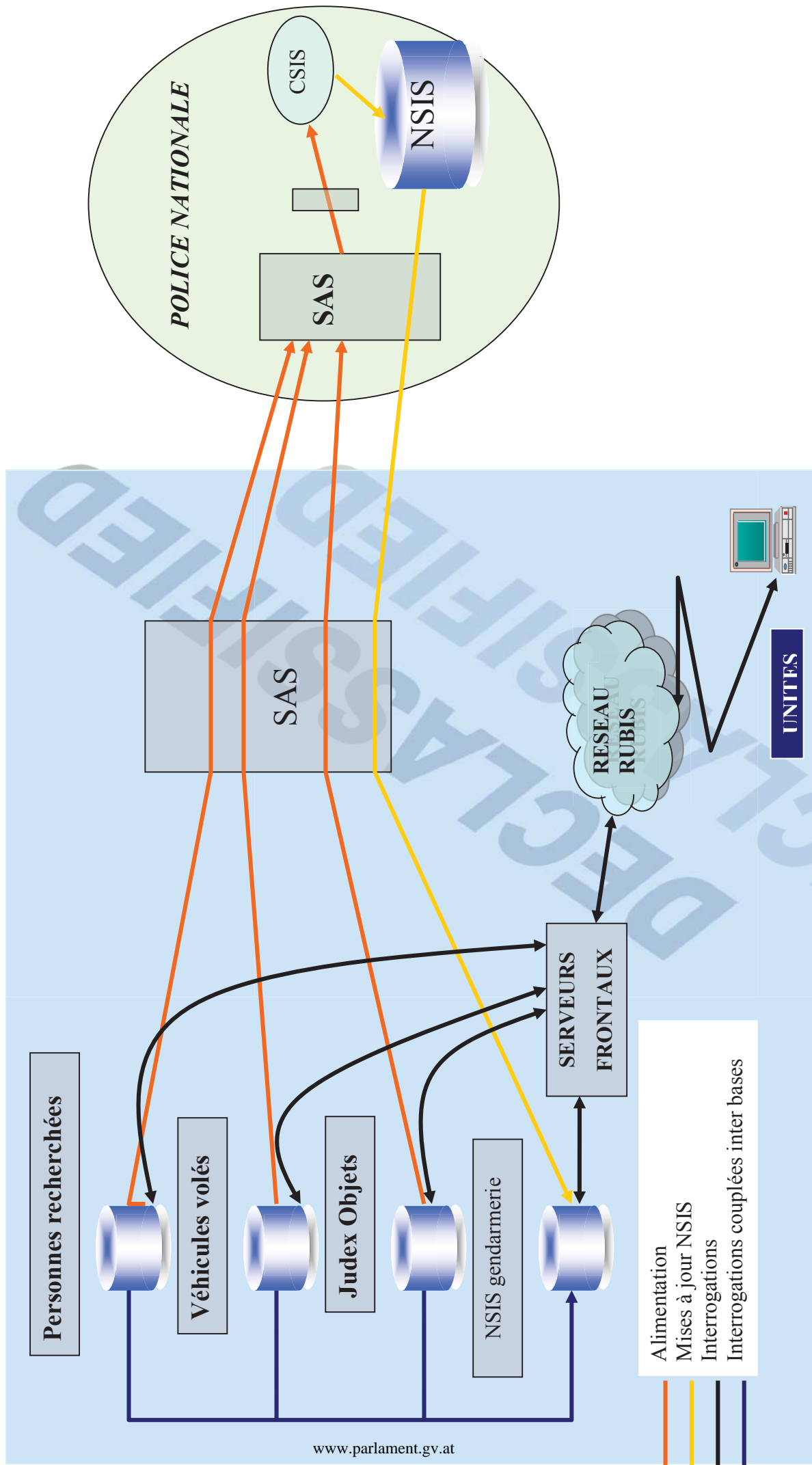


SCHENGEN

Schéma de liaison N-SIS / DF-SIS

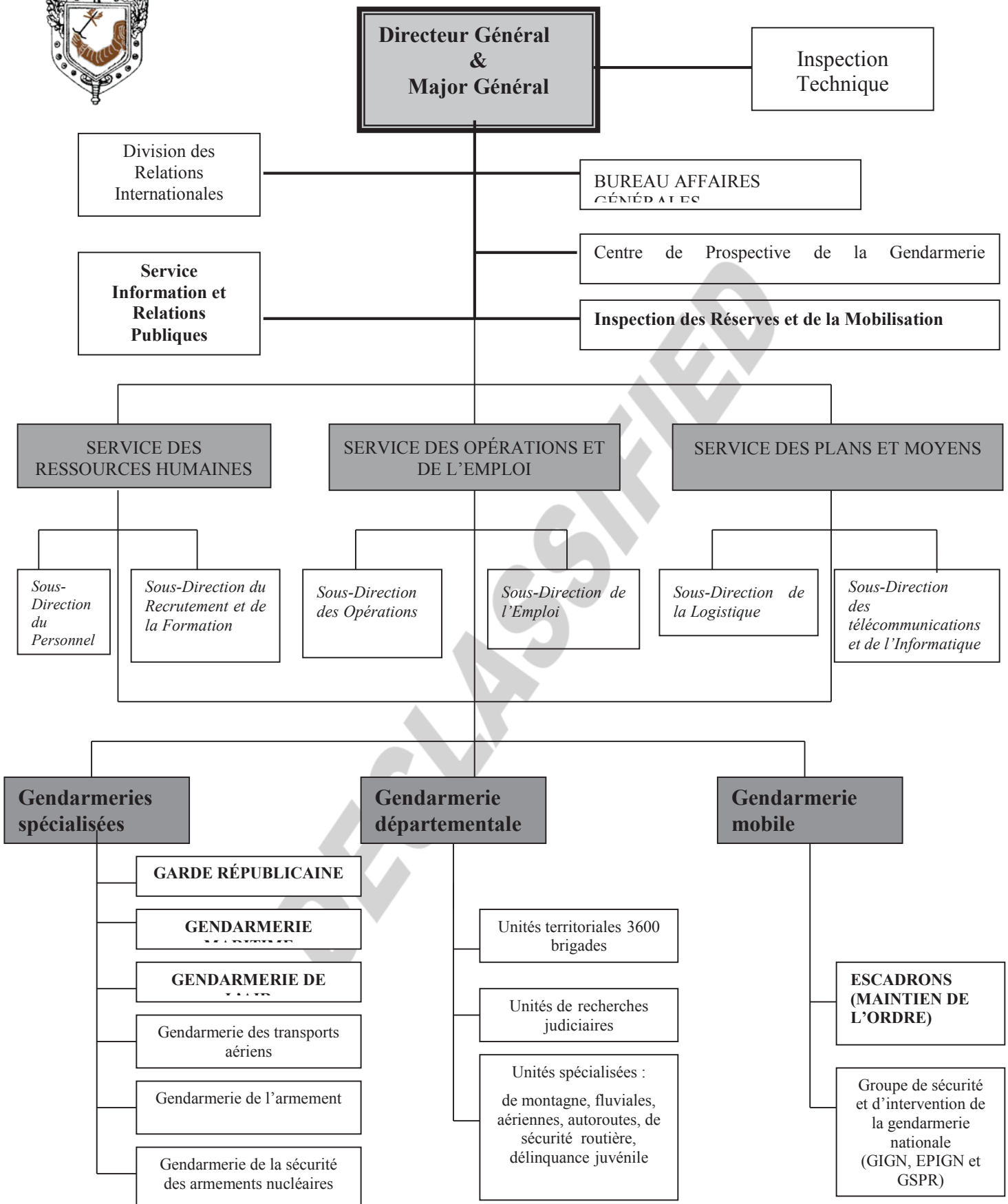


