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- Report on the Schengen Police Cooperation evaluation of POLAND
(March 2006)
-

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 May 2006

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NOTE

from: the Schengen Evaluation Committee

to: the Schengen Evaluation Working Party

Subject : Schengen evaluation of the new Member States

- Report on the Schengen Police Cooperation evaluation of POLAND (March 2006)

The current draft is based on the replies of Poland to the questionnaire and includes the result of the visit, following the evaluation and the drafting session of the Evaluation Committee during the visit. It also includes the comments from delegations and the Polish authorities to the first draft report.

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REPORT ON POLICE COOPERATION

This report was made by the Evaluation Committee and is brought to the attention of the Sch-Eval Working Party which will ensure a report and the presentation of the follow-up thereto to the Council.

(All topics are indicative and non-exhaustive.)

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 (15275/04 SCH-EVAL 70 COMIX 718, and 7638/2/05 SCH-EVAL 20 COMIX 200), the Evaluation Committee have visited the National Police Headquarters in the capital and further three regional (*voivodship*) Police Headquarters in the countryside.

Participants:

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P. RYDZKOWSKI	Commission
S. DUSIK	General Secretariat of the Council

The Evaluation Committee wishes to express its appreciation to the Polish authorities for their outstanding hospitality. Special thanks are extended to the team that accompanied the Evaluation Committee throughout the evaluation and provided all assistance needed.

The Evaluation Committee visited the following sites:

- National Police Headquarters, Warsaw
- Voivodship Police Headquarters, Szczecin
- Voivodship Police Headquarters, Wroclaw
- Voivodship Police Headquarters, Krakow

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2. Management summary

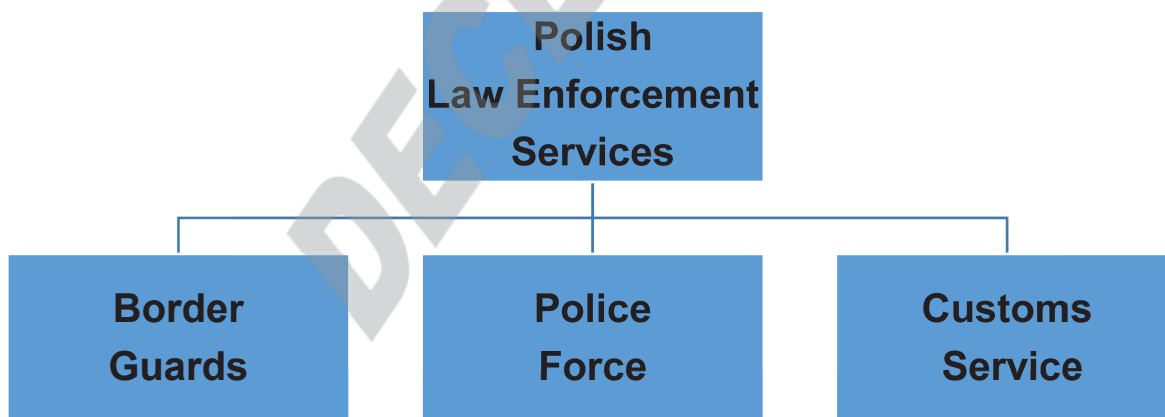
The Evaluation Committee visited four sites in order to limit the amount of time spent on internal travel. The evaluation report is based mainly on replies to the questionnaire, includes information of the presentation made for the Sch-Eval Working Party and beyond that contains the outcome of the targeted discussions of the on site visits. Experts from the Polish National Police Headquarters were present during the whole visit and were able to provide any additional information requested.

The answers given to the questionnaire and the outcome of the visit provided the Evaluation Committee with a satisfactory overview of the operation of the Polish police services and first-hand experience of their daily routine. As the information provided by the local authorities was very extensive, the Evaluation Committee obtained a very good basis on which to make its assessment.

The Polish law enforcement authorities have adopted a very good intelligence led policing approach, of which international police cooperation is an integral and integrated part. A number of detailed recommendations are made throughout the text but, equally, the Evaluation Committee was able to identify a number of Polish solutions as good practice. Each recommendation concerns better use of the Schengen instruments with a view to assisting the threat assessment and thereby helping to prioritise resources in a more effective manner.

3. Law enforcement and police organisation

3.1 National law enforcement structures

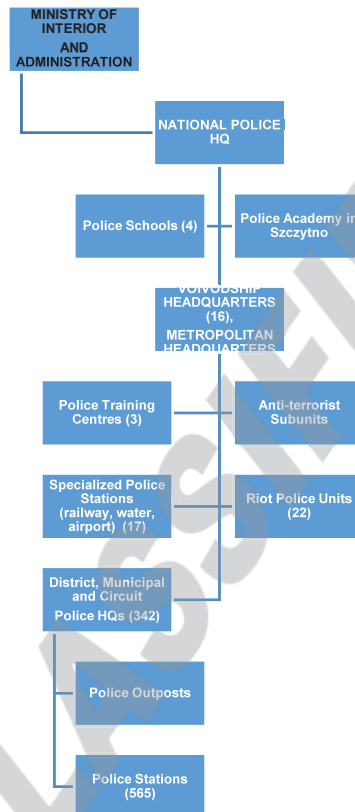


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The Polish Police Force

Poland has one national Police Force with more than 120,000 employees (of whom approximately 100,000 are police officers) working at the national, regional (*voivodship*), municipal or local level.

Organizational chart of the Polish police



National Police Headquarters

At the national level, police tasks are performed by the National Police Headquarters (*Komenda Główna Policji*) and its subordinate organisational units. The National Police Headquarters is under the authority of the Minister of Interior and Administration, contemporaneously it is the central administrative and supervisory authority of the police services. The National Police Headquarters supervises the activities of 16 Voivodship (regional) Police Headquarters and the Metropolitan Police Headquarters (Warsaw). The Head of Police, the Chief Commander, is directly responsible to the Minister of Interior and Administration. The Head of Police is appointed by the Prime Minister upon a proposal of the Minister of the Interior and Administration.

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Voivodship Police Headquarters, Metropolitan Police

There are 16 Voivodship (regional) Police Headquarters in Poland, responsible for coordinating and controlling the operation of the subordinate Police units within the territory of a Voivodship. They are entitled to carry out covert operations and conduct investigations in their own cases and when it is necessary to support subordinate police units.

The area of operation of the Metropolitan Police Headquarters covers Warsaw and the following districts: Grodziski, Legionowski, Miński, Nowodworski, Otwocki, Piaseczyński, Pruszkowski, Warszawski Zachodni i Wołomiński. The Chief of the Metropolitan Police performs tasks and has competence corresponding to that of Chief of the Voivodship Police.

District, Municipal and Circuit Police Headquarters

There are, altogether, 342 district, municipal and circuit headquarters in Poland responsible for coordinating and controlling the operations of the subordinate police units within the territory of a district (a greater territorial unit) or municipality (city having district rights). They are entitled to carry out covert operations and investigative actions in their own cases and when it is necessary to support subordinate police units. Within the territory of Warsaw the tasks of the district (municipal) police headquarters are carried out by the circuit police headquarters.

Police Stations

There are two types of police stations, general and specialised. There are 565 police stations in Poland subordinate to district/municipal/circuit police headquarters and 17 Specialised Police Stations (railway, waterway and airport). A general police station performs all police tasks within its territory of operation, while the specialised police stations responsibility is limited to certain public places.

Riot Police Units and independent riot Police Sub-Units

These units carry out tasks during police operations in situations of serious threat to public order and security. Beyond that they are responsible for safeguarding public order and security during legally recognised assemblies, as well as during sporting or entertainment events and restoring public order in situations of mass violation of legal order.

Police Anti-Terrorist Sub-Units

These units are responsible for physically combating terrorism through reconnaissance and by the use of anti-terrorist tactics aimed at countering terrorist attempts. They are also involved in counteracting other incidents of similar nature and carrying out explosive-engineering work.

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Police schools

There are four Police schools in the country which are responsible for the basic and advanced training of the police staff.

Police Schools are located in:

- Piła,
- Słupsk,
- Katowice,
- Legionowo

Police Academy in Szczytno

The Szczytno Academy is the main Police educational and research facility covering areas of research into public order and security. The Academy develops professional knowledge and skills of police officials up to the rank of commissioned officers. Police and civilian employees are trained in the areas necessary to perform different types of duty, including managerial and subordinate positions.

Responsibilities of the Police

The Police carry out duties pursuant to the Act on the Police of 6 April 1990. According to Article 1 of this Act, the Police are responsible for:

- protecting individuals and property;
- protecting public order and security, including in particular maintenance of peace in public places, as well as in public means of transport and in public communication in road traffic and on waters intended for common use;
- initiation and organization of activities aimed to prevent crimes, petty offences and other crime-related incidents, as well as cooperation with national and local authorities and voluntary organizations;
- detection of crimes and petty offences and prosecution of perpetrators;
- supervision of community (municipal) guards and specialized armed security formations to the extent defined by separate regulations;
- control of observance of safety and administrative regulations connected with public activity or applicable in public places;
- cooperation with police authorities of other countries and international police organizations pursuant to international treaties and agreements, as well as separate regulations;
- collecting, processing and exchange of criminal information;
- maintenance of a DNA data base.

