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Subject: Schengen evaluation of the new Member States
- Questionnaire - additional questions presented by the Commission
Services - Reply from ESTONIA

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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THE EUROPEAN UNION

Brussels, 11 April 2006

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SCH-EVAL 52
COMIX 271

NOTE

from : the Republic of Estonia

to : the Schengen evaluation Working Party

No. prev. doc. : 6551/06 SCHEVAL 21 COMIX 179

Subject : Schengen evaluation of the new Member States

- Questionnaire - additional questions presented by the Commission Services -
- Reply from ESTONIA

Question 1

Police are not mentioned among the services in charge of border control. Do they have any role in border control?

Estonian legislation does not impose on the Estonian Police Board any obligations or tasks directly related to border control on state borders. The police are responsible for domestic security, and carry out domestic verification of the legality of the stays and employment of foreign nationals on Estonian soil, organizing the deportation of persons illegally staying in the country to the border crossing point for expulsion.

To improve cooperation in ensuring border controls and implementing security measures, the police are involved in intelligence and investigative activity in accordance with the agreement on cooperation between the Police Board and the Board of Border Guard and there is constant information exchange between the agencies.

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Question 2 (p. 5)

Which databases from other countries can be used? To which extent can the other country concerned also search in EE databases?

The Estonian Board of Border Guard has concluded a protocol on data exchange with the Border Guard of the Republic of Latvia, which provides the possibility of executing queries regarding persons and vehicles wanted in the Republic of Latvia as well as regarding invalid travel documents. Reciprocally, the Border Guard of the Republic of Latvia may execute queries regarding persons and vehicles wanted in the Republic of Estonia as well as regarding invalid travel documents. Exchange of information between the parties takes place via automated electronic data channels, through which data from one party are transmitted to the database of the other.

In addition, the Estonian Border Guard can use the public Internet WWW-based databases of other countries to check the validity of travel documents and run checks on stolen vehicles and fugitives.

- Republic of Lithuania (<http://www.policija.lt/En/search.php>): fugitives, stolen vehicles, travel documents;
- Kingdom of Belgium (<http://www.diplomatie.be/FPSFA/Consular/Passports/WebUI/Pages/PassportsSearchPage.aspx>): verifying validity of travel documents;
- Republic of Italy (http://coordinamento.mininterno.it/servpub/ver2/Principale_ing.htm): verification of validity of travel documents and stolen vehicles;
- Czech Republic (<http://web.mvcr.cz/doklady/pasy/english.html>): verification of validity of travel documents;
- Republic of Slovakia (<http://www.minv.sk/cepo/straty>): verification of validity of identity cards.

Similarly, other countries can use the Internet WWW-based databases of Estonian agencies to verify the validity of travel documents and identity cards, residence and work permits, driving licenses, license cards and insurance policies, and fugitives and wanted vehicles.

- Citizenship and Migration Board (<http://www.mig.ee/eng/inquiries/>): validity of travel documents and identity cards, validity of residence and work permits;
- Police Board (<http://www.pol.ee/webinfo/>): fugitives and wanted vehicles;
- Estonian Motor Vehicle Registration Centre (<http://web.ark.ee:23000/aris/paring.jsp>): validity of driving licenses;

RESTREINT UE

- Estonian Traffic Insurance Fund
(https://www.lkf.elion.ee/pls/XLK/lkf.gcinfo_pkt.indemnification?lang=EN): validity of traffic insurance policies;
- Association of Estonian International Road Carriers (http://www.eraa.ee/php/s_krt1.php): validity of license card for international road transport;
- National Public Transport Register (<http://ytra.visio.ee/SK.html>): validity of public transit license cards.

Questions 4 and 5

Data provided on the number of port BCPs includes lake BCPs (transboundary bodies of water). How many of those are sea BCPs?

Seaports and ports on transboundary bodies of water have 37 BCPs. Of these, 36 BCPs are at seaports and one BCP is on a transboundary body of water.

How many illegal crossings have taken place at the sea border?

The following is the number of illegal border crossing incidents at areas between BCPs on the sea border.

	Entry	Exit	Total
2004	2	0	2
2005	0	0	0

Questions 4, 5 and 36

Are the BCPs mentioned (Narva 2 and Saatse) open for all Estonian and Russian nationals or only for residents of the border area?