ARCHITECTURE SIS GENDARMERIE NATIONALE

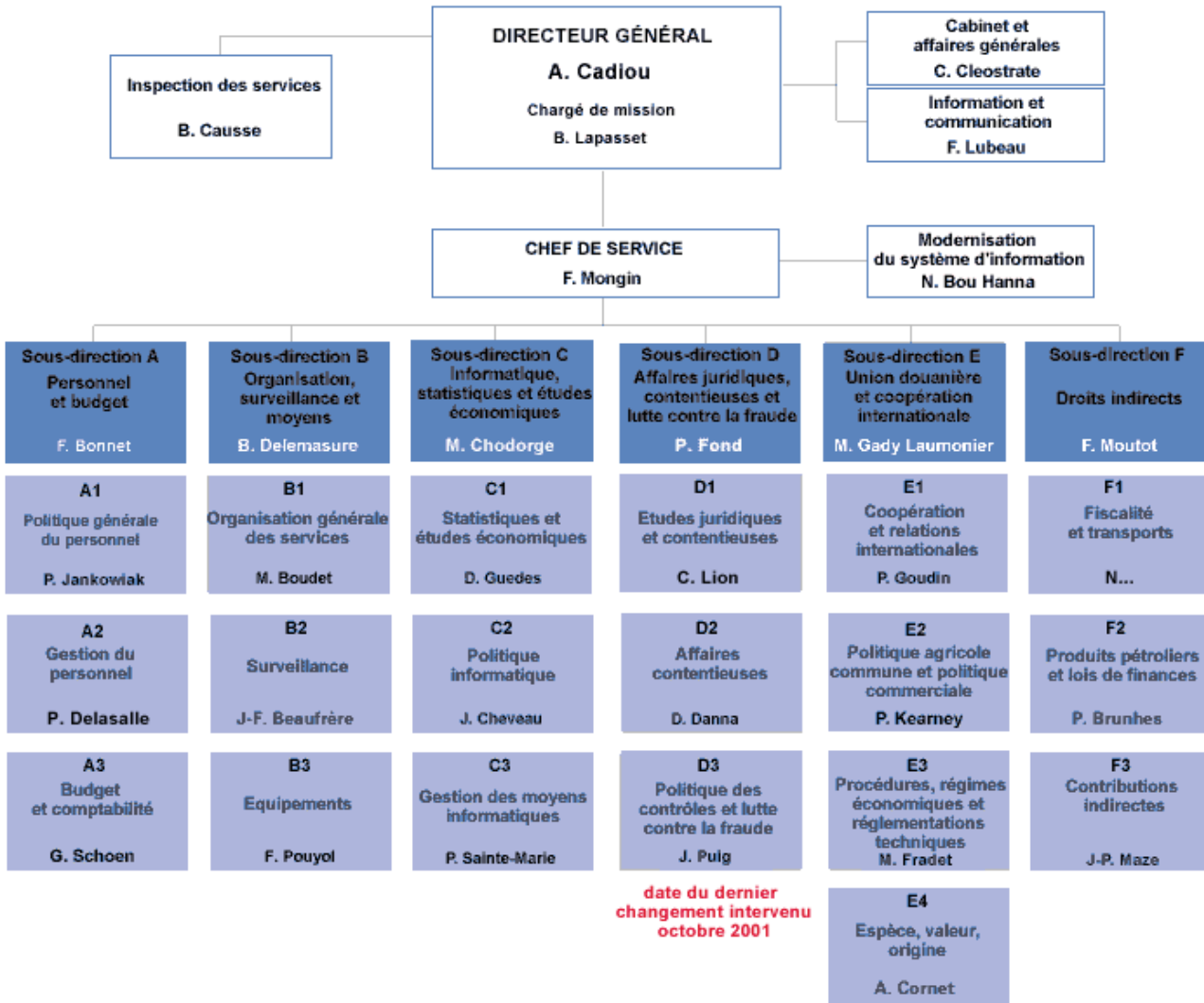




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ORGANIGRAMME
DE LA GENDARMERIE NATIONALE



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DECLASSÉ



ORGANIGRAMME DE LA POLICE NATIONALE