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Police powers

Police powers as set forth by Article 14 of the Act on Police include:

- carrying out covert, investigative and administrative actions with the aim of identifying, preventing and detecting crimes and petty offences;
- to the extent provided by separate legislative provisions, Police also perform duties ordered by courts, prosecutors, as well as national and local authorities;
- police officers while performing official duties are obliged to respect human dignity and observe and protect human rights;
- in performance of statutory tasks the Police may make use of personal data, including electronically recorded data, obtained by other national authorities, agencies and institutions in the course of covert operations and process such data within the meaning of the Act of 29 August 1997 on protection of personal data, without the knowledge and consent of data subjects;
- use of criminal information collected in the National Criminal Information Centre (KCIK – Krajowe Centrum Informacji Kryminalnej).

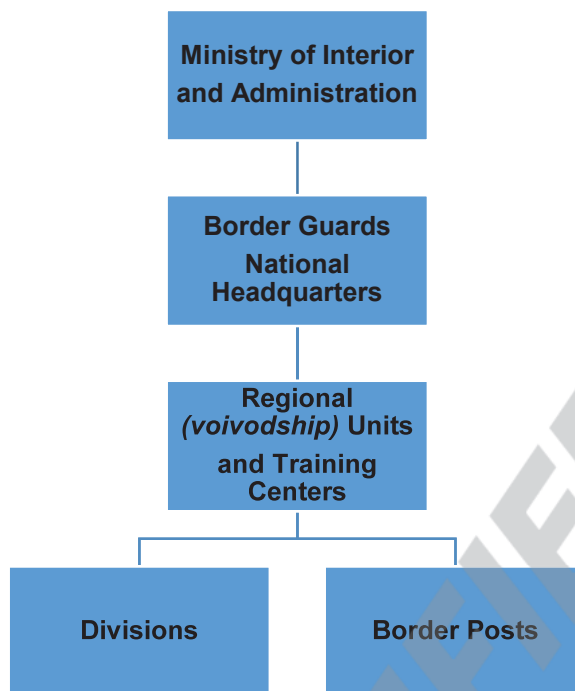
Border Guards

Poland has one national Border Guards with 19 409 employees (of whom 15 554 are border guard officers) working at the national, regional (*voivodship*), municipal or local level¹. The Border Guards are subordinate to the Ministry of the Interior and Administration.

¹ As of February 2006

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Organizational chart of the Border Guards



Pursuant to Article 3, paragraph 1 of the Act of 12 October 1990 on the Border Guards (*Journal of Laws of 2002, No. 171, item 1399 as amended*) the Commander-in-Chief of the Border Guards, subordinate to the Minister of Interior and Administration is the central government authority, responsible for surveillance of the national borders and the control of the border traffic.

The main tasks of the Border Guards are as follows:

- preventing persons and means of transport from crossing the border illegally as well as preventing illegal transfer of goods across the border;
- carrying out surveillance between border crossing-points, by patrolling the land strip along the borderline. This includes the use of technical devices (e.g. mobile surveillance units equipped with infrared cameras);
- monitoring of locations with a high level of threat from border crime;
- control of persons and transport on roads leading to the border;
- control of persons at airports;
- cooperation with the border population;
- operational and intelligence activities;
- joint operations with the Police, the Customs Service, the labour offices, the Military Police, the Railway Protection Service, as well as with authorities of neighbouring countries.

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- organising and conducting border traffic control with the aim of preventing illegal crossing, tracing and apprehending persons wanted by law enforcement authorities²;
- detecting, preventing and investigating crimes and offences and pursuing their perpetrators according to the relevant national legislation³;
- organising alone, or in cooperation with other services and institutions, operations aimed at controlling the legality of stay and employment of aliens in the state territory;
- ensuring public order within the territorial range of border crossing-points and in the border zone;
- preventing the transport of wastes, harmful chemical substances and nuclear and radioactive materials across the national border⁴;
- preventing pollution to border waters;

The Border Guards gained additional powers with the amendment of the Act on the Border Guards (published in the Journal of Laws, No. 90, item 757 of 23 May 2005) which, *inter alia* abolished the restriction on exercising powers outside the border zone and introduced a new task counteracting against public security crimes and security in the air transport and pursuit of perpetrators thereof, security control in border crossing-points and control of security of the international road transport.

Customs Service

The Customs Service of Poland has more than 15 500 employees (of whom approximately 13 000 are uniformed customs officers) working at national, regional (*voivodship*), municipal or local level.

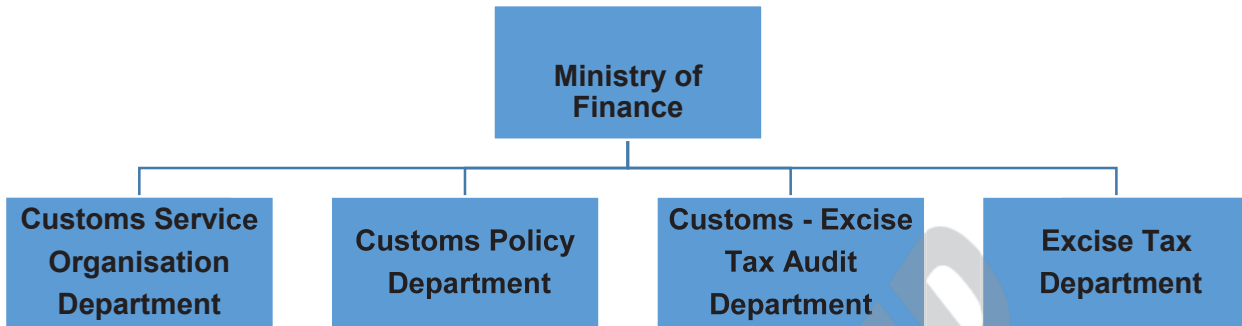
² Persons who cross the border are obliged to provide information related to the fact of their crossing of the border (the obligation does not concern EU citizens). In the case of a justified suspicion that a prohibited act liable to penalty has been committed, persons are obliged to allow checking of their belongings, luggage and transportation means. At the request of the Border Guards officers these persons are also obliged to undergo personal control. Such control may be carried out with the use of technical devices.

³ The participation of the Border Guards in fighting border crime involves mainly preventing and detecting illegal migration, detecting document forgery, preventing crossing of the border by undesirable persons and persons wanted by law enforcement authorities and counteracting trafficking of drugs, dangerous materials, including radioactive materials and weapons, excise goods and cars. These tasks are performed by means of operational, intelligence and inquiry activities.

⁴ The Border Guards officers are entitled to control, apprehend/detain and turn back from the border all radioactive materials and chemical substances.

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Organizational chart of the Customs Service



Roles and responsibilities

The principal roles of the Customs Service include:

- exercise of customs controls on international commercial exchange
- assessment and collection of customs duties and taxes in the part calculated at the State's border (VAT, excise)
- fighting smuggling activity and counteracting customs fraud.

Whilst performing these roles, the Customs Service fulfils other responsibilities, the most important of which, certainly apart from the fiscal function, include the protection of:

- national industry - against trading in goods which would adversely affect the conditions of competition in the country,
- the natural environment - against an entry of hazardous substances and micro-organisms,
- world fauna and flora - against illegal predatory circulation of endangered species,
- consumers - against the entry into the market of goods which are substandard with regard to Polish standards or where the period of use has expired,
- society - against the entry of goods, items or appliances which are hazardous to the life, health and safety of citizens or jeopardising the security of the country (e.g. weapons, paralysing gases etc.),
- state - against the loss of cultural heritage (primarily against the exportation of the goods of cultural value),
- authors, artists, industrial and commercial rights owners - against infringement of intellectual property rights, trademark, patent rights etc.,

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The Customs Service exercises control in the area of:

- state customs policy instruments regulating the targets and volumes of international trade (e.g. monitoring the execution of customs quotas),
- enforcement of national and international regulations relating to prohibitions and restrictions in international trade, enforcement of regulations regarding the permissible loading of vehicles to ensure proper use of roads by carriers and enforcement of agreements concerning customs prevention where Poland is a party,
- foreign currency control and combating money laundering.

In order to discharge the above described roles and responsibilities, the Customs Service co-operates with:

- other services in the country such as the Police, Border Guards, General Customs Inspectorate, tax authorities, etc.,
- customs and investigation services from other countries,
- commercial organisations,
- research and scientific institutes, universities and similar organisations.

Poland is invited to provide information before the finalisation of this report on whether the customs services have investigative power and if yes in which cases.

Databases for law enforcement purposes

In the Republic of Poland, at present, there is no single, general police database which processes the queries of different law enforcement agencies.

- **National Police Information System (KSIP)**

The majority of data subject to replication to the SIS is processed in the central database of the National Police Information System (KSIP). The system provides for direct access and basic support for all Police activities.

As in other EU Member States, in Poland the Police will be the main supplier of information falling into the range of SIS data (over 90% of the data originates from KSIP). As with other Schengen States, the Police will be the main authority consulting the system, on the occasion of each police control action.

The KSIP database is the main IT platform supporting the performance of statutory police tasks. Access to this database is currently limited by the IT infrastructure (the efficiency and availability of central resources, extensiveness of IT transmission infrastructure and number of access points are limited). After the implementation of development projects (planned for completion before the end of 2006 or in the 1st quarter of 2007) practically “all police forces” will have access to the KSIP database.

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KSIP processes data collected by the Police, pursuant to provisions in statutory regulations in the information areas of persons, events, items and entities. The range of registered and processed data also includes that defined under Articles 95, 97, 98, 99 and 100 of the Schengen Implementing Convention. At the same time the KSIP is the main police system directly accessible by the central and local authorities of different police services (traffic, prevention, criminal and investigative). Police officers use this system in carrying out police operations, traffic control, preventive checks and verification of identity documents. From the perspective of the statutory tasks of the Police and its international obligations KSIP plays a crucial role. Therefore actions are taken to fully prepare KSIP to meet the requirements of the Schengen Implementing Convention.

➤ **National Criminal Information Centre (KCIK)**

The National Criminal Information Centre processes data collected by law enforcement agencies concerning crimes, suspects, objects, bank accounts, etc. The KCIK is accessible to the Police, the Border Guards, the Ministry of Justice and the Ministry of Finance (Customs Service). The KCIK is used to coordinate the exchange of criminal information between the law enforcement agencies.

➤ **Intelligence Report System (SMI)**

The SMI processes descriptive data concerning events, persons and other objects such as addresses, vehicles, phone numbers, etc. obtained by the Police in the course of covert operations. This system is made accessible to covert operations and intelligence services of the Police including the Central Bureau of Investigations. The SMI is used to identify relationships between items of information pertaining to crimes and data obtained from other sources.

The term `intelligence` has been defined in regulations as any kind of data with any degree of credibility, including personal data, obtained from any source – in particular as a result of criminal police activities and assessed as potentially useful in combating crime.

The credibility of each pieces of such intelligence is assessed by the police officer obtaining it according to Europol standard 4x4 system.

➤ **Automated Fingerprint Identification System (AFIS)**

The AFIS processes the fingerprints of persons under official monitoring by Police and other law enforcement agencies (e.g. the Border Guards, Military Police, Prosecution Office). Online access to AFIS is limited by the currently available IT infrastructure, in particular in relation to access terminals (*LiveScan, MorphoTouch*) being located only at Voivodship/Metropolitan Police Headquarters and some Municipal Police Headquarters and some units of the Border Guards. The development of the AFIS infrastructure is planned for in the framework of preparations made for implementation of the Schengen Implementing Convention. With regard to the processing of personal data AFIS interfaces with KSIP (DAKTYL module).

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➤ CODIS DNA

The DNA database processes information on genetic profiles duplicated from materials obtained at crime scenes or from persons under official monitoring by the Police and other law enforcement agencies. Forensic laboratories of Voivodship/Metropolitan Police Headquarters and some Municipal Police Headquarters have access to this database. With regard to the processing of personal data CODIS DNA interfaces with KSIP (GENOM module).

➤ CBIU

It is one of the sub files of the Intelligence Report System (SMI) used to collect, process and disseminate information obtained by police officers during covert surveillance.

➤ OBOZI

The database, linked with KSIP, generates data of all categories of personal sources of information (informant, collaborator, agent and consultant).

➤ TEMIDA

The “Statistical Information System” is a collection of statistical information concerning crimes and police operations allowing estimating the current stage of crime threat and enables comparison of findings recorded by different police units.

➤ CKSITA

The Criminal Intelligence Bureau also has access to several non-police-databases, e.g. the CKSITA which keeps data of persons kept in custody, places of detention, pass sentences etc.

The Border Guards use different databases, among them “OPIS” which contains among others the information downloaded *–once per day–* from the main police database “KSIP”. The Border Guards, therefore, has only offline access to the KSIP which entails a time lag of up to 24 hours.

3.2 Structures for international cooperation

(Central authorities, decentralised structures, ad hoc arrangements)

Legal frameworks for international police cooperation

- EU Treaty of Accession
- Schengen Implementing Convention
- Europol Convention
- European Union Convention on Mutual Legal Assistance in Criminal Matters (29.05.2000)
- Interpol Statute
- Bilateral agreements
- Act on Police (06.04.1990) and amendments

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Central Body

The Criminal Intelligence Bureau of the National Police Headquarters is the central body for coordinating international police cooperation carried out pursuant to Article 39 and 46 of the Schengen Convention, and other international agreements.

The Criminal Intelligence Bureau (CIB) is the central body which consists of the SIRENE Bureau Division, the International Searches Division and the International Exchange of Criminal Information. Integrated within CIB there are the EUROPOL, INTERPOL and the Liaison Officers networks and the 24/7 duty service provided by the Criminal Intelligence Bureau. However the Border Guards and the Customs Service are not represented in the CIB.

The CIB has access to all national police databases and to the Interpol and Europol telecommunication systems.

Organizational chart of the Criminal Intelligence Bureau



International police cooperation in fighting organized crime, terrorism and drug related crimes

The Central Bureau of Investigation was set up in the year 2000 within the National Police Headquarters and has a national competence. There are 1 705 members of staff (including 112 civilian officials) responsible for combating organized crime, terrorism and drug related crimes. The Bureau consists of 20 offices, including 8 central offices within the Headquarters and 12 regional units.

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The central units are responsible for combating terrorism, economic and drug related crimes and supporting other offices (e.g. the Criminal Intelligence Unit and the Unit for Supervision and General Issues). The Bureau also runs witness protection programs and is empowered to carry out undercover operations.

The regional units coincide with the network of Appeal Prosecutor's Offices, where Divisions for Combating Organized Crime were established, and operate in 12 voivodships. The 12 Divisions consist of three thematic units and support sections, which reflect the structure of the central level of CBI, and have a total of 19 regional units in smaller agglomerations.

3.3 Training and promotion

(Training at basic, advanced and management level; linguistic training; manuals)

Training of the Police Forces

As part of the preparation of the Police to implement the Schengen acquis, training of all police officers and selected Police employees (*those who will have contact with issues connected with the Schengen Implementing Convention and the Schengen Information System*) is planned. This will cover the basics of international Police cooperation, as well as Police responsibilities under the Schengen Implementing Convention and the functioning of the SIS. For that purpose 15 training 'leaders' from all Police Schools were trained. They participated in Twinning 2001, Twinning 2003 and training workshops organized by the Program and Examinations Department of the Bureau-Cabinet of the Commander in Chief of the Police (Wydział Programowo Egzaminacyjny Biura Gabinet Komendanta Głównego Policji). These 'leaders' have already begun the training of 280 trainers as part of a cascade training initiative, which should prepare the selected trainers for carrying out training in all Police units. Training of the leaders was completed before 1 September 2005. The entire training should be completed by the end of the first quarter of 2006. In this way all personnel will receive training on basics of international Police cooperation and Police responsibilities under Schengen Implementing Convention and in relation to the functioning of the SIS. The application of the Schengen acquis has been included in the basic Police training program for newly recruited police officers. In order to support the abovementioned training efforts a set of educational materials was prepared and published on CD. It includes the training program, the plan of the training course, the text of the Schengen Implementing Convention and multimedia presentations concerning the Convention and the SIS.

Training on procedures governing the conduct of police officers in situations covered by Title III and Title IV of the Schengen Implementing Convention is planned for selected groups of police officers and shall take place as soon as detailed regulations and procedures become ready. Furthermore the material necessary for certain groups of officers will become part of Police specializing training and will be available on demand to Police authorities with the initiative to update their training programs.

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Presently the Schengen Training Centre and the System for Electronic Support of Training are under development (*currently in the phase of public procurement procedure for the purpose of acquisition of necessary equipment and software*). The Schengen Training Centre will be responsible for organizing, carrying out and coordinating training related to the preparation of the Police for performance of duties resulting from Poland's accession to Schengen. Training covering Schengen, training in foreign languages, educational materials, updates and legal acts, etc. will be distributed via the Police and Border Guards Intranet after launching of the Schengen Training Centre and the System for Electronic Support of Training.

Training program updates will be made from materials released by the already existent, but still expanding, unit responsible for training policy in the SIRENE Department of Criminal Intelligence Bureau of the National Police Headquarters. The position of this unit within the organizational structure of the Police allows access to all newly adopted legal acts, solutions and procedures relating to Schengen. For that reason the new materials will be passed on to the Schengen Training Centre without delay, where they will be used to draft training program updates.

The Evaluation Committee was informed that the Schengen training for officers in the field comprises of 15 hours. 80 % of police are expected to be trained by mid April 2006.

A Polish-German Handbook on cross-border police cooperation was compiled for officers working in border regions and will be available on the Intranet. The legal basis of the handbook is the bilateral agreement between the two countries "*Berlin agreement*". The handbook contains bilingual forms, a list of all agencies participating in the cooperation on both sides of the border, specimen of valid vehicle registration documents and license plates, description of specific forms of cooperation (cross-border surveillance, covert operations etc.).

A Polish-Slovak and the Polish-Lithuanian Handbook on cross-border police cooperation are under preparation.

The Polish version of the Police Cooperation Handbook is not available yet on the Intranet.

Training of the Border Guards

The existing educational model of the Border Guards provides for appropriate training of the border guard personnel at all levels in Schengen matters. As from May 2005, all officials admitted to the Border Guards are delegated to the training centers of the Border Guards for basic training (24 hours), immediately followed by non-commissioned officer's training (21 hours) or warrant officer's training (15+16 hours) in EU matters. Officers are provided with a 35 hour training course in EU matters. Therefore, all officials admitted to the service, before taking up their professional duties become acquainted with the relevant EU legislation in Schengen matters. The training program is regularly updated and aligned to legislative requirements.

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The proficiency and special training courses planned by the Border Guards for 2006 include training on:

- ✓ EU legislation;
- ✓ document forgeries;
- ✓ pyrotechnical reconnaissance;
- ✓ crossing the external and internal EU borders and stay in the Schengen territory;
- ✓ carrying out border control on the basis of Community Code etc.

Training of the Customs Services

Poland is invited to provide information before the finalisation of this report on the training of the Customs Services.

Comments and recommendations of the Evaluation Committee:

The Evaluation Committee welcomes the joint exercises carried out by the Polish, Czech and German authorities, recognizes it as good practise and recommends extending it to Slovakia and Lithuania as well.

The Evaluation Team is of the opinion that the Police, the Border Guards and the Customs should work towards a common strategy for training in Schengen matters. In addition the strategy should include follow-up training, in order to maintain its accuracy with a view to future changes either in the legislation or best practice. The training materials should be available for law enforcement officials through the Intranet.

To this end, the experience gained through the Polish-German bilateral cooperation (based on the "Berlin Agreement") should be put to the best possible use, as it is considered successful by the Evaluation Committee.

The common training strategy could be further enhanced by a single handbook on police cooperation, to serve all the law enforcement agencies.

Appointing the Criminal Intelligence Bureau of the General Police Headquarters (CIB) as the central body for the application of the Schengen Convention and as national single point of contact for all international police cooperation channels including the 24/7 duty service of the front office is recognised by the Evaluation Committee as good practise.

The Evaluation Committee recommends the presence of all law enforcement bodies (Police, Border Guards and Customs) in the CIB as this would expand the scope of information exchange for the benefit of all law enforcement agencies. This body could also serve as the national coordinator of all law enforcement bodies involved in the interagency cooperation.

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Comments of Poland: -

4. Operational cooperation

4.1 Mutual assistance (Article 39)

(Via central or other authorities; in ordinary and urgent situations; responsiveness, evaluation and redress mechanism)

The Polish Police conduct mutual assistance according to Article 39 of the Schengen Implementing Convention, by virtue of the Act on the Police and international agreements binding on Poland.

1. The Act of 6 April 1990 on the Police provides the legal basis for international police cooperation and stipulates, that the main tasks of the police shall comprise of cooperation with police forces from other countries and their national organization on the bases of agreements, international treaties and separate regulations. According to the quoted Act, the police shall also perform the tasks resulting from international treaties and agreements on conditions and within the scope specified thereof.

2. Poland is a contracting party to most treaties, conventions, protocols supplementing conventions, and agreements regulating international legal assistance. According to provisions of Polish law, information obtained through police channels from non-Schengen States may be passed on to judicial (*prosecution*) authorities pursuant to principles and within the scope specified in acts of international law ratified by the Republic of Poland.

Poland has also concluded cooperation agreements in the area of combating crime. According to provisions of most of these agreements any information supplied by the requested party may be used by the requesting party as evidence in judicial proceedings only as a result of official legal assistance in criminal matters, rendered in accordance with applicable provisions of international law.

All contacts aimed at the execution of the said cooperation agreements are made directly between competent central bodies of the contracting parties. Requests for assistance and replies, as well as all other information are exchanged between these bodies in writing. Exceptionally and in urgent cases competent services of the requesting party may turn for assistance directly to competent units of the Polish Police, if the taking of requested actions for preventing and combating crimes by central bodies would impede or jeopardize execution of the request. Requested law enforcement services may reply directly, however there is no provision in place that would require law enforcement services to forward data and information to their foreign counterparts through the competent central body (*Criminal Intelligence Bureau*)⁵.

In urgent cases where the exchange of information pursuant to Article 39 (1) is made through a channel other than the Criminal Intelligence Bureau, no legal obligation exists to subsequently forward the relevant information to the central body.

⁵ Ordinance No. 2 of the Chief Commander of the Police of 17 January 2006 on the regulation of the National Police Headquarters (*Section 11, para. 1, point 5*).

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The exchange of information may be done orally, provided that it is going to be confirmed in writing at the earliest opportunity.

Police channels can also be used to pass on information to the judicial authorities (*e.g. forwarding extradition documents*). If the police are not competent to deal with a request - *Art 39 (1)* - then the request shall be immediately forwarded to the competent judicial authority. The conveyed information can be used as evidence in criminal proceedings as foreseen by Article 39 (2) only after the explicit consent of the judicial authorities of the concerned Member State has been gained.

4.2 Exchange of information (Article 46)

(Via central or other authorities; between concerned authorities)

The Polish Police exchange information defined in Article 46 with other countries in accordance with the Act on the Police and international agreements binding on Poland. In the area of police cooperation these agreements are bilateral cooperation agreements. However, there is no statistical data available concerning information exchange.

According to provisions of most of the cooperation agreements on combating crime, concluded by Poland with other countries (including Schengen and non-Schengen states), all contacts made for the purpose of execution of such agreements take place directly between competent central police authorities of the contracting parties.

In urgent cases competent police services may exchange unsolicited information directly between the police units concerned. (*Example cited: information concerning a murder plan in another Member State gained through wire tapping in Poland.*)

The Polish authorities could not provide the Evaluation Committee with a regulation which secures the notification of the central body without delay about the directly transmitted information.

4.3 Cross-border operations (Articles 40 and 41)

(Conditions, constraints, procedures, practical regulations, bilateral arrangements, joint patrols, controlled deliveries)

Articles 40 and 41 of the Convention implementing the Schengen Agreement are Category 2 provisions⁶, therefore still not applicable in Poland. The Evaluation Committee could only assess the capacity of the Polish authorities to implement these articles in due time, on the basis of existing legal provisions. Bilateral agreements in this respect with neighbouring countries would have enabled the Evaluation Committee to assess this capacity based on actual practice but most of these Agreements have not yet been concluded and entered into force.⁷

⁶ 15440/02 SCH-EVAL 42 COMIX 702

⁷ Except for the "Berlin Agreement" which *inter alia* provides for cross-border surveillance (Art. 13 of the Berlin Agreement)

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An attempt to commit a crime is considered by the Polish national law as sufficient ground to take measures pursuant to Art 40 (1) and (2) of the Schengen Convention. According to the Polish criminal law the provisions of committing a crime are identically applied in case of the attempt. The Penal Code, Article 13, Section 1, stipulates that a person, intending to commit a prohibit act “shall be held liable for an attempt”.

Legal basis for carrying out special covert operations or controlled purchases or deliveries:

- Articles 14, 19, 19a, 19b of the Act on Police;
- Regulation of the Minister of Interior and Administration of 13 March 2002 on the manner of conducting and documenting covert operations of the Police pertaining to discreet acquisition, disposal or taking over of items obtained as a result of crime; liable to forfeiture; or manufacturing, possession, carrying of or trade in which is prohibited, and on actions connected with reception and presenting of a financial benefit, as well as on exchange, processing and destruction of materials obtained in the effect of these actions;
- Ordinance No. 16/pf/2002 of the Commander in Chief of the Police of 4 September 2002 on methods of collaboration of the Police with personal sources of information, surveillance, use of special premises, and forms of covert Police operations;
- Ordinance No. 18/pf/2002 of the Commander in Chief of the Police of 8 November 2002 defining comprehensive method of carrying out of special Police operations through deployment of undercover Police officers.
- Regulation of the Minister of Interior and Administration of 13 March 2002 on the manner of carrying out and documenting of discreet surveillance where manufacture, transfer, storing and trade in property is the subject of crime.

The Central Bureau of Investigations of the National Police Headquarters (*CBS* - *Centralne Biuro Śledcze KGP*) carries out special operations at the request of its organizational cells and Police units from the entire country. The scope of activity is very broad and also covers crimes which may be connected with the protection of borders (e.g. corruption of border guard officers, customs officers or trafficking in drugs, firearms, explosives and so on). For the purpose of its operations the Central Bureau of Investigations does not distinguish between cases of local or cross-border nature. Due to deployment of undercover police officers the Central Bureau of Investigations only exceptionally executes requests of other national police units or foreign countries concerning discretely controlled deliveries (in most cases these relate to tobacco). At an international level the Central Bureau of Investigations cooperates with law enforcement agencies responsible for covert police operations.

Legal basis of police surveillance:

- Articles 15, 19, 20c of the Act on the Police;
- Ordinance No. 16/pf/2002 of the Commander in Chief of the Police of 4 September 2002 on methods of collaboration of the Police with personal sources of information, surveillance, use of special premises, and forms of covert Police operations;
- Regulation of the Minister of Interior and Administration of 13 March 2002 on the manner of documenting covert control carried out by the Police, collection and communication of requests, ordinances made and materials obtained in the course of covert control, as well as on processing and destruction of such materials;

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- Decision No. 148 of the Commander in Chief of the Police of 16 June 2002 defining rights and obligations of police officers responsible for the preparation and exchange of covert control documentation.

Surveillance in Poland (understood as discreet action taken in a systematic and planned manner) is carried out by specialized police organizational units using covert operations techniques. This applies both to physical and electronic surveillance. Such specialized surveillance is carried out upon request only as part of selected forms of police operations; covert infiltration and covert check dossier.

Traditional surveillance – carried out by specialized organizational Police units upon a request approved by the Director of the Central Bureau of Investigations of the National Police Headquarters (*in cases where Bureau's units are involved*) or Voivodship/Metropolitan Chief of Police within the territory of their jurisdiction. Subject to application of appropriate procedures Voivodship/Metropolitan Chief of Police may also approve such surveillance in relation to the territory of neighboring voivodships.

According to the national legislation the Voivodship Chief of Police is the competent authority to authorize cross-border surveillance in normal and urgent cases, carried out by neighboring countries leading into the territory of Poland.

Nationwide surveillance coordination is carried out by specialized organizational units upon a request approved by the head of Police or the Director of the Central Bureau of Investigations.

In the course of surveillance, surveillance groups use radio communications on a dedicated radio frequency in a dedicated radio channel. For surveillance coordination a dedicated national police coordination radio channel has been provided, which facilitates the use of radio communications by different surveillance groups.

As regards to cross-border surveillance (*both planned and ad hoc*) Polish Police shall use forms in the way set forth in the Handbook on cross-border police cooperation.

Cooperation with neighbouring countries:

The Border Guards have specialised units (contact points – 2 at the border with Ukraine, 3 at the border with Germany, 1 at the border with Lithuania and 1 at the border with Slovakia). The contact points have equipment permitting information exchange between the border services of the two neighbouring countries. The information exchanged covers, among other things, notifications on results of observations and on pursuits carried out in the border zone. It is planned to open such contact points at the border with the Czech Republic and the border with Slovakia.

All organisational units of the Border Guards have direct cable and/or wireless communication with their counterparts on the other side of the border. It is used for current information exchange and notifications. At present, the Border Guards are in the course of talks⁸ with the neighbouring states concerning the possibility to open common radio and telephone channels.

⁸ There are already radio channels in place with Germany, Lithuania and Ukraine.

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Polish – Lithuanian cooperation

The year 2005 may be described as a crucial one in developing bilateral cooperation between Poland and Lithuania. Cooperation was developed, leading to daily contact at a regional level, as well as the organisation of staff exercises, the exchanging of experts in order to share experience and the building up of informal contacts.

Within the framework of the project “Police in crisis situations – Polish – Lithuanian cross-border cooperation within the *Third Pillar* of the EU” two practical exercises simulating the operations of cross-border surveillance changing to hot pursuit were executed. The exercises involved all relevant forces – police, border guards, quick response teams.

The following programmes are intended for implementation in 2006:

- “Common border, common security”;
- “Cross-border pursuit and cross-border observation as the element of the Polish – Lithuanian cross-border police cooperation”.

The project “Common border, common security” will consist of training concerning such specialized issues as:

- operational and investigative cooperation, conducted to fight organised crime and corruption;
- establishing the rules of operational and preventive undertakings by multinational groups of police;
- working out methods of cooperation between the police representing preventive and operational branches in Poland and Lithuania.

The Evaluation Committee was informed about the preparation of the Bilateral Handbook on cross-border cooperation in border regions. The intermediate draft of the Handbook was discussed on a bilateral basis during a meeting in March 2006. The Handbook will contain lists of contacts, detailed maps, information about respective law enforcement authorities, their organizational structures, short descriptions of the border regions, abbreviations, phonetic alphabet, border crossing points and samples of documents (ID cards, passports, drivers licences, main traffic rules, travel documents etc.).

Cooperation is to be enhanced, seeking the possible acquisition of EU funds for joint measures and arrangements in the border region.

Bilateral cooperation is to be strengthened and stimulated, defining and setting up common goals and actions to be implemented in the year 2006.

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Polish-German cooperation

The Government of Poland and the Government of the Federal Republic of Germany have concluded an Agreement (*Berlin Agreement*) of 18 February 2002 on trans-border cooperation between police and border police authorities.

Important provisions of the agreement are as follows:

- Setting up jointly staffed offices in the border zone,
- Carrying out controlled deliveries,
- Deploying undercover investigators,
- Carrying out joint search actions,
- Improving information sharing across borders,
- Intensifying and accelerating mutual legal police assistance,
- Improving fight against illegal border crossings.

The Agreement also contains provisions on the firearms of law enforcement officers operating within the territory of the other contracting party.

The Berlin Agreement authorises German law enforcement officers operating on the territory of the Republic of Poland to:

- possess firearms and means of direct coercion,
- use firearms solely for the purpose of self-defence and use means of direct coercion on terms and according to procedures determined by the Polish party,
- possess and use technical means necessary for conducting official tasks,
- possess and use official vehicles or vessels according to the applicable provisions of Polish law (prior consent of appropriate Polish authorities is needed to use air transport).

Law enforcement officers of other countries are not authorized to stop and detain persons on the territory of Poland.

At present cross-border hot pursuit is not possible for Poland with Germany, Slovakia, Czech Republic and Lithuania, and vice versa, as the bilateral agreements are either still pending or do not contain provisions concerning hot pursuit (e.g. "*Berlin agreement*").

Joint patrols are carried out along the Polish-German border on a regular basis and on an ad hoc basis along the Polish-Slovak border on motorways. After the ratification of the agreement with the Czech Republic it will be possible to carry out mixed patrols between Poland and the Czech Republic as well.

A joint police station is under preparation in cooperation with the Czech Police near Cesky Tesin and Cieszyn.

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Cooperation is also based on the Agreement of 18 September 2004 between the Government of the Polish Republic and the Government of the Federal Republic of Germany on cooperation in fighting organized crime and other serious offences. Regulatory objectives include cooperation in fighting, preventing and investigating offences if they are presumed to have been committed by a criminal organisation.

Important provisions of the agreement are as follows:

- Cooperating in the fields of drug crime, terrorism and smuggling;
- Exchanging personal data on offenders, masterminds, criminal networks, modus operandi, criminal offences committed, and countermeasures;
- Conducting investigations (on request) and coordinating police measures and granting mutual support;
- Providing basic and advanced training;
- Exchanging research results in the fields of criminal analysis and criminology;
- Planning and carrying out joint crime prevention programmes;

The bilateral agreements with Germany and other neighbouring Schengen-states are an important step towards strengthening cross-border police cooperation at all levels.

The agreements and their implementation on the basis of the Polish-German handbook may serve as good practice for the future standard of cooperation of Poland with its other Schengen neighbours Lithuania, Slovakia and the Czech Republic.

The evaluation team suggests that the agreement between the Government of Poland and the Government of the Federal Republic of Germany on cooperation of police and border authorities in the border regions should be further developed.

4.4 Additional cross-border provisions (Article 44)

(Current situation; planned communication structures)

In order to ensure cross-border interoperability of radio telecommunication systems bilateral agreements have been concluded and coordination conducted:

1. Agreement between the Republic of Poland and the Republic of Lithuania on cooperation and mutual assistance in case of catastrophes, natural disasters and other serious accidents signed on 4 April 2000. According to article 12 of the said agreement, parties have agreed to undertake actions to ensure telecommunications in border regions. During the intergovernmental negotiations on the needs of police collaboration in border regions it was suggested to create the so called cross-border radio network after agreeing on suitable frequency with the competent Polish and Lithuanian authorities. At ministerial level an agreement between the Government of the Republic of Poland and the Government of the Republic of Lithuania on cooperation in combating particularly dangerous crime and collaboration in the border regions was signed (14 March 2006), containing provisions obligating contracting parties to take actions leading to:

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- installation of compatible devices and telecommunications equipment,
- specification of separate radio frequencies for common use,
- replacement of telecommunications equipment,
- installation of special international links.

2. Agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on cooperation of police and border guards in border regions signed on 18 February 2002 – ratified by the Act of 26 September 2002. Article 5 section 4 of the agreement obligates signatory parties to undertake actions leading to:

- installation of compatible devices and telecommunications equipment,
- specifying separate radio frequencies for common use,
- replacement of telecommunications equipment,
- installation of special international links.

3. Agreement of 23 March 2004 between the Government of the Republic of Poland and the Government of the Slovak Republic on cooperation in combating crime and collaboration in border regions. The document does not contain provisions obligating signatory parties to assure interoperable telecommunication systems providing reliable communications in border regions.

4. Agreement between the Government of the Republic of Poland and the Government of the Czech Republic on cooperation in combating crime, protection of public order and collaboration in border regions is currently being negotiated. It will contain provisions on cooperation in providing direct communications between competent authorities, exchange of data as well as providing access to technical means.

The Ministry of Interior and Administration is making intensive efforts to implement a TETRA digital radio communications system in Poland – a standard recommended for law enforcement agencies in Europe. A long-term program for construction, implementation, exploitation and maintenance of a nationwide radio telecommunication system according to TETRA standard for the purpose of law enforcement agencies and rescue as well as adoption of an act guaranteeing financing of the project must be approved at a governmental level.

Currently the TETRA digital radio system is fully operational only in Szczecin (*representing 2% of the population of Poland*). The Evaluation Committee was informed that there is no direct radio contact with the Border Guards in this region.

Currently there are 7 contact points in operation at the land borders, which are:

- The Polish – German border: Kołbaskowo, Świecko and Zgorzelec;
- The Polish – Lithuanian border: Budzisko;
- The Polish – Ukrainian border: Dorohusk and Korczowa;
- The Polish – Slovak border: Barwinek

The contact points in the Warszawa – Okęcie, Kraków-Balice, Gdańsk- Rębiechowo, Katowice, Wrocław and Poznań border posts were established within the framework of the Air Borders Centre (ABC). These points are used for the exchange of information between the airports within the International Airports Plan (IAP) and permit quick identification of new trends in illegal migration. As far as cooperation between the states of the Baltic Region is concerned there is the COASTNET information exchange system.

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4.5 Liaison officers

(In/from other Schengen States, cooperation in third countries)

Most of the cooperation agreements (*see Annex!*) provide the possibility to appoint liaison officers and cooperate through liaison officers' network, in particular for the purpose of information exchange. However there is a separate agreement with Russia on the exchange of liaison officers.

Since the Memorandum of understanding between the Minister of Interior and the Minister of Foreign Affairs signed on 22 December 1994 on the establishment of offices of Police liaison officers has become obsolete, the Criminal Intelligence Bureau of the National Police Headquarters has prepared a draft Memorandum of Understanding (MOU) between the Minister of Interior and Administration and the Minister of Foreign Affairs on the establishment of offices of Police and Border Guard liaison officers in diplomatic agencies. The draft MOU along with the draft Decision of the head of the Police on the procedure of qualification, tasks and principles of functioning of Police liaison officers are subject to interdepartmental discussions.

A list of countries in which it is considered necessary to establish offices of liaison officers has been prepared in cooperation with the Police units concerned. Information on liaison officers accredited in new countries shall be presented to the Council's Police Cooperation Working Party (PCWP) and through an application submitted to the General Secretariat of the Council for updating the Handbook on cross-border police cooperation.

Poland has not yet concluded any agreements with other countries concerning sharing of liaison officers in third countries who would also represent Poland.⁹

Border Guard liaison officers are seconded to the following countries and organisations:

- ✓ Belgium
- ✓ Germany
- ✓ Russia
- ✓ Ukraine
- ✓ Frontex

Police liaison officers are seconded to the following Countries and organisations:

- ✓ Belarus
- ✓ Germany
- ✓ Ukraine
- ✓ Hungary
- ✓ Romania
- ✓ Russia
- ✓ Netherlands
- ✓ Interpol
- ✓ Europol

⁹ Council Decision 2003/170/JHA.

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The following countries have seconded liaison officers to Poland:

- ✓ Austria
- ✓ Belarus
- ✓ Belgium
- ✓ Bulgaria
- ✓ France
- ✓ Germany¹⁰
- ✓ Israel
- ✓ Italy
- ✓ Lithuania
- ✓ Netherlands
- ✓ Romania
- ✓ Russia
- ✓ Slovakia
- ✓ Spain
- ✓ Sweden
- ✓ Ukraine
- ✓ United Kingdom
- ✓ USA (*FBI*)

4.6 Statistics

(Requests pursuant to Art. 39, operations pursuant to Art. 40 and 41, exchanges pursuant to Art. 46)

No statistics were presented by the Polish authorities concerning the exchange of information based on Article 39, 46. Owing to the fact that bilateral agreements on police cooperation with the neighboring countries have not entered into force so far, no cases on operations pursuant to Article 40 and 41 have been recorded by the Central Body.

Comments and recommendations of the Evaluation Committee:

The Evaluation Committee finds it necessary and therefore recommends representation (beside the Police) of the Border Guards and the Customs at the Central Body, in order to ensure the efficiency of the Central Body and to perform nationwide coordination tasks.

The Polish authorities have to observe the general rule laid down in Article 40 as to the role of the Central Body. Although there is an MOU signed between the Border Guards and the Police, there is no automatic reporting system in place. This is not in line with Article 40.

¹⁰ 3 liaison officers.

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The Evaluation Committee recommends implementing the recent extension¹¹ of Article 40(1) according to which a person other than the suspect, who can contribute to identifying or tracking down the suspected perpetrator, can also be subject to ordinary surveillance.

In multi-border areas such as the Voivodship of Katowice where Poland has a common border with the Czech Republic and Slovakia, the creation of multiparty structures (e.g. Trilateral Police Cooperation Centre) could gather all border agencies. The Evaluation Committee would welcome the setting up of such a trilateral police cooperation centre in this region.

The bilingual application forms for cross-border surveillance and information exchange used by Polish and German law enforcement bodies can be recognised as good practise. The Evaluation Committee recommends extending this procedure to the border regions with Lithuania, Czech Republic and Slovakia.

The Evaluation Committee is of the opinion that the Polish authorities should develop reliable and comparable statistics, in order to be able to follow the evaluation of cross-border cooperation and compare these findings with other Member States. It is felt that the compiling of statistics would, at a strategic level, help determine the threat assessment and assist in the prioritisation of resources. Such lack of information at the central level can lead to overlaps and even conflicts between different operations and agencies.

The Evaluation Committee recommends that a legal basis is established for regulating the notification of the central body without delay about any directly transmitted information.

Furthermore, the Evaluation Committee encourages Poland to apply the relevant Council Decision on the common use of liaison officers to make the best possible use of Member States' resources.

Comments of Poland: -

¹¹ Council Decision 2003/725/JHA of 2 October 2003 amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders.

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5. Reports on individual sites visited / case studies

Voivodship Police Headquarters Szczecin

The Evaluation Committee visited the Voivodship Headquarters of Szczecin where the local authorities and the neighbouring Voivodship of Lubuskie (*both have a common border with Germany*) were given the opportunity to present their day-to-day practice of cross-border police cooperation. Representatives of the Border Guards (Maritime Unit) were also present and gave a short presentation.

The territory of the Voivodship Szczecin has an extent of 22 900 km² and a population of 1 730 000 citizens. The Voivodship is divided into 20 administrative districts with 114 communes. 4 876 police officers are in charge of maintaining safety and public order in the region.

The Lubuskie Voivodship covers an area of 13 985 km². More than 1 million citizens are living in 83 communities within the territory of Lubuskie.

It is worth mentioning that an "International Police Cooperation Team" (IPCT) has been set up within the Police HQ of Szczecin acting as a regional co-ordination and contact point for the West-Pomeranian Police. The IPCT's main tasks are to manage the exchange of intelligence to coordinate joint actions, provide language support and inform the central authorities. In 2005 a total number of 944 cross-border cooperation issues were processed or coordinated by the IPCT (807 cases, 47 working meetings, 13 actions, 59 joint patrols and 18 common training events). The IPCT has dealt with one urgent and 14 normal cases of cross-border surveillance in the year 2005.

The good functioning of the cross-border police cooperation between the Polish and German authorities, based on the "*Berlin agreement*", has been demonstrated by a range of examples such as implementing the common preventive programme "safe in neighbour country", joint patrols, cross border training and exercises and joint operations (case study: dismantling of criminal organisation which caused a loss of 700 000 Euro by stealing outboard engines and air bags).

The Evaluation Committee was also given the opportunity to visit the modern and well equipped command room of the Police HQ in Szczecin using TETRA digital radio communication system.

However there is no TETRA radio link with the Border Guards.

Voivodship Police Headquarters Wrocław

The Lower Silesian Voivodship is situated in the South West of Poland and has a common border with Germany (77 km) and the Czech Republic (432 km) with a population of 2 895 729 inhabitants. 7 658 police officers are employed in this voivodship.

Concerning the preparations for the full application of the Schengen Convention, the Police Headquarters took initiatives with respect to the training and professional education of all police officers. As of 1 March 2006 96% of the police staff has completed the training by passing an exam with 25 questions at the end of the course.

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In the year 2005 the voivodship police headquarters in Wroclaw expanded the quality management system corresponding with ISO 9001:2000 to the full scope.

Resulting from successful policing the amount of criminal offences in five categories (robberies, fights, thefts, burglaries, car thefts) has been reduced by 26,4% between 2000 and 2005.

An impressive initiative has been launched to improve the foreign language skills of police officers.

In order to optimize the cross-border cooperation a *Team for International Police Cooperation*, located within the Department of Criminal Intelligence, has been set up.

Representatives of the Customs Service, the Border Guards and Landeskriminalamt Saxony were present during the meeting. A presentation of the cross-border joint exercises and “mirror-projects”¹²⁾ organized by the Polish and German authorities was given by the German representative.

Malopolska Voivodship Police Headquarters

The last site the Evaluation Committee visited in Poland was the Police Headquarters of Malopolska Voivodship in Krakow, where the existing police cooperation with the neighbouring Slovak Republic was presented.

The territory of Malopolska Voivodship has an extent of 15 144 km² and a population of 3 260 000 million inhabitants. The density of population amounts to 215 persons per km².

The Voivodship, which is also known as a tourist region, has a common border with Slovakia. There are 6 299 police officers and 1 150 civil servants in charge of public security issues.

The cross-border police cooperation with the Slovak authorities is currently taking place merely in the field of road traffic security and furthermore on a case-by-case basis.

It was brought to the attention of the Evaluation Committee that just one joint patrol, lasting 4 hours, is simultaneously carried out on both sides of the border on a monthly basis. Officers of the foreign country are not allowed to carry their service weapons on the territory of the state where the joint patrols are carried out.

The respective unit commanders from both sides are responsible for coordination of the joint patrols one month in advance.

¹² Police officers on both sides of the border are working on a common case which affects both countries and carry out the same coordinated measures at a given time.

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A bilateral agreement between Poland and Slovakia has been signed on 23 March 2004 but the ratification on both sides is still pending. The agreement does not provide for cross-border hot pursuit.

There are no common work places for law enforcement bodies (Police, Border Guards, Customs) in the border region.

The statistical figures presented (*concerning the Malopolska Voivodship*) showed a significant increase of requests processed by the Polish authorities from 437 cases (year 2004) to 1 038 cases in the year 2005. (No distinction was made in relation to the requesting party.)

Comments and recommendations of the Evaluation Committee:

I) Police Headquarters Szczecin and Wroclaw

The level of the regional police cooperation with Germany demonstrated in both Police Headquarters can be considered as very well established and should be extended to other border regions. The initiative to set up a Polish-German Handbook on cross-border police cooperation for officers working in border regions (available on the Intranet) and introducing bilingual forms for cross-border requests, planned actions and information exchange can be recognized as good practice.

The organisation of cross-border exercises and the implementation of “mirror-projects” as shown in Wroclaw in order to make the most of cross-border investigations and information exchanges (on a case-by-case basis to successfully combat crimes) can be regarded as good practise in cross-border police cooperation.

It is recommended that regulations should be introduced to report all activities carried out by the regional “Teams of International Police Cooperation” established in Szczecin and Wroclaw – e.g. in the form of a statistical report –to the Central Authorities once a week.

Regarding the lack of a direct radio communication system between the police, the Border Guards (and the Customs Service) the Polish authorities should find a technical solution for this problem in the near future. This also applies with regard to the nationwide introduction of the TETRA system.

II) Police Headquarters Malopolska Voivodship

Although the Evaluation Committee considers it as a good practise to carry out mixed patrols on the motorways in the border region with Slovakia, the effectiveness and efficiency of a single joint 4- hours-patrol per month dealing merely with traffic offences cannot be seen. The experts are of the opinion that the frequency and duration of the joint patrols should be extended with a view to combat cross- border criminal offences.

A solution should be found allowing both officers (not only the local one) to carry their service weapon whilst performing mixed patrols as the need for self defence can not be excluded.

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The Evaluation Committee welcomes that mixed foot patrols of (unarmed) CID officers of both countries are also carried out in the Polish-Slovakian border region on an ad hoc basis as a tool of combating cross border crimes.

Regarding the lack of interoperability of the communication systems of Poland and Slovakia, Poland should try to find a technical solution for this problem together with the Slovak Police authorities, either by a change of the respective frequencies, with technical adoptions of the currently used devices or by the exchange of radio equipment.

The Evaluation Committee would like to encourage both Poland and Slovakia to increase their efforts on the ratification process of bilateral agreements including provisions of cross-border surveillance and hot pursuit in line with the Schengen Convention.

Comments of Poland: -

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6. General conclusions including recommendations and follow-up

The Evaluation Committee has gained a comprehensive picture of the current situation in Poland regarding international police cooperation. It has been shown that most of the preparatory work for the implementation of the Schengen acquis has already been accomplished as regards institutional and operational structures. Close cross-border cooperation in particular at the common border with Germany and partly with Slovakia and the Czech Republic is an integrated part of the day-to-day police routine.

Poland has set up and designated the *Criminal Intelligence Bureau* as the single point of contact for international police cooperation. All units involved in international police cooperation are accessed through this front-office. This guarantees effective and efficient cooperation and should be regarded as good practise.

It is obvious that international police cooperation is not only performed at local and regional level, but also within the central authorities, based on the recommendations and best practices of the Schengen Catalogue on Police Cooperation.

The introduction of the Polish-German Handbook and the planned Handbooks with the Police Authorities of Slovakia and Lithuania, containing important information for cross-border police cooperation, can also be seen as good practise.

There are a few areas that require further improvement:

Poland should consider the introduction of a European Criminal Intelligence Model (ECIM) in order to ensure that comprehensive analysis and relevant threat assessments are produced from the intelligence and information gathered.

In order to enable police authorities of the neighbouring countries to perform cross-border surveillance and hot pursuit at the common borders, Poland should accelerate the process for the conclusion of outstanding bilateral agreements. This would enable the law enforcement authorities to gain very useful practical experience in the application of Articles 40 and 41 of the Schengen Convention prior to the full implementation of Category 2 provisions of the Schengen Convention, envisaged for the year 2007.

More Police Cooperation centres such as the planned joint police station with the Czech Republic near Cieszyn should be considered with neighbouring countries. The Evaluation Committee would welcome the setting up of a Trilateral Police Cooperation Centre in the multi-border area where Poland has a common border with the Czech Republic and Slovakia, as the creation of multiparty structures could gather all border agencies together.

The Evaluation Committee recommends closer cooperation between the Police, Border Guards and Customs Service on a day-to-day basis at all levels. The Border Guards and the Customs Service should be represented in the *Criminal Intelligence Bureau* not only for coordination purposes but also because the presence of all agencies would expand the scope of information exchange, for the benefit of all law enforcement agencies.

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The Border Guards should be provided with direct (online) access to the relevant police databases to avoid time discrepancies and also with a view to the introduction of SIS II. Furthermore, a direct radio communication with the Border Guards should be implemented on a permanent basis, also with respect to the nationwide introduction of the TETRA system.

The Evaluation Committee encourages Poland to set up common work places with Police, Border Guards and the Customs Service in the border regions, in order to benefit from a wide range of information exchange.

As regards training on the provisions of the Schengen acquis the Evaluation Committee recommends an inter-agency (joint) training approach with Police, Border Guards and Customs Service where a follow up system should be an integrated part of the education. The Handbook on International Police Cooperation has to be brought to the attention of all members of the law enforcement bodies and should be available in various forms, in fully translated version, as a brief guideline (summarizing the most relevant provisions) including the police intranet.

Special emphasis should also be given to a constantly recurring training regime for all officers, including those at management level, seconded to the *Criminal Intelligence Bureau* and all police officers involved in police cooperation.

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List of bilateral agreements

The scope of police cooperation is regulated by treaties and agreements listed below.

I) Agreements in force

A) EU Member States

- Agreement between the Republic of Poland and the **Republic of Hungary** on cooperation in combating terrorism, illicit trafficking in narcotic drugs and organized crime, signed in Warsaw on 15 May 1996 – came into force on 14 May 1998;
- Agreement between the Republic of Poland and the **French Republic** on cooperation in internal affairs, signed in Warsaw on 12 September 1996 – came into force on 1 March 1998;
- Agreement between the Republic of Poland and the **Republic of Slovenia** on cooperation in combating terrorism, organized crime, illicit trafficking in narcotic drugs and psychotropic substances and their precursors, signed in Ljubljana on 28 August 1996 – came into force on 6 April 1998;
- Memorandum of understanding between the Republic of Poland and the **Republic of Italy** for combating international organized crime and illicit trafficking in narcotic drugs and psychotropic substances, signed in Rome on 3 July 1997 – came into force on 2 December 1998;
- Agreement between the Government of the Republic of Poland and the Government of the **Republic of Finland** on cooperation in preventing and combating organized crime and other crimes, signed in Helsinki on 4 November 1999 (J.L. of 2004 No. 41, it. 379) – came into force on 20 November 2003;
- Agreement between the Republic of Poland and the **Republic of Lithuania** on cooperation in combating organized crime and other serious crimes, signed in Warsaw on 4 April 2000 (J.L. of 2002 No. 22, it. 213) – came into force on 10 November 2001;
- Agreement between the Republic of Poland and the **Kingdom of Belgium** on cooperation in combating organized crime, signed in Brussels on 13 November 2000 (J.L. of 2004 No. 36, it. 329) – came into force on 1 January 2004;
- Agreement between Republic of Poland and the **Kingdom of Spain** on cooperation in combating organized crime and other serious crime, signed in Madrid on 27 November 2000 (Dz. U. z 2004 No. 154, it. 1621) – came into force on 26 November 2003;
- Agreement between the Republic of Poland and the **Federal Republic of Germany** on cooperation between police and border guard authorities in border regions, signed in Berlin on 18 February 2002 – came into force on 26 June 2003;
- Agreement between the Republic of Poland and the **Republic of Austria** on cooperation in preventing and combating crime, signed in Vienna on 10 June 2002 (J.L. of 2004 No. 41, it. 377) – came into force on 1 December 2003;
- Agreement between the Republic of Poland and the **Federal Republic of Germany** on cooperation in combating organized crime and other particularly dangerous crimes, signed in Wrocław on 18 June 2002 (J.L. of 2004 No. 248, it. 2486) – came into force on 18 September 2004;
- Agreement between the Government of the Republic of Poland and the Government of the **Republic of Estonia** on cooperation in combating organized crime and other crime, signed in Warsaw on 26 June 2003 (J.L. of 2004 No. 216, it. 2195) – came into force on 7 February 2004;

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B) Third countries

- Memorandum of understanding between the Republic of Poland and the **Kingdom of Thailand** on cooperation in combating drug crime, signed in Warsaw on 23 September 1996 (M.P. of 2003 No. 16, it. 242) – came into force on 4 September 2002;
- Agreement between the Republic of Poland and the **Ukraine** on cooperation in combating organized crime, signed in Kiev on 3 March 1999 (J.L. of 2004 No. 38, it. 343) – came into force on 24 August 2003;
- Agreement between the Republic of Poland and **Romania** on cooperation in combating organized crime, terrorism and other crimes, signed in Warsaw on 11 July 2001 (J.L. of 2004 No. 154, it. 1625) – came into force on 27 August 2003;
- Agreement between the Republic of Poland and the **Kazakh Republic** on cooperation in combating organized crime, terrorism and other crimes, signed in Warsaw on 24 May 2002 (J.L. of 2005 No. 156, it. 1312) – came into force on 30 March 2005;
- Agreement between the Republic of Poland and the **Republic of Bulgaria** on cooperation in combating crime, signed in Warsaw on 19 June 2002 (J.L. of 2004 No. 154, it. 1619) – came into force on 28 November 2003;
- Agreement between the Republic of Poland and the **Uzbek Republic** on cooperation in combating organized crime, signed in Tashkent on 21 October 2002 (J.L. of 2004 No. 38, it. 345) – came into force on 22 November 2003;
- Agreement between the Republic of Poland and the **United States of Mexico** on cooperation in combating organized crime and other crime, signed in Mexico City on 25 November 2002 (J.L. of 2004 No. 154, it. 1623) – came into force on 27 November 2003;
- Agreement between the Republic of Poland and the **Republic of India** on cooperation in combating organized crime and international terrorism, signed in New Delhi on 17 February 2003 (J.L. of 2005 No. 34, it. 302) – came into force on 9 December 2004;
- Agreement between the Republic of Poland and the **Republic of Turkey** on cooperation in combating terrorism, organized crime and other crime, signed in Ankara on 7 April 2003 (J.L. of 2005 No. 12, it. 94) – came into force on 25 July 2004;
- Agreement between the Republic of Poland and the **Republic of Tajikistan** on cooperation in combating crime, signed in Warsaw on 27 May 2003 (J.L. of 2004 No. 211, it. 2141) – came into force on 2 April 2004;
- Agreement between the Republic of Poland and the **Socialist Republic of Vietnam** on cooperation in combating organized crime, signed in Warsaw on 28 July 2003 (J.L. of 2004 No. 216, it. 2197) – came into force on 26 April 2004;
- Agreement between the Republic of Poland and the **Republic of Moldova** on cooperation in combating organized crime and other crime, signed in Kishinev on 22 October 2003 (J.L. of 2004 No. 228, it. 2302) – came into force on 26 July 2004;
- Agreement between the Republic of Poland and the **Republic of Belarus** on cooperation in combating crime, signed in Minsk on 8 December 2003 (J.L. of 2005 No. 125, it. 1044) – came into force on 5 March 2005;
- Agreement between the Republic of Poland and the **Republic of Armenia** on cooperation in combating organized crime, signed in Warsaw on 6 September 2004 (J.L. of 2005 No. 125, it. 1046) – came into force on 7 April 2005; efforts are made to bind Republic of Poland through ratification by the President of the Republic of Poland;
- Agreement between the Republic of Poland and **Ireland** on cooperation in combating organized and other serious crime, entered into force on 18 March 2006.

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II) The following agreements were signed:

- Agreement between Republic of Poland and the **Slovak Republic** on cooperation in combating crime and collaboration in border regions, ratified on 10 March 2006;
- Agreement between the Republic of Poland and the **Republic of Cyprus** on cooperation in combating of organized crime and other forms of crime, entered into force on 17 February 2006;
- Agreement between the Republic of Poland and the **Kingdom of Sweden** on cooperation in combating serious crime, entered into force on 4 November 2005;
- Agreement between the Republic of Poland and the **Republic of Indonesia** on cooperation in combating crime, signed in Jakarta on 2 July 2005;
- Memorandum of understanding between the Republic of Poland and the **Islamic Republic of Iran** on cooperation in combating illicit trafficking in narcotic drugs and psychotropic substances and their precursors, signed in Warsaw on 11 July 2005.
- Agreement between the Republic of Poland and the **Republic of Lithuania** on cooperation of police and border guard forces in border regions and in combating crime, signed 15 March 2006

III) The following agreements are ready for signature:

- Agreement between the Republic of Poland and the **Kingdom of Saudi Arabia** on cooperation in combating crime (Resolution No. 240/2004 of the Council of Ministers of 13 October 2004),
- Agreement between the Republic of Poland and the **Republic of Chile** on cooperation in combating organized crime and other crime (Resolution No. 253/2004 of the Council of Ministers of 2 November 2004),
- Agreement between the Republic of Poland and the **Republic of Georgia** on cooperation in combating organized crime and other crime (Resolution No. 290/2004 of the Council of Ministers of 14 December 2004),
- Agreement between Republic of Poland and the **Great Socialist People's Libyan Arab Jamahiriya** on cooperation in combating crime (Resolution No. 2/2005 of the Council of Ministers of 4 January 2005),
- Agreement between the Republic of Poland and **Mongolia** on cooperation in combating organized crime and other crime (Resolution RM No. 41/2005 of the Council of Ministers of 16 February 2005),
- Agreement between the Republic of Poland and the **Tunisian Republic** on cooperation in public order and security matters and in combating crime,
- Agreement between the Republic of Poland and the **Federal Republic of Brazil** on cooperation in combating organized crime and other crime,
- Agreement between the Republic of Poland and the **Republic of Italy** on cooperation in combating crime;
- Agreement between the Republic of Poland and the **Czech Republic** on cooperation in combating crime, protection of public order and collaboration in border regions;

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IV) Draft agreements are being negotiated with the following countries:

- **Republic of Argentina** on cooperation in combating organized crime;
- **Russian Federation** on cooperation in combating crime;
- **Islamic Republic of Iran** on cooperation in combating crime;
- **Republic of Columbia** on cooperation in combating crime.

V) Draft agreements with the following countries are prepared before commencement of negotiations:

- Principality of Andorra,
- People's Republic of China,
- Republic of Croatia (consent of the President of the Council of Minister: 3 November 2004, presented to the other party: 25 November 2003),
- Republic of the Philippines,
- Republic of Greece,
- Kyrgyz Republic,
- Republic of Costa Rica,
- Lao People's Democratic Republic,
- Republic of Latvia,
- Republic of Macedonia,
- Malaysia,
- Kingdom of Nepal,
- Republic of Pakistan,
- Republic of Paraguay (consent of the President of the Council of Minister: 22 March 2004),
- Republic of Peru,
- Republic of South Africa,
- Republic of Salvador,
- Kingdom of Thailand.

VI) Draft agreements are prepared for negotiation with the following countries:

- Republic of Albania,
- Republic of Bolivia,
- Kingdom of Denmark,
- State of Israel,
- Japan,
- Kingdom of the Netherlands,
- Singapore,
- Eastern Republic of Uruguay.

Standard provisions of the abovementioned agreements specify mostly competent authorities responsible for their implementation [competent Polish authorities include: minister competent for the interior, minister competent for public finances, minister competent for financial institutions, Chief of Internal Security Agency, Commander in Chief of the Police, Commander in Chief of the Border guard]. Article 1 of these agreements usually specifies the agreed scope of cooperation, covering in particular combating most serious categories of crime, including but not limited to

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crimes against life, drug crimes, terrorism related crimes, illicit trafficking in nuclear and radioactive materials, illicit trafficking in weapons, ammunition and explosives, crimes against natural environment, crimes against property, corruption of public officials, laundering of the proceeds of crime, unauthorized crossing of borders and trafficking in human beings. Parties to such cooperation agreements agree to cooperate in their search for fugitives from justice, missing persons and stolen or appropriated property.

Further provisions of cooperation agreements specify forms and methods of cooperation in relation to the scope of the agreed cooperation and oblige signatory parties to e.g. reciprocal exchange of personal data and other information, taking of joint police actions and exchange of experience. Some of these agreements provide for cooperation in the field of research and training.

According to applicable rules of procedure such agreements provide for information exchanged to remain classified, if the information exchanged is marked with an appropriate security classification. Moreover disclosure of classified information obtained under such cooperation agreement to a third party without prior consent of the party which originally released such information is prohibited. These agreements also specify procedures applicable in case classified information are unlawfully disclosed or their confidentiality is threatened.

Cooperation agreements guarantee the right to a complete or partial refusal to cooperate or make cooperation subject to fulfillment of certain conditions, in case a contracting party determines, that execution of the other party's request could violate its sovereignty, endanger its security or other vital interests or could be contrary to its legal order.

Each party to such cooperation agreement bears costs of actions taken by it in connection with implementation of the agreement, unless the parties provide otherwise. In respect to the Republic of Poland costs incurred in connection with implementation of such cooperation agreements are borne by competent authorities appropriately to the scope of their statutory responsibilities.