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- Draft-Council conclusions on the state of preparedness of the
REPUBLIC OF SLOVENIA towards the implementation of all provisions of
the Schengen acquis except SIS-related issues

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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**Brussels, 13 November 2006 (13.11)
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NOTE

from : the Presidency
to: the Schengen Evaluation Working Party

Subject : Schengen evaluation of the new Member States
- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF SLOVENIA towards the implementation of all provisions of the Schengen acquis except SIS-related issues

PART I

a. Background applicable to all new Member States

1. In 2005, the Schengen Evaluation Working Party started evaluating the readiness of the ten new Member States. All non-SIS evaluations of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia have now been completed, as is partially the case for Cyprus and for Malta. Altogether 58 themes have been evaluated for the ten countries in the course of nineteen evaluation missions.
2. The legal basis for the evaluation process in the new Member States is Article 3(2) of the 2003 Act of Accession in conjunction with the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (Sch/Com-ex (98) 26 Def).

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3. . According to Article 3(2) of the Act of Accession, the verification through evaluation procedures that the necessary conditions for the application of all parts of the acquis concerned have been met by the new Member States is a precondition for the Council to take Decisions on the abolition of checks at internal borders with those Member States
4. The evaluations have been conducted new Member State by new Member State, and the by the Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will also be taken individually.
5. In taking these Decisions, the Council may determine that not all the new Member States will be ready to apply the Schengen acquis as a whole from the same date. In such a case, it may be necessary to organise additional visits in order to evaluate the application of the Schengen acquis at the borders between Member States at which the Council has decided not to abolish border checks and which have not already been evaluated. No such visit has taken place so far.
6. The evaluation process started with a Declaration of Readiness for all non-SIS related evaluations by the Member States involved.
7. The Schengen Evaluation Working Party verified in writing the preparation for the application of all parts of the Schengen acquis by the new Member States through a questionnaire and a series of supplementary questions and answers.
8. The questionnaire was followed by evaluation visits by teams of experts which led to exhaustive reports containing factual descriptions as well as positive and critical assessments, and recommendations.
9. The purpose of the following Council Conclusions is to establish whether the new Member State in question, subjected to a full evaluation procedure, fulfill all the preconditions for the practical application of the relevant parts of the Schengen acquis. In case the preconditions have not been completely fulfilled, the Council conclusions indicate where additional measures are required and in which cases the necessary changes should be reassessed during new evaluation visits. These conclusions should be read in conjunction with the detailed evaluation reports. A list of the relevant reports and a follow-up table is annexed to these Council conclusions.

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b. Background for Slovenia

10. The Declaration of Readiness of Slovenia allowed to start the Schengen evaluation by 1 January 2006, without any reservation (doc. 5725/05 SCHEVAL 8 COMIX 59).
11. Inspections on site took place at the land, sea and air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.
12. (Slovenia has provided the Schengen evaluation working party with a follow up report, in which it states that it will be possible to remedy the weaknesses that have been detected without creating unnecessary delays.)

PART II - Specific findings

As stated before, the current conclusions should be read in conjunction with the evaluation reports which contain all weaknesses that should be remedied. Many positive findings are mentioned in these reports, which in some cases can be considered best practices. However, for the purpose of drawing conclusions and in particular with a view to defining which sites should be revisited, the focus has inevitably been put on the main weaknesses that should be remedied.

In the field of **border management**, Slovenia has been positively assessed. The Police is responsible for border management, but based on the geographic and demographic situation, the border police structures are partly merged with the general police. Special positive note was taken of the language skills of the personnel and of the cooperation with local inhabitants at border areas. **Land border** surveillance is carried out using stationary and mobile units, patrolling at places known to be sensitive, supported by technical and electronic means.

The operational human and technical resources however are so far not on the level of the strategic purposes as well as the possible risks and threats and should be enhanced. Operational effectiveness suffers from a current shortage of human resources and technical equipment. It seems that the border checks in international trains cannot be fully performed in line with the Schengen standards. The Slovenian authorities are invited to continue the process of increasing the specialised training of staff performing border surveillance.

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While recognising the particular relation between Slovenia and Croatia, the current practice of allowing Croatian citizens to enter Slovenia with identity cards at the international border crossing points should be reviewed in light of the Schengen acquis and the Regulation on Local Border Traffic.

The overall concept of land border control, especially regarding resources available for border surveillance, and the border checking practices requires further reporting and a revisit.

The **sea border** is not delimited between Slovenia and Croatia but this situation does not have any crucial impact for the implementation of the Schengen requirements. That issue requires further reporting. At the Port of Koper, the infrastructure was deemed not to be in line with the Schengen requirements yet ¹); a re-visit is considered necessary.

The Slovenian **air borders** were inspected at Ljubljana (Brnik) and Portoroz. The professionalism of the staff and its training were appreciated; however additional resources are necessary at Brnik airport; the existing infrastructure for border checks does not fully meet the Schengen requirements on the separation of passenger streams. Given the fact that the airport of Ljubljana is in an early stage of re-construction, an additional visit will be necessary to verify the compliance with the requirements of the Schengen acquis on the water-tightness of the separation of passenger streams.

Following the inspection of **visa issuance** at Slovenia's consular sections in Moscow and Belgrade, it was concluded that Slovenia may be in a position to implement the CCI/Schengen acquis in full in due course and that no significant shortcomings were noted in the daily work.

General security, the computer system and the traceability of visa stickers as well as staff training and education was appreciated.

¹ A revisit has been envisaged. SCH-Eval should decide on 16/17 November whether this visit is indispensable.

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However, particular attention should be paid to the systematic exemptions from personal appearance, the low number of (in depth) interviews in relation to the number of applications and the low rejection rate (Belgrade); a number of (inside) security features (Moscow) and the acceptance of group visa applications and collective passports (Belgrade). The Unilateral recognition of Schengen visas, national long term visas and residence permits issued by Schengen States for the purpose of short stay in Slovenia is not in line with the acquis.

Finally, national legislation should take account of the procedural safeguards enjoyed by EU family members (refusals, right of appeal).

On **Data Protection**, both the legislation and the implementation practice meet the requirements of the Schengen acquis, although Slovenia is urged to develop its capacity (human resources) in order to be able to perform enough inspections.

On **police cooperation**, the main part of the tasks indicated in the National Action Plan for the Implementation of the Schengen Standards has already been realised.. It was concluded that international police cooperation takes place not only at regional and local level, but also at the level of central authorities, based on the recommendations and best practices of the Schengen Catalogue on Police Cooperation.

The Slovenian authorities should provide for full 24/7 service by the central authority with the appropriate number of personnel and professional background.

PART III – conclusions

In order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession, it requests Slovenia to inform the Council in writing, on the follow-up it intends to give to these recommendations and those contained in the evaluation reports. Slovenia is also invited to remedy the weaknesses listed in the evaluation reports, especially those referred to in Part II.

The Schengen partners must be kept informed of the measures adopted to this end.

In addition, the Council requires revisits of the airport of Ljubljana and of the landborders - (and the seaborder of Koper. - see footnote 1, page 4).