Narva-2 and Saatse BCPs are open for border crossing for residents of the border regions of Estonia and the Russian Federation as well as for residents of these countries and stateless people who have resided permanently or temporarily on Estonian or Russian soil at least 6 months.

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Questions 11-12

What is the coverage of the technical monitoring of the sea border?

The coastal surveillance system launched in 2006 will allow technical surveillance of 100% of the territorial waters (EU external border). In addition to the maritime monitoring system the border guard uses a camera system to identify floating vessels in territorial waters. One longrange camera is located on the island of Vaindloo and the other on the island of Ruhnu.

In addition to the above, the Border Guard uses the Automated Identification System (AIS) administrated by Maritime Administration to identify floating vessels. The system ensures that 100% of territorial waters are under surveillance.

Question 16

How does the coordination among all the services involved in border control take place?

Border checkpoint heads are responsible for ensuring general work-related organization at border crossing point including border crossing-related coordination of border, customs and other inspections.

Coordination of activity at border crossing points in carrying out and planning inspections takes place in the form of direct contacts between representatives of the agencies performing inspections at border crossing points. Work organization rules and technical outlines are established at border crossing points, coordinated with the representatives of the agencies performing inspections.

Compliance with work-related organization rules is obligatory for agencies and institutions performing inspections at border crossing points and other persons performing their work-related duties.

The border crossing point technological schema defines the entry of vehicles into the border crossing point, movement and positions within the crossing points, and exit from the border crossing point as well as the procedures for performing inspections.

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Question 17

Could you provide the breakdown of figures on refusals of entry regarding sea BCPs?

	1996	1997	1998	1999	2000	2001	2002	2003	2004
Seaport border checkpoints	251	331	451	407	756	2292	2009	1697	490

Question 23

Checks on vessels: Are crew and passenger lists received in advance?

According to the State Borders Act, the Government of the Republic regulates, with regulation no. 194 of 19 May 2004, the procedures for entry and exit by ships and pleasure craft into internal waters, ports and Estonian waters in transboundary bodies of water.

Upon a ship's entry to a port and before leaving a port, the ship's agent or shipowner shall submit crew and passenger lists to the border guard regional office. Upon leaving a port, documents should be submitted two hours prior to departure.

A ship captain organizing a cruise is obliged to electronically send a list of crew and passengers to the border guard regional office at least one hour before the ship's arrival. Automated processing is used for pre-check the lists of passengers on the cruise ships.

The border guard is also engaged in active cooperation with representatives of ships that regularly sail international routes. As a result, such ships electronically send passenger and crew lists to the Border Guard, similarly to ships organizing cruises, before arrival in an Estonian port.

Question 27

When will the reconstruction work at Tallinn's airport be finalized? How is the current state of play?

How do you intend to separate passenger flows (different terminals?)

The reconstruction work at the passenger terminal of Tallinn Airport will take place from 01.08.2006.-01.03.2008. From 01.08.2006-01.09.2007 the new part of the passenger terminal will be completed, as a result of which a new set of gates will be completed, with eight gates, an expansion of check-in and an expansion of the baggage systems serving departing passengers.

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The expansion will also allow to separate passenger flows of Schengen and extra-Schengen flights. The structure necessary for ensuring border control that is in compliance with the Schengen acquis will be completed 01.09.2007. From 01.10.2007 the passenger terminal will be ready for the new border regime. The next stage of construction work, 01.09.2007.-01.03.2008, will see the completion of the baggage system for arrivals and four new gates.

Separation of passenger flows will take place as follows:

a) Air passengers arriving from states not implementing the Schengen acquis will be directed to an area on the second floor of the terminal. In general, anyone leaving this area will have to pass through border control. The only other exit from this area is to the extra-Schengen flight departures area one floor below, where all passengers have already passed through border controls. After passing through border control, arrivals from non-Schengen states will be directed along the corridor to the first floor of the terminal where they can:

- Proceed to baggage claim and then pass through customs, exiting the travellers area to public areas or;
- Proceed to the intra-Schengen transit area (security control performed if necessary).

Exit from the intra-Schengen transit area is possible:

- Through the baggage claim and through customs or;
- On a flight within the Schengen countries or;
- By proceeding through border control to the extra-Schengen flight departure area, which can be accessed without passing through border control only from the third country arrivals area on the second floor.

b) Arrivals from flights originating in a state implementing the Schengen acquis enter the terminal's transit area on the first floor of the passenger terminal which they can exit:

- Through baggage claim and through customs or;
- Via another flight within the Schengen area or;
- By proceeding through border control to the extra-Schengen departures area, which can be accessed without passing through border control only from the extra-Schengen arrivals area on the second floor.

c) departing passengers enter, passing through security control, the transit area on the first floor of the passenger terminal and leave:

- On a flight within Schengen or;
- Pass through border control to the extra-Schengen departures area, where they can leave on a flight to a non-Schengen country.

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Question 34

How many additional border guards will be posted at the Estonian-Russian border?

To staff the border crossing points and border guard station on the Estonian-Russian border to a 100% extent, the number of staff will have to be increased on the Estonian-Russian border by 419 border guard officials. The need will be covered with training at the border guard college and from the personnel freed up by the transition to internal borders.

Question 35

Do you have statistics on the number of passengers crossing the external border by train?

Border crossings by individuals aboard trains					
2000	2001	2002	2003	2004	2005
	175905	145746	164222	187451	202908

Question 37 (b) facilitation of entry – offence committed as an activity of a criminal organization?

Is the Estonian Penal Code in § 259 (2) (1) referring to criminal organizations as defined in Article 1 (3) of the framework directive 2002/946/JHA?

The definition of group of individuals in Penal Code clause 259 (2) (1) does not include a definition of criminal organization. Article 255 of the Penal Code is the article that defines a criminal organization, and § 256 sets forth the liability for forming a criminal organization. According to the Penal Code, a group is composed of at least two persons, but a criminal organization of three or more persons. Commission of a crime by a group is the actions of persons with a common goal, and the relations between these persons cannot be equated to a permanent organization which is the criterion for the definition of criminal organization.

Thus, the group specified in clause 259(2)(1) of the Penal Code of the Republic of Estonia does not include criminal organizations as defined in Article 1 of joint action 98/733/JHA referred to in Article 1 (3) of framework directive 2002/946/JHA.

RESTREINT UE

Additional clarification - Visa

69. Do you require travel medical insurance also from nationals of third countries listed in Annex II of Council Regulation 539/2001?

Upon arrival in Estonia, nationals of third countries must have valid health insurance, which guarantees payment of medical expenses due to illness or injury during the stay in Estonia. The minimum insurance liability is 160,000 Estonian kroons for the entire time of the stay in Estonia.

72. Do you give the grounds for refusal in case of family members of EU citizens?

According to Article 10¹⁰ paragraph 3 of Aliens Act grounds of refusals shall not be substantiated. This principle does apply to every applicant.

73. Do you issue visas free of charge to citizens of third countries on the basis of nationality other than Georgia and Ukraine?

Starting from March 1, 2006, Macedonian citizens do not have to pay a visa fee, either, if they are applying for a single or a transit visa.

74. How many visas have been issued at the sea border (and of these, how many to seafarers)?

Visas issued	2002	2003	2004	2005
Sea border BCP	139	144	173	199
Of these, visas issued to seafarers	-*	-*	103	128

* Collection of statistical data (2002-2003) was based on the list of grounds for issuing visas, which did not include crew members as a separate category. From 01.05.2004 an amendment to the Aliens Act entered into force, providing ship crew members as a separate category for applying for visas at border checkpoints.

75. Do you issue visas at the border to family members of Union citizens?

Generally, visas are not issued at border checkpoints (Aliens Act § 10¹⁴). However, at a border checkpoint, family members of Union citizens may apply for a visa basically on two reasons: if, arising from objective circumstances, a visa could not be applied for at a representation of Estonia or the visa is applied for on humanitarian grounds.

RESTREINT UE

At border checkpoints, only a single-entry transit visa with a period of stay up to five calendar days or a single-entry short-stay visa with a period of stay up to 15 calendar days may be issued.

81. How many days are required for a reply from the central authorities? Can the consular post issue the visa, despite the absence of a reply, after a certain period of time has elapsed?

Pursuant to Governmental Regulation no 74 of 11 April 2005, a reply from the central authorities shall be given within 3 working days. If there is a necessity, the period can be lengthened until 21 calendar days. If an agency within the area of government of the Ministry of the Interior does not present an approval or non-approval within given period, it is considered that the approval is given.

Additional questions - Visa

- Are your diplomatic missions and consular posts empowered to issue residence permits?

As a rule, an alien submits an application for a temporary residence permit to a representation of Estonia (the Aliens Act specifies certain categories of individuals who may apply for a temporary residence permit at the Citizenship and Migration Board in Estonia), which, after identification of the applicant, forwards the application to the Citizenship and Migration Board for processing.

Decisions on issuing residence permits are taken only by the Citizenship and Migration Board. If the decision on residence permit is positive, a residence permit sticker is forwarded to the representation for affixing to the passport of the applicant.

Information on residence permits can be found on the homepage of the Citizenship and Migration Board, <http://www.mig.ee/eng/residence/>

RESTREINT UE

- **In Annex 15 CCI your country provides no form for proof of invitation, sponsorship and accommodation.**

Are there no legal provisions/administrative rules or practices on such forms?

According to Estonian legislation, the rules governing visa invitations are provided in the Aliens Act; in the Government Regulation No 150 of 27 April 2004 (establishing the documents to be presented upon conformation of visa invitation and the data included in the visa invitation); and the regulation of Interior Minister no 35 of 22 February 2005, confirming the form of visa invitation. Thus there are specific forms to be filled by the sponsors and specific procedure to be followed regulated by law.

According to the Aliens Act, if the sponsor is a natural person or legal person in private law, a visa invitation shall be submitted to the Citizenship and Migration Board for approval. The following documents must be submitted for the approval of a visa invitation from a natural person or legal person in private law (stated in regulation no 150 of 27 April 2004):

- 1) a duly completed standard form of a visa invitation;
- 2) a sponsor identification document a copy of the pages of a travel document of an alien who is invited to Estonia
- 3) a document concerning the economic status of a sponsor (not required from a legal person governed by private law);
- 4) a state fee

A visa invitation of a state or local government agency any other legal person governed by public shall be signed by the head of the authority and there is no necessity for the Citizenship and Migration Board to approve it. However, the visa invitation must contain basically the same data as a visa invitation of a natural person or legal person in private law:

- the name, registration code, postal address and contacts (phone number) of a sponsor;
- the given name, surname, former names, date of birth, place of birth, sex and citizenship of a person who is invited to Estonia;
- the number and the issuing country of a travel document of a person who is invited to Estonia;

RESTREINT UE

- the foreign address of a person who is invited to Estonia and the address of his/her residence during his/her stay in Estonia;
- the purpose of the visit to Estonia
- the period of validity of the visa applied for, the number of entries allowed and the number of days allowed to stay in Estonia;
- the consent to cover the costs related to the hosting, accommodation, stay of an alien in Estonia and his/her departure, including costs incurred in connection to possible expulsion of an alien from Estonia (such as transport costs and costs of stay in the Expulsion Centre and a detention house of the police)
- the given name and surname, personal identification code or date of birth and citizenship of a person who has signed the visa invitation, and the type and number of his/her identity document.

If the invitation is confirmed by the Citizenship and Migration Board, only a confirmation number is given to the sponsor and all the necessary data of the visa applicant and sponsor are already in the visa register and can be checked by a consular authority through a visa registry; there is no need to send or present an invitation on paper.

Information on visa invitations can also be found on the homepage of the Citizenship and Migration Board, http://www.mig.ee/eng/visa_invitation/invitation/

- **Please describe the practice followed when issuing visas to applicants who are non-residents in the country where they lodge their application?**

As Estonia does not have many representations abroad, citizens who require a visa but reside in a country where Estonia does not have a representation can submit a visa application to any Estonian representation of their convenience. Such applicants may also apply for a visa by post or through a representative. It is always announced that the applicant is obliged to appear personally in the representation if requested by the consular officer. Applicants from countries where we do have representations should as a rule present their visa applications to the representations in their country of residence.

- **Please describe the practice followed when issuing visas to holders of travel documents which you do not recognize?**

Estonian consular officials cannot issue visas to holders of travel documents that we do not recognize